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Utah oil and gas agency pursues its first fine in nearly 25 years



(Photo courtesy of Emery County Sheriff's Office) Spencer K. Barton, formerly of Ferron, is serving a 10-day jail sentence for securities fraud stemming from a faulty, unproductive well he drilled in Emery County.



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Some 2¹/₂ years ago, Spencer K. Barton drilled his first and probably last oil and gas well just outside Ferron, using some of the money he gathered from investors after promising them a slice of the operation's lucrative natural gas production.

Barton reached a depth of 1,600 feet when he stopped work on the well, which has yet to produce any hydrocarbons or be plugged as required by Utah regulations. During the next two years, he racked up more violations for failing to maintain the site and to file required reports.

Now Barton is in jail for actions stemming from his sole-proprietor company called Empire Energy, and Utah oil and gas regulators are seeking authorization to reclaim the site and impose hefty fines against Barton for ignoring their long-standing order to plug the well.

The case is noteworthy because for decades the Utah Division of Oil, Gas and Mining (DOGGM) has been soft on companies that violate rules concerning the exploration and production of oil and gas and the management of liquid wastes. A legislative audit criticized the agency this week for failing to collect a single fine for such violations — despite numerous instances of problems going unresolved for years.

Barton's Academy Well was one of 105 unresolved instances of noncompliance described in the audit. The hard line DOGM is now taking against Barton may reflect the aggressive reforms agency head John Baza pledged to lawmakers on Tuesday in hopes of fostering a "culture of compliance" in Utah's oil and gas industry.

On Oct. 28, division lawyers filed papers with the Board of Oil, Gas and Mining, seeking permission to pursue civil penalties against Barton of up to \$5,000 for every day the well goes unplugged, along with authorization to seize his \$15,000 bond. That money would be used by DOGM to plug the well. If the division follows through, it would be the first time since 1995 that it pursued fines for violations of oil and gas regulations. The board is scheduled to take up the matter at its Dec. 11 meeting.

Last week, Barton, a 60-year-old former Ferron resident, reported to the Emery County jail to begin serving a 10-day term for using the Academy Well to collect nearly \$360,000 from Utahns for what they thought was a "working interest" in Empire Energy, according to court papers.

Prosecutors say Barton told these investors he had more than 30 years in the oil and gas business, possessed technology that could locate the formations that contain hydrocarbons, and expected monthly production between 25 million and 100 million cubic feet of natural gas, valued at \$75,000 to \$300,000 in today's prices. The project would pay for itself in a matter of a few months.

Barton, who was not licensed to sell securities, had spent about half the investors' money on personal use, according to a 10-count felony indictment. In a plea deal, he copped to a single felony count of engaging in "a pattern of unlawful activity," which carried a potential prison term of up to 15 years, and agreed to pay \$235,000 restitution.

Last month, 7th District Judge George Harmond suspended the prison sentence and instead ordered Barton to serve 10 days in jail. He put Barton on probation for three years and ordered him to pay \$1,000 a month in restitution.

According to his children Andrew and Sandra Barton, however, Empire Energy hopes to bring the well into production but needs money to conduct the tests that would prove the well's integrity, they said in a phone interview Tuesday.

Andrew Barton said Empire won't plug the well without first speaking with the investors, who may want to move forward. Although a May 17 notice from DOGM orders the well's immediate plugging, the younger Barton says DOGM inspectors subsequently gave Empire until Jan. 23 to complete tests on the well.

No such extension is reflected in any publicly available documents. On the contrary, DOGM's recent filing sounds a note of urgency, saying the agency cannot tell whether the well poses an environmental threat because Empire has not followed its obligations.

Andrew Barton contends the well is fine; his dad just needs the money to prove it and bring the well on line.

"All the violations are [resolved]. The only thing to left to do is an [integrity] test. We have until Jan. 23 to figure it out. If investors don't want to move forward, we will plug the well. There is gas in it. It has 350 pounds of pressure in it," Andrew Barton said. "The well is a good, but the securities stuff put everything on pause."

The Bartons blamed the criminal prosecution for the holdup by blocking Empire from working on the well.

According to a June 17 letter Sandra Barton wrote to DOGM, Empire's drilling contractor used a dull bit and drilled the well crooked, leaving it off course by 170 feet. She said her father did not know selling shares in Empire would require a securities broker license. Her letter asked permission to allow Empire to inject nitrogen into the well to stimulate production, but DOGM declined.

"It took a big toll on him," Andrew Barton said. "He has never managed a project like this before."

The elder Barton's previous experience in oil and gas was staking out successful wells in California with his father. Despite the setbacks, the felony conviction and the plugging order, the Bartons contend most of their investors and other local stakeholders want Empire to bring the well into production.

First, they need to convince the oil and gas board that it's a good idea.



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