

Circumstances Under Which Drilling  
in Santa Barbara Channel May Be  
Suspended

All drilling operations must be carried on in accordance with plans approved by the Geological Survey's regional supervisor. The program may be modified from time to time as conditions warrant (30 CFR 250.34).

The supervisor issues orders and rules necessary, in his judgment, to prevent damage or waste of any natural resources, or injury to life or property . (30 CFR 250.12(a)).

Failure to follow the prescribed orders, rules or the approved drilling program is a violation of the lease for which cancellation proceedings may be brought in court.

Doubtless, faced with the threat of cancellation, a lessee will not defy a shutdown order issued by the supervisor on the basis of a judgment that it is necessary to prevent damage or waste of any natural resources (this includes aquatic life) or injury to life or property.

In addition, 30 CFR sec. 250.12(b) authorizes the supervisor to suspend any operation or method of operation which endangers life or threatens, immediate, serious, or irreparable damage to the lease<sup>d</sup> deposits or other valuable mineral deposits.

These provisions have not been construed but <sup>is</sup> arguable, in my judgment, that section 250.12 relates only to the supervisor and does not itself delimit the authority of the Secretary of the Interior or the Director of the Geological Survey under the Outer Continental Shelf Act, 43 U.S.C.A., secs. 1331-1343. Under section 1334 (a) (1) the Secretary "may at any time" prescribe and amend such rules and regulations as he determines to be necessary and proper "in order to provide for the prevention of waste and conservation of the natural resources" of the outer continental shelf and such rules and regulations ~~shall~~ apply to all operations conducted under a lease already issued.

A shutdown order from the Secretary to the operators of a well being drilled would constitute actual notice and hence, if my legal thesis is correct, it could take effect immediately and without awaiting publication ~~in~~ <sup>in</sup> the Federal Register.

Turning to the facts at hand, the Department's experts have now allowed drilling to resume so that presumably they are satisfied that drilling in these wells under the conditions prescribed do not threaten either life, property, natural resources, or the oil deposits themselves. Thus, it may be difficult to establish a factual basis for a shutdown order at this time if voluntary compliance were to be refused. Doubtless the companies would comply with such an order, but they might do it under protest, reserving the right to seek damages, with the result that the legality of the shutdown order would not be determined until the completion of litigation which would not be completed for a period of years.

The fact that there is local protest and fear on the part of local residents is not itself ground for terminating an operation. However, again assuming my reading of the regulations and the statute is correct, it might be possible for the Secretary to issue a valid temporary shutdown order for the purpose of having a further expert review. However, it would be incumbent upon the Secretary to have such a review made as expeditiously as possible.

The leases involved have been validly issued and the companies have a legal right to develop the leaseholdings subject to valid exercise by the Secretary and his subordinates of supervisory authority.

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