

June 30, 2006

OIL AND GAS DOCKET NO. 01-0242112

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**ENFORCEMENT ACTION AGAINST HILL PRODUCTION COMPANY NO. 2 (OPERATOR NO. 386969)  
FOR VIOLATIONS OF STATEWIDE RULES ON THE TILLER #1 (11419) LEASE, WELL NO. 1,  
PEARSALL (AUSTIN CHALK) FIELD, LASALLE COUNTY, TEXAS.**

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**APPEARANCES:**

**FOR MOVANT RAILROAD COMMISSION OF TEXAS:**

Susan German, Staff Attorney

**FOR RESPONDENT HILL PRODUCTION COMPANY NO. 2:**

Lloyd Muennink, Attorney

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

<b>COMPLAINT FILED:</b>	March 8, 2005
<b>NOTICE OF HEARING:</b>	October 11, 2005
<b>DATE CASE HEARD:</b>	November 17, 2005
<b>PFD PREPARED BY:</b>	Marshall Enquist, Hearings Examiner
<b>PFD CIRCULATION DATE:</b>	June 30, 2006
<b>CURRENT STATUS:</b>	Protested

**STATEMENT OF THE CASE**

This was a Commission-called hearing on the recommendation of the District Office to determine the following:

1. Whether respondent, Hill Production Company No. 2 (hereinafter "Hill") violated Statewide Rule 3(1) and (2) on the Tiller #1 (11419) Lease, Well No. 1, Pearsall (Austin Chalk) Field, LaSalle County, Texas; and
2. Whether respondent, Hill, violated Statewide Rule 14(b)(2) on the Tiller #1 (11419) Lease, Well No. 1, Pearsall (Austin Chalk) Field, LaSalle County, Texas; and

3. Whether respondent, Hill, violated Statewide Rule 8(d)(1) at the tank battery of the Tiller #1 (11419) Lease, Well No. 1, Pearsall (Austin Chalk) Field, LaSalle County, Texas; and
4. Whether the respondent violated provisions of Title 3, Oil and Gas, Subtitles A, B, and C, Texas Natural Resources Code, Chapter 27 of the Texas Water Code, and Commission rules and laws pertaining to safety or prevention or control of pollution by failing to comply with said statutes and Statewide Rules 3 and 14; and
5. Whether the respondent should be assessed administrative penalties of not more than \$10,000.00 per day for each offense committed regarding said lease and wells; and
6. Whether any violations should be referred to the Office of the Attorney General for further civil action pursuant to Tex. Nat. Res. Code Ann. § 81.0534.

Susan German, Staff Attorney, appeared at the hearing representing the Railroad Commission of Texas, Office of General Counsel, Enforcement Section (“Enforcement”). Attorney Lloyd Muennink, representing Hill, appeared and presented evidence. Enforcement's hearing file was admitted into evidence.

Enforcement recommended that Hill be ordered to bring the subject lease and well into compliance with Commission rules, and pay a total administrative penalty of \$3,450.00, which is for three violations of Statewide Rule 3 at \$250 each, one violation of Statewide Rule 14(b)(2) at \$2,000 and one violation of Statewide Rule 8(d)(1) at \$700. The examiner agrees with Enforcement's recommendations.

### **DISCUSSION OF THE EVIDENCE**

#### *Organization and Permit Records*

Commission records show that Hill filed its initial Commission Form P-5 (Organization Report) with the Commission on February 17, 2004, which was approved February 27, 2004. The most recent Organization Report for Hill was filed on January 25, 2005 and approved February 9, 2005. In its initial filing, Steven Christopher Hill and Ed Raney were identified as officers of Hill, being the President and Vice-President respectively. In the second filing approved February 9, 2005, Ed Raney was replaced as Vice-President by Robert D. Luna.

Notice of this hearing was served on Hill at its most recently reported Form P-5 address and on Steven Christopher Hill, President of Hill; Margaret Martin, Registered Agent for Hill, Ed Raney, Vice President of Hill, and Robert D. Luna, Vice-President of Hill.

Hill was recognized as the operator of the Tiller #1 (11419) Lease, Well No. 1, (“subject lease” and “subject well”) by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority) effective March 1, 2004, which was approved by the Commission on

March 15, 2004.

### *Commission Inspections*

Commission inspections of the subject lease made on March 12, 2004, April 26, 2004, May 28, 2004, August 17, 2004, September 3, 2004, October 8, 2004, November 12, 2004, May 23, 2005 and September 7, 2005 showed the signs and identification required by Statewide Rule 3(1) and (2) to be posted at the lease entrance and well site to be missing.

Commission District inspections of the subject lease made on March 12, 2004 showed that Hill had caused or allowed an unauthorized discharge of oil, affecting an area approximately 15' by 30' by 5" deep at the tank battery. Followup District inspections on April 26, 2004 and May 28, 2004, showed no remediation of the spill site. Another followup District Office inspection on August 17, 2004 showed that livestock had trampled the free-standing oil into the soil of the lease in an area measuring approximately 15' by 25'. Subsequent inspections on September 3, 2004, October 8, 2004 and November 12, 2004 showed no attempt at remediation. An inspection on May 23, 2005 indicated that some natural bioremediation had taken place due to the passage of time. A September 7, 2005 inspection showed that the affected area had grown to 40' by 25' and that the production tanks had been removed.

Commission District inspections made on April 26, 2004, August 17, 2004, September 3, 2004, October 8, 2004, November 12, 2004, May 23, 2005 and September 7, 2005, and no production reported to the Commission since December 31, 2002, with zero production reported to the Commission from January 1, 2003 through November 30, 2004, and no production reports filed thereafter with the Commission, show that the Tiller #1 (11419) Lease, Well No. 1 has been inactive for a period greater than one year. Production from the well ceased on or before December 31, 2002. The August 17, 2004 inspection indicated the pumping unit had been removed from the well. Inspection reports thereafter indicated that the rods and tubing had also been removed from the well.

No workovers, re-entries or subsequent operations have taken place on the subject well within the last twelve months. The subject well has not been plugged and no SWR 14(b)(2) extension is in effect for the subject well.

### **ENFORCEMENT'S POSITION**

Enforcement argues that subject lease is out of compliance with Statewide Rule 3(1) and (2) due to a lack of proper signage at the lease entrance and at the well site as shown by a series of District Office inspections made from March 12, 2004 through September 7, 2005. Enforcement contends this violation is serious and threatens the public health and safety in that in the event of a pollution or safety violation or other emergency, the lack of correct identifying information may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency.

District Office inspections made from March 12, 2004 through September 7, 2005 show that

Hill caused or allowed an unauthorized discharge of oil affecting an area varying over the course of time from 15' by 30' to 25' by 40' at the tank battery of Well No. 1 on the Tiller #1 (11419) Lease. The District Office inspection reports do not show any attempt at remediation of the spill.

Enforcement also notes the subject well is out of compliance with Statewide Rule 14(b)(2) because production ceased on or before December 31, 2002. The well was out of compliance with Statewide Rule 14(b)(2) beginning at least January 1, 2004 and was a potential plugging liability from the time it was taken over by Hill. The well was inactive for a period in excess of one year at least as early as January 1, 2004.

The estimated cost to plug the subject well is \$21,300.

### **HILL'S POSITION**

Counsel for Hill states that Hill has not had a lease on the Tiller #1 (11419) Lease for two years. Hill has sent employees to clean up the lease and plug the well as directed by the District Office, but the landowner has locked Hill out of the lease and threatened to shoot any trespassers. Hill's counsel states the Sheriff of the county has refused to accompany Hill onto the lease in order that Hill may carry out the cleanup of the lease and the plugging of the well. According to Hill's counsel, the Sheriff asserts that he does not have the budget to deal with such disputes. Hill's counsel also states that taking the dispute to civil court is not an option as the local courts are not well-disposed to oil and gas operators. Hill will clean up the lease and plug the well if only it can get access into the lease. These statements were the unsworn statements of Hill's counsel. No witness from Hill appeared to confirm these facts.

Counsel for Hill noted the illness of a Hill family member and the serious distraction this presented to business operations. In addition, Hill's counsel offered to late-file the statement of Hill as to the problems it had encountered trying to enter the lease and conduct operations. Hill was granted permission to late-file the statement by November 28, 2005.

### **APPLICABLE AUTHORITY**

Statewide Rule 3(1) requires the posting of signs and identification in English, which display clearly legible and correct information, with letters and numbers at least one inch in height. Statewide Rule 3(1) requires the posting of such a sign at the principal entrance of the property, which must show the name of the property as carried on the records of the Commission, the name of the operator, and the number of acres in the property. Statewide Rule 3(2) requires the posting of such a sign at each well site, which must show the name of the property, the name of the operator and the well number.

Statewide Rule 8(d)(1) requires persons disposing of oil and gas wastes by any method to have a permit to do so unless authorized under subsection (d)(3) or (e) of Statewide Rule 8, or under Statewide Rule 9, 46 or 98. "To dispose" is defined in Statewide Rule 8(a)(24) to include "conducting, draining, discharging, emitting, throwing, releasing, depositing, burying, landfarming, or allowing to seep, or to cause or allow any such acts of disposal."

Statewide Rule 14(b)(2) provides that the operator of a well must plug the well in accordance with Commission rules within one year after operations cease, unless an extension is granted.

### EXAMINER'S OPINION

This docket is one of four that were heard against Hill Production Company No. 2 on November 17, 2005 (see also Docket Nos. 01-0242108, 01-0240803 and 01-0243770). In the present docket, Hill asked permission to submit a late-filed statement and was given until November 28, 2005 to do so. The late-filed statement was never received. The evidence shows that Hill did not respond to numerous warnings from the District Office regarding inspections of the lease and the necessity of posting signs, remediating an oil spill and correcting a Statewide Rule 14(b)(2) violation on the Tiller #1 (11419) Lease, Well No. 1.

Hill represents that it had sought the intervention of the county Sheriff for safe conduct onto the lease, but made no mention of any attempt to have District Office personnel accompany Hill onto the lease and assure the property owner that only cleanup operations and plugging were to be conducted. Hill admits that it has not had a valid oil and gas lease on this property for at least two years. Hill's P-4 shows that it is the party responsible for the lease.

The examiner hereby takes official notice of a Commission record, the "14(b)(2) Well History Inquiry" screen on the Commission mainframe. This shows that the Statewide Rule 14(b)(2) extension for Well No. 1 on the Tiller #1 (11419) Lease was denied on February 9, 2005. Pursuant to Statewide Rule 14(b)(2)(C)(ii), Hill had 30 days to plug the subject well or request a hearing. Hill has done neither and has been in violation of Statewide Rule 14 since 30 days after February 9, 2005, or March 11, 2005.

Commission Form P-5 filings indicate that Steven Christopher Hill was the President of Hill throughout the period in which Hill violated Statewide Rules 3, 8 and 14. A Form P-5 filed with the Commission on February 13, 2004 shows Ed Raney as Vice-President of Hill. He was not removed as an officer of Hill until the next Form P-5 filing, received by the Commission on January 25, 2005 and approved February 9, 2005, at which time Robert D. Luna became Vice-President. Mr. Raney's tenure as an officer with Hill coincides in part with the period of Hill's violation of Statewide Rules 3, 8 and 14. The term as Vice-President of Robert D. Luna, beginning February 9, 2005, also coincides in part with the period of Hill's violation of Statewide Rules 3, 8 and 14.

The examiner agrees with Enforcement's recommended penalties of \$750 for the violation of Statewide Rule 3(1) and (2), \$700 for the violation of Statewide Rule 8(d)(1) on the Tiller #1 (11419) Lease, and \$2,000 for the Statewide Rule 14(b)(2) violation of Well No. 1 on the Tiller #1 (11419) lease. The examiner also finds that Steven Christopher Hill, Ed Raney, and Robert D. Luna were officers in Hill at the time of the violations of Commission Statewide Rules. Hill's violations were serious and relate to safety and the prevention of pollution.

Based on the record in this docket, the examiner recommends adoption of the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Respondent Hill Production Company No. 2 (Operator No. 386969) (“Hill”) was given at least 10 days notice of this proceeding by certified mail, addressed to its most recent Form P-5 (Organization Report) address. Hill appeared through its counsel, Attorney Lloyd Muennink. Notice was also served on Hill’s President, Steven Christopher Hill, and on the Vice-President, Robert D. Luna. Additionally, notice was served on Ed Raney, reported in a previous P-5 filing (dated February 27, 2004) to be the Vice-President of Hill.
2. Commission records show that Hill filed its initial Commission Form P-5 (Organization Report) with the Commission on February 17, 2004, approved February 27, 2004. The most recent Organization Report renewal for Hill was filed on January 25, 2005 and approved by the Commission on February 9, 2005. In its initial filing, Steven Christopher Hill was reported as the President of Hill and Ed Raney was reported as Vice-President. In the second Form P-5 filing, approved by the Commission on February 9, 2005, Ed Raney was replaced as Vice President of Hill by Robert D. Luna.
3. Hill was recognized as the operator of the Tiller #1 (11419) Lease, Well No. 1, Pearsall (Austin Chalk) Field, (“subject lease” and/or “subject well”) after filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority) which was effective March 1, 2004 and approved by the Commission on March 15, 2004.
4. Commission inspections of the subject lease made on March 12, 2004, April 26, 2004, May 28, 2004, August 17, 2004, September 3, 2004, October 8, 2004, November 12, 2004, May 23, 2005 and September 7, 2005 showed the signs and identification required by Statewide Rule 3(1) and (2) to be posted at the lease entrance and well site to be missing.
5. Commission records indicate the Tiller #1 (11419) Lease has been out of compliance with Commission Statewide Rule 3(1) and (2) from on or before March 12, 2004 to the present.
6. Commission District Office inspections of the subject lease made on March 12, 2004 showed that Hill had caused or allowed an unauthorized discharge of oil, affecting an area approximately 15' by 30' by 5" deep at the tank battery. Followup District Office inspections on April 26, 2004 and May 28, 2004, showed no remediation of the spill site. Another followup District Office inspection on August 17, 2004 showed that livestock had trampled the free-standing oil into the soil of the lease in an area measuring approximately 15' by 25'. Subsequent inspections on September 3, 2004, October 8, 2004 and November 12, 2004 showed no attempt at remediation. An inspection on May 23, 2005 indicated that some natural bioremediation had taken place due to the passage of time. A September 7, 2005 inspection showed that the affected area had grown to 40' by 25' and that the production tanks had been removed.
7. Commission records indicate the Tiller #1 (11419) Lease, Well No. 1, was out of compliance with Statewide Rule 8(d)(1) from March 12, 2004 through at least September 7, 2005, a

period greater than one year.

8. Commission District inspections made on April 26, 2004, August 17, 2004, September 3, 2004, October 8, 2004, November 12, 2004, May 23, 2005 and September 7, 2005, and no production reported to the Commission since December 31, 2002, with zero production reported to the Commission from January 1, 2003 through November 30, 2004, and no production reports filed thereafter with the Commission, show that the Tiller #1 (11419) Lease, Well No. 1 has been inactive for a period greater than one year. Production from the well ceased on or before December 31, 2002. The August 17, 2004 inspection indicated the pumping unit had been removed from the well. Inspection reports thereafter indicated that the rods and tubing had also been removed from the well.
9. The Statewide Rule 14(b)(2) extension for Well No. 1 on the Tiller #1 (11419) Lease was denied on February 9, 2005. Well No. 1 has been out of compliance with Statewide Rule 14(b)(2) since 30 days after that date, or March 11, 2005.
10. Steven Christopher Hill, as President of Hill Production Company No. 2 (Operator No. 386969) was an officer in a position of ownership and control of Hill at the time of Hill's violations of Statewide Rules 3, 8 and 14.
11. Ed Raney, as Vice-President of Hill Production Company No. 2 (Operator No. 386969) from at least February 27, 2004 through February 9, 2005, was an officer in a position of ownership and control of Hill at the time of its violations of Statewide Rules 3, 8 and 14.
12. Robert D. Luna, as Vice-President of Hill Production Company No. 2 (Operator No. 386969) from February 9, 2005, was an officer in a position of ownership and control of Hill at the time of its violation of Statewide Rules 3, 8 and 14.
13. The violations of Statewide Rules 3, 8 and 14 committed by Hill were serious and relate to safety and the prevention of pollution.
14. The estimated cost to the state to plug the subject well is \$21,300.00.

#### CONCLUSIONS OF LAW

1. Proper notice of hearing was timely issued to the appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. Hill Production Company No. 2 (Operator No. 386969) ("Hill") is the operator of the Tiller #1 (11419) Lease, Well No. 1, Pearsall (Austin Chalk) Field, LaSalle County, as defined by Statewide Rule 14 and §89.002 of the Texas Natural Resources Code.
4. Hill has the primary responsibility for complying with Statewide Rules 3, 8 and 14, and Chapter 89 of the Texas Natural Resources Code as well as other applicable statutes and

- Commission rules relating to the Tiller #1 (11419) Lease, Well No. 1.
5. Hill violated Commission Statewide Rule 3(1) and (2) on the Tiller #1 (11419) Lease.
  6. Hill violated Commission Statewide Rule 8(d)(1) on the Tiller #1 (11419) Lease.
  7. Hill violated Commission Statewide Rule 14(b)(2) on the Tiller #1 (11419) Lease.
  8. Steven Christopher Hill, Robert D. Luna and Ed Raney held positions as officers of Hill Production Company No. 2 (Operator No. 386969), as defined by Texas Natural Resources Code § 91.114, during the time period of the violations of Commission rules committed by the Respondent.
  9. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
  10. As officers at the time of the violations of Commission rules related to safety and the control of pollution, Steven Christopher Hill, Robert D. Luna and Ed Raney and any other organization in which any of them may hold a position of ownership or control, shall be subject to the restrictions of Texas Natural Resources Code §91.114(a)(2) for a period of no more than seven years from the date the order entered in this matter becomes final, or sooner, if the conditions that constituted the violations herein are corrected or are being corrected in accordance with a schedule to which the Commission and the organization have agreed; and all administrative, civil, and criminal penalties and all cleanup and plugging costs incurred by the State relating to those conditions are paid or are being paid in accordance with a schedule to which the Commission and the organization have agreed.
  11. The documented violations committed by respondent are a hazard to the public health and demonstrate a lack of good faith pursuant to Texas Natural Resources Code §81.0531(c).

**RECOMMENDATION**

The examiner recommends that the above findings and conclusions be adopted and the attached order approved, requiring Hill Production Company No. 2 to 1.) plug the Tiller #1 (11419) Lease, Well No. 1; 2.) place the Tiller #1 (11419) Lease in compliance with Commission Statewide Rules, and; 3.) pay an administrative penalty of \$3,450.

The examiner also recommends that Steven Christopher Hill, Robert D. Luna and Ed Raney be made subject to the restrictions of Texas Natural Resources Code §91.114(a)(2).

Respectfully submitted,

Marshall Enquist  
Hearings Examiner