

December 1, 2008

OIL AND GAS DOCKET NO. 01-0253161

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**ENFORCEMENT ACTION AGAINST COMANCHE WELL SERVICE CORP. (OPERATOR NO. 169420) FOR VIOLATIONS OF STATEWIDE RULES ON THE GARCIA (08451) LEASE, WELL NOS. 1 AND 4, KENS (SERPENTINE) FIELD, GUADALUPE COUNTY; AND GARCIA -B- (08800) LEASE, WELL NO. 1, KENS (SERPENTINE) FIELD, GUADALUPE COUNTY, TEXAS.**

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**APPEARANCES:**

**FOR RESPONDENT:**

Rex White, Attorney

Comanche Well Service Corp.

**FOR THE RAILROAD COMMISSION OF TEXAS:**

Susan German

Enforcement Section, RRC

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

<b>COMPLAINT FILED:</b>	August 17, 2007
<b>NOTICE OF HEARING:</b>	May 23, 2008
<b>DATE CASE HEARD:</b>	July 24, 2008
<b>HEARING CLOSED:</b>	July 24, 2008
<b>PFD PREPARED BY:</b>	Marshall Enquist, Hearings Examiner
<b>CURRENT STATUS:</b>	Contested
<b>PFD CIRCULATION DATE:</b>	December 1, 2008

**STATEMENT OF THE CASE**

1. Whether the respondent Comanche Well Service Corp. ("Comanche") should be required to plug or otherwise place in compliance with Statewide Rule 14(b)(2) [Tex. R.R. Comm'n., 16 TEX. ADMIN. CODE §3.14(b)(2)] the Garcia (08451) Lease, Well Nos. 1 and 4, Kens (Serpentine) Field, Guadalupe County, and

2. Whether the respondent Comanche Well Service Corp. (“Comanche”) should be required to plug or otherwise place in compliance with Statewide Rule 14(b)(2) [Tex. R.R. Comm’n., 16 TEX. ADMIN. CODE §3.14(b)(2)] the Garcia -B- (08800) Lease, Well No. 1, Kens (Serpentine) Field, Guadalupe County, and;
3. Whether Comanche violated Statewide Rule 3 [Tex. R.R. Comm’n., 16 TEX. ADMIN. CODE §3] by failing to post and maintain required identification signs at the lease entrance, well site, and tank battery of the Garcia (08451) Lease, Well Nos. 1 and 4; and
4. Whether Comanche violated Statewide Rule 3 [Tex. R.R. Comm’n., 16 TEX. ADMIN. CODE §3] by failing to post and maintain required identification signs at the lease entrance, well site, and tank battery of the Garcia -B- (08800) Lease, Well No. 1; and
5. Whether Comanche violated Statewide Rule 13(b)(1)(B) [Tex. R.R. Comm’n., 16 TEX. ADMIN. CODE §13(b)(1)(B)] on the Garcia (08451) Lease, Well Nos. 1 and 4, by failing to use proper wellhead assemblies to maintain surface control of the wells, and;
6. Whether Comanche violated Statewide Rule 13(b)(1)(B) [Tex. R.R. Comm’n., 16 TEX. ADMIN. CODE §13(b)(1)(B)] on the Garcia -B- (08800) Lease, Well No. 1, by failing to use proper wellhead assemblies to maintain surface control of the well, and;
7. Whether Comanche violated provisions of Title 3, Oil and Gas, Subtitles A, B and C, Texas Natural Resources Code, Chapter 27 of the Water Code and Commission rules and laws pertaining to safety or prevention or control of pollution by failing to plug the subject wells and/or otherwise failing to place the subject wells and lease into compliance with Statewide Rule 14(b)(2);
8. Whether, pursuant to Texas Natural Resources Code §81.0531, Comanche should be assessed administrative penalties of not more than \$10,000 per day for each offense committed regarding the subject lease and well; and
9. Whether any violations of Statewide Rules 14(b)(2), 3(2) and 13(b)(1)(B) by Comanche should be referred to the Office of the Attorney General for further civil action pursuant to Texas natural Resources Code §81.0534.

A Notice of Opportunity for Hearing was issued in this case on May 23, 2008 for the hearing date of July 24, 2008. Attorney Rex White appeared at the hearing on behalf of Comanche and offered evidence. Susan German, Staff Attorney, appeared to represent Enforcement. Enforcement’s certified hearing file was entered into evidence.

**MATTERS OFFICIALLY NOTICED**

The examiner has taken official notice of the mainframe P-4 screens regarding the Garcia (08451) Lease and the Garcia -B- (08800) Lease.

**AUTHORITY**

Statewide Rule 3 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) [16 Tex. Admin. Code §3.3(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) [16 Tex. Admin. Code §3.3(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 14(b)(2) [16 Tex. Admin. Code §3.14(b)(2)] requires the commencement of plugging operations on each dry or inactive well within one year after drilling or operations cease, unless the operator is eligible for and obtains an extension of the plugging deadline under Statewide Rule 14(b)(2).

Statewide Rule 13(b)(1)(B) [16 Tex. Admin. Code §3.13(b)(1)(B)] provides that wellhead assemblies shall be used on wells to maintain surface control of the well. Maintenance of surface control is necessary not only to prevent fluids from being discharged from the wellbore onto the ground surface, but also to prevent any oil and gas wastes present in the wellbore from being displaced to the surface by influxes of surface water into the open wellbore.

**DISCUSSION OF THE EVIDENCE****Enforcement**

Comanche Well Service Corp. is a corporation, and Don Lambert was its President, Dorothea Krempein its Vice-President-Finance and Paul Willingham its Vice-President-Comptroller during the time of the pled violations. The P-5 Organization Report of Comanche is active and Comanche has approved financial assurance on file in the form of a cash deposit in the amount of \$250,000. The most recent renewal date for Comanche was February 29, 2008, at which time there was an officer change. Currently, Don Lambert is not listed as an officer of Comanche and the company does not have a President listed on its current P-5. Dorothea Krempein and Paul Willingham remain in their prior offices and Eric Brewster has been added as Treasurer. The period after the February 29, 2008 Form P-5 renewal date and officer change is also within the time period of the pled violations of Commission rules.

Comanche designated itself the operator of the Garcia (08451) Lease, Well Nos. 1 and 4, and the operator of the Garcia -B- (08800) Lease by filing Commission Form P-4s (Certificate of Compliance and Transportation Authority) for each lease, both effective April 1, 2006 and approved April 4, 2006.

### **The Garcia (08451) Lease**

#### **Statewide Rule 3**

Commission District Office inspection reports made on August 15, 2006, September 21, 2006, April 13, 2007, October 17, 2007 and July 11, 2008, showed that the required signs for the lease entrance and the wellsites of Well Nos. 1 and 4 were missing. This is one violation of Statewide Rule 3(1) and two violations of Statewide Rule 3(2).

An affidavit by Keith Barton, Professional Engineer, Field Operations Section, states in reference to Statewide Rule 3: “A lease, well, tank or approved crude oil measuring facility where tanks are not used, which is in violation of Statewide Rule 3 by failing to maintain correct and legible signs or identification as required, must immediately be placed in compliance with the requirements of Statewide Rule 3 in order to allow correct identification of the responsible operator and to allow correct determination of the actual location of the lease, well, tank or approved crude oil measuring facility where tanks are not used. In the event of a pollution or safety violation or other emergency, the lack of legible signs and identification displaying correct information may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency, which may threaten public health and safety.”

#### **Statewide Rule 13**

Commission District Office inspection reports made on August 15, 2006, September 21, 2006, April 13, 2007, October 17, 2007 and July 11, 2008, showed that the wellheads of Well Nos. 1 and 4 were open to atmosphere and lacked proper wellhead control.

An affidavit by Keith Barton, Professional Engineer, Field Operations Section, states “Open wellbores prohibited by Statewide Rule 13(b)(1)(B) are pollution/safety hazards due to the possibility of surface run-off entering the wellbore and the possibility of well fluids flowing out of the wellbore.”

#### **Statewide Rule 14**

Commission District Office inspection reports made on August 15, 2006, September 21, 2006, April 13, 2007, October 17, 2007 and July 11, 2008, showed that Well Nos. 1 and 4 were inactive and not equipped to produce. The last production reported was April 30, 1997. Both wells were shut-in as of January, 1998. The last Statewide Rule 14(b)(2) extension for each well was denied March, 2007 due to failure to file required H-15 tests.

An affidavit by Keith Barton, Professional Engineer, Field Operations Section, states “Any wellbore, cased or otherwise, is a potential conduit for flow from oil or saltwater zones to zones of usable quality water or to the surface. Holes or leaks may develop in cased wells, allowing oil or saltwater to communicate with usable quality zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface.”

### **The Garcia -B- (08800) Lease**

#### **Statewide Rule 3**

Commission District Office inspection reports made on August 15, 2006, September 21, 2006, April 13, 2007, October 17, 2007 and July 11, 2008, showed that the required signs for the lease entrance and the site of Well No. 1 were missing. These are violations of Statewide Rule 3(1) and 3(2), respectively.

An affidavit by Keith Barton, Professional Engineer, Field Operations Section, states “In the event of a pollution or safety violation or other emergency, the lack of legible signs and identification displaying correct information may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency, which may threaten public health and safety.”

#### **Statewide Rule 13**

Commission District Office inspection reports made on August 15, 2006, September 21, 2006, April 13, 2007, October 17, 2007 and July 11, 2008, showed that the wellhead of Well No. 1 was open to atmosphere and lacked proper wellhead control.

An affidavit by Keith Barton, Professional Engineer, Field Operations Section, states “Open wellbores prohibited by Statewide Rule 13(b)(1)(B) are pollution/safety hazards due to the possibility of surface run-off entering the wellbore and the possibility of well fluids flowing out of the wellbore.”

#### **Statewide Rule 14**

Commission District Office inspection reports made on August 15, 2006, September 21, 2006, April 13, 2007, October 17, 2007 and July 11, 2008, showed that Well No. 1 was inactive and not equipped to produce. The last production reported was March, 1997. The last Statewide Rule 14(b)(2) extension for this well was denied March, 2007 due to failure to file a required H-15 test.

An affidavit by Keith Barton, Professional Engineer, Field Operations Section, states “Any wellbore, cased or otherwise, is a potential conduit for flow from oil or saltwater zones to zones of usable quality water or to the surface. Holes or leaks may develop in cased wells, allowing oil or saltwater to communicate with usable quality zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface.”

Enforcement's Recommendation Regarding the Garcia Lease and Garcia -B- Lease

Enforcement notes that Comanche has completed the P-4 transfer of the subject leases to R&S Oil Production Co. ("R&S"). The Garcia (08451) Lease was transferred to R&S effective March 1, 2008, with an approval date of July 8, 2008. The Garcia -B- (08800) Lease was transferred to R&S effective March 1, 2008, with an approval date of July 25, 2008.

Enforcement requests penalties be assessed against Comanche for time out of compliance for each violation. Enforcement recommends that Comanche be assessed an administrative penalty of \$10,250.00, consisting of five violations of Statewide Rule 3(1) and 3(2) at \$250.0 each; three violations of Statewide Rule 13(b)(1)(B) at \$1,000.00 each and three violations of Statewide Rule 14(b)(2) at \$2,000.00 each.

**Comanche**

Attorney Rex White, appearing on behalf of Comanche, stated that Comanche's parent company is Energytec, Inc. Mr. White entered into evidence a letter from Dorothea Krempein, signing as CFO of Comanche, reading in relevant part as follows:

Energytec, Inc. has not been able to take action on the above referenced wells due to a lack of funds.

The Company has undertaken to sell 100% of its interest in an unrelated field in order to raise cash necessary to address the issues related to these wells. The transaction has not been closed, but the Company anticipates that closing will occur on or about August 8, 2008.

Energytec letter to RRC, July 21, 2008, signatory Dorothea Krempein, Chief Financial Officer. "The above referenced wells..." referred to in the letter relate to the dockets listed in the subject block of the letter, being RRC Docket Nos. 7B-0254592, 03-0256179, 01-0253161 and 01-0253159.

To further demonstrate the connection between Comanche and Energytec, Mr. White offered a 2006 Texas Franchise Tax Public Information Report listing the officers of Energytec as Don L. Lambert, Dorothea Krempein and Paul Willingham, the same officers as those in Comanche prior to the February 29, 2008 officer change in Comanche's P-5 filing which removed President Don Lambert and added Treasurer Eric Brewster.

**EXAMINER'S OPINION**

Comanche does not contest the accuracy of Enforcement's allegation of violations in this docket.

Numerous District Office inspections from August 15, 2006 through July 11, 2008 demonstrate that there were no signs posted at the lease entrance or well sites of the Garcia (08451) Lease, Well Nos. 1 and 4. The lease was in violation of Commission Statewide Rule 3(1) and 3(2)

for a period of almost two years. Numerous District Office inspections from August 15, 2006 through July 11, 2008 demonstrate that there were no signs posted at the lease entrance or well sites of the Garcia -B- (08800) Lease, Well No. 1. The lease was in violation of Commission Statewide Rule 3(1) and 3(2) for a period of almost two years.

Numerous District Office inspections from August 15, 2006 through July 11, 2008 demonstrate that the wellheads of the Garcia (08451) Lease, Well Nos. 1 and 4 were open to atmosphere and lacked proper wellhead control. The lease was in violation of Commission Statewide Rule 13(b)(1)(B) for a period of almost two years. Numerous District Office inspections from August 15, 2006 through July 11, 2008 demonstrate that the wellhead of the Garcia -B- (08800) Lease, Well No. 1 was open to atmosphere and lacked proper wellhead control. The lease was in violation of Commission Statewide Rule 13(b)(1)(B) for a period of almost two years.

The Statewide Rule 14(b)(2) extensions for the Garcia (08451) Lease, Well Nos. 1 and 4, and the Garcia -B- (08800) Lease, Well No. 1, were denied in March, 2007. The wells were in violation of Statewide Rule 14(b)(2) from at least April, 2007 until the P-4 transfer to R&S Oil Production Co. in July, 2008.

Commission letters in the certified file dated May 21, 2007; April 19, 2007; April 3, 2007 and August 30, 2006 show the Commission advised Comanche of the violations on the Garcia (08451) Lease and the Garcia -B- (08800) Lease. Comanche replied by letter dated April 18, 2007, indicating it would plug Well Nos. 1 and 4 on the Garcia (08451) Lease. The wells were not plugged.

The examiner agrees with Enforcement's requested penalties in the amount of \$11,250.00 for time out of compliance.

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. Comanche Well Service Corp. ("Comanche") (Operator No. 169420) was given at least 10 days notice of this proceeding. Comanche appeared through its counsel, Attorney Rex White and presented evidence at the hearing.
2. Comanche is a corporation, and its officers prior to February 29, 2008 were Don Lambert, President; Dorothea Krempein, Vice-President - Finance; and Paul Willingham, Vice-President - Comptroller. On and after February 29, 2008, Comanche's officers were Dorothea Krempein, Vice-President - Finance; Paul Willingham, Vice-President - Comptroller; and Eric Brewster, Treasurer.
3. The Form P-5 Organization Report of Comanche is active and Comanche has approved financial assurance on file in the form of a cash deposit in the amount of \$250,000.

4. The violations involved in this docket were violations of Commission rules related to safety and the prevention or control of pollution.
5. Comanche designated itself the operator of the Garcia (08451) Lease, Well Nos. 1 and 4, and the operator of the Garcia -B- (08800) Lease by filing Commission Form P-4s (Certificate of Compliance and Transportation Authority) for each lease, both effective April 1, 2006 and approved April 4, 2006.
6. Commission District Office inspection reports made on August 15, 2006, September 21, 2006, April 13, 2007, October 17, 2007 and July 11, 2008, showed that the required signs for the lease entrance and the wellsites of the Garcia (08451) Lease, Well Nos. 1 and 4 were missing.
7. Commission District Office inspection reports made on August 15, 2006, September 21, 2006, April 13, 2007, October 17, 2007 and July 11, 2008, showed that the required signs for the lease entrance and the wellsite of the Garcia -B- (08800) Lease, Well No. 1 was missing.
8. Well Nos. 1 and 4 on the Garcia (08451) Lease were out of compliance with Statewide Rule 3(1) and 3(2) for almost two years.
9. Well No. 1 on the Garcia -B- (08800) Lease was out of compliance with Statewide Rule 3(1) and 3(2) for almost two years.
10. A lease, well, tank or approved crude oil measuring facility where tanks are not used, which is in violation of Statewide Rule 3 by failing to maintain correct and legible signs or identification as required, must immediately be placed in compliance with the requirements of Statewide Rule 3 in order to allow correct identification of the responsible operator and to allow correct determination of the actual location of the lease, well, tank or approved crude oil measuring facility where tanks are not used. In the event of a pollution or safety violation or other emergency, the lack of legible signs and identification displaying correct information may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency, which may threaten public health and safety.
11. Commission District Office inspection reports made on August 15, 2006, September 21, 2006, April 13, 2007, October 17, 2007 and July 11, 2008, showed that the wellheads of the Garcia (08451) Lease, Well Nos. 1 and 4, were open to atmosphere and lacked proper wellhead control.
12. Commission District Office inspection reports made on August 15, 2006, September 21, 2006, April 13, 2007, October 17, 2007 and July 11, 2008, showed that the wellhead of the Garcia -B- (08800) Lease, Well No. 1 was open to atmosphere and lacked proper wellhead control.



13. Well Nos. 1 and 4 on the Garcia (08451) lease were out of compliance with Statewide Rule 13(b)(1)(B) for almost two years.
14. Well No. 1 on the Garcia -B- (08800) Lease was out of compliance with Statewide Rule 13(b)(1)(B) for almost two years.
15. Open wellbores prohibited by Statewide Rule 13(b)(1)(B) are pollution/safety hazards due to the possibility of surface run-off entering the wellbore and the possibility of well fluids flowing out of the wellbore.
16. Commission District Office inspection reports made on August 15, 2006, September 21, 2006, April 13, 2007, October 17, 2007 and July 11, 2008, showed that the Garcia (08451) Lease, Well Nos. 1 and 4 were inactive and not equipped to produce. The last production reported was April 30, 1997. Both wells were shut-in as of January, 1998. The last Statewide Rule 14(b)(2) extension for each well was denied March, 2007 due to failure to file required H-15 tests.
17. Commission District Office inspection reports made on August 15, 2006, September 21, 2006, April 13, 2007, October 17, 2007 and July 11, 2008, showed that the Garcia -B- (08800) Lease, Well No. 1 was inactive and not equipped to produce. The last production reported was March, 1997. The last Statewide Rule 14(b)(2) extension for this well was denied March, 2007 due to failure to file a required H-15 test.
18. Comanche transferred the P-4 for the Garcia (08451) Lease to R&S Oil Production Co. effective March 1, 2008, with an approval date of July 8, 2008.
19. Comanche transferred the P-4 for the Garcia -B- (08800) Lease to R&S Oil Production Co. effective March 1, 2008, with an approval date of July 25, 2008.
20. Well Nos. 1 and 4 on the Garcia (08451) Lease were out of compliance with Statewide Rule 14(b)(2) for at least eleven months.
21. Well No. 1 on the Garcia -B- (08800) Lease was out of compliance with Statewide Rule 14(b)(2) for at least eleven months.
22. Commission letters in the certified file dated May 21, 2007; April 19, 2007; April 3, 2007 and August 30, 2006 show the Commission advised Comanche of the violations on the Garcia (08451) Lease and the Garcia -B- (08800) Lease. Comanche replied by letter dated April 18, 2007, indicating it would plug Well Nos. 1 and 4 on the Garcia (08451) Lease. The wells were not plugged.

**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. Comanche Well Service Corp. was the operator of the Garcia (08451) Lease, Well Nos. 1 and 4, Kens (Serpentine) Field, Guadalupe County, as defined by Statewide Rules 14, 58 and 79 [Tex. R.R. Comm'n, 16 Tex. Admin. Code §§3.14, 3.58 and 3.79] and Chapters 85 and 89 of the Texas Natural Resources Code from at least April 1, 2006 through at least March 1, 2008.
4. Comanche Well Service Corp. was the operator of the Garcia -B- (08800) Lease, Well No. 1, Kens (Serpentine) Field, Guadalupe County, as defined by Statewide Rules 14, 58 and 79 [Tex. R.R. Comm'n, 16 Tex. Admin. Code §§3.14, 3.58 and 3.79] and Chapters 85 and 89 of the Texas Natural Resources Code from at least April 1, 2006 through at least March 1, 2008.
5. As Operator of the subject leases, Comanche Well Service Corp. had the primary responsibility for complying with Statewide Rules 3(1) and 3(2), 13(b)(1)(B) and 14(b)(2) [Tex. R.R. Comm'n, 16 Tex. Admin. Code §3.3(1) and (2), §3.13(b)(1)(B) and §3.14(b)(2)], Chapters 89 and 91 of the Texas Natural Resources Code, and other applicable statutes and Commission rules respecting the subject leases and wells.
6. Comanche Well Service Corp. violated Statewide Rule 3(1) and 3(2) [Tex. R.R. Comm'n, 16 Tex. Admin. Code §3.3(1) and (2)] by failing to post and maintain required identification signs at the lease entrance and the wellsites of Well Nos. 1 and 4 on the Garcia (08451) Lease.
7. Comanche Well Service Corp. violated Statewide Rule 3(1) and 3(2) [Tex. R.R. Comm'n, 16 Tex. Admin. Code §3.3(1) and (2)] by failing to post and maintain required identification signs at the lease entrance and the wellsite of Well No. 1 on the Garcia -B- (08800) Lease.
8. Comanche Well Service Corp. violated Statewide Rule 13(b)(1)(B) [Tex. R.R. Comm'n, 16 Tex. Admin. Code §3.13(b)(1)(B)] by failing to maintain proper wellhead control on Well Nos. 1 and 4 on the Garcia (08451) Lease.
9. Comanche Well Service Corp. violated Statewide Rule 13(b)(1)(B) [Tex. R.R. Comm'n, 16 Tex. Admin. Code §3.13(b)(1)(B)] by failing to maintain proper wellhead control on Well No. 1 on the Garcia -B- (08800) Lease.
10. Comanche Well Service Corp. violated Statewide Rule 14(b)(2) [Tex. R.R. Comm'n, 16 Tex. Admin. Code §3.14(b)(2)] by failing to plug the Garcia (08451) Lease, Well Nos. 1 and 4, after their Statewide Rule 14(b)(2) extensions were cancelled in March, 2007.

11. Comanche Well Service Corp. violated Statewide Rule 14(b)(2) [Tex. R.R. Comm'n, 16 Tex. Admin. Code §3.14(b)(2)] by failing to plug the Garcia -B- (08800) Lease, Well No. 1, after its Statewide Rule 14(b)(2) extension was cancelled in March, 2007.
12. The documented violations committed by Comanche Well Service Corp. constitute acts deemed serious and a hazard to the public health and safety within the meaning of Texas Natural Resources Code §81.0531.
13. Comanche Well Service Corp. has not demonstrated good faith within the meaning of Texas Natural Resources Code §81.0531.
14. As officers of Comanche Well Service Corp. at the time Comanche violated Commission rules related to safety and the prevention or control of pollution, Don Lambert, Dorothea Krempein, Paul Willingham and Eric Brewster, and any organization subject to the Commission's jurisdiction in which any or all of them may hold a position of ownership or control, are subject to the restrictions of Texas Natural Resources Code §91.114(a)(2).

**RECOMMENDATION**

The examiner recommends that Comanche Well Service Corp. be required to pay an administrative penalty of \$10,250.

Respectfully submitted,

Marshall Enquist  
Hearings Examiner