

ENFORCEMENT ACTION AGAINST SABINAL RESOURCES, INC., (OPERATOR NO. 742124) FOR VIOLATIONS OF STATEWIDE RULES ON THE HOUSE BROTHERS #1 LEASE, WELL NO. 1 (DRILLING PERMIT NO. 611765) AND HOUSE BROTHERS #2 LEASE, WELL NO. 2 (DRILLING PERMIT NO. 614381), WILDCAT FIELD, ZAVALA COUNTY, TEXAS

APPEARANCES:

FOR MOVANT:

Christopher S. Hotchkiss

MOVANT:

Enforcement Section
Office of General Counsel

FOR RESPONDENT:

Ralph H. Drake

RESPONDENT:

Sabinal Resources, Inc.

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

DATE COMPLAINT FILED:	August 27, 2008
DATE OF NOTICE OF HEARING:	March 17, 2009
DATE OF HEARING:	July 2, 2009
HEARD BY:	James M. Doherty, Hearings Examiner
DATE RECORD CLOSED:	August 3, 2009
DATE PFD CIRCULATED:	February 22, 2010

STATEMENT OF THE CASE

This proceeding was called by the Commission on the recommendation of the District Office to determine the following:

1. Whether the respondent Sabinal Resources, Inc. ("Sabinal") should be required to plug or otherwise place into compliance with Statewide Rule 14(b)(2) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.14(b)(2)] the House Brothers #1 Lease, Well No. 1 (Drilling Permit No. 611765) and the House Brothers #2 Lease, Well No. 2 (Drilling Permit No. 614381), Wildcat Field, Zavala County, Texas;

2. Whether Sabinal violated Statewide Rule 8(d)(2) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.8(d)(2)] on the House Brothers #2 Lease, Wildcat Field, Zavala County, Texas, by maintaining and using an unauthorized pit adjacent to Well No. 2 (Drilling Permit No. 614381) without obtaining a permit;
3. Whether Sabinal violated Statewide Rule 16(b) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.16(b)] by failing to file completion reports for the House Brothers #1 Lease, Well No. 1 (Drilling Permit No. 611765) and the House Brothers #2 Lease, Well No. 2 (Drilling Permit No. 614381), Wildcat Field, Zavala County, Texas;
4. Whether Sabinal 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 plug the subject wells and/or otherwise failing to place the subject wells and leases into compliance with Statewide Rules 8(d)(2), 14(b)(2), and 16(b);
5. Whether, pursuant to Texas Natural Resources Code §81.0531, Sabinal should be assessed administrative penalties of not more than \$10,000 per day for each offense committed regarding the subject leases and wells; and
6. Whether any violations of Statewide Rules 8(d)(2), 14(b)(2), and 16(b) by Sabinal should be referred to the Office of the Attorney General for further civil action pursuant to Texas Natural Resources Code §81.0534.

A hearing was held on July 2, 2009. Christopher S. Hotchkiss, Staff Attorney, appeared to represent the Enforcement Section of the Office of General Counsel ("Enforcement"). Ralph S. Drake, Agent, appeared to represent Sabinal. Enforcement's certified hearing file was admitted into evidence, and evidence was also presented by Sabinal. Without objection from the parties, the record of the hearing was held open until August 3, 2009, to receive any report from Enforcement regarding compliance and settlement. On or about August 3, 2009, Enforcement retrieved the hearing file from the examiner in contemplation of settlement. On or about November 30, 2009, Enforcement returned the hearing file to the examiner and advised that the terms of a settlement agreement had not been satisfied.

APPLICABLE LAW

Statewide Rule 8(d)(2) provides that, with certain exceptions, no person may maintain or use any pit for storage of oil field fluids, or for storage or disposal of oil and gas wastes, without obtaining a permit to maintain or use the pit.

Statewide Rule 14(b)(2) requires that a well be plugged after 12 months of inactivity, unless a plugging extension is obtained.

Statewide Rule 16(b) requires an operator of a well to file an appropriate completion report within 30 days after the completion of a well or within 90 days after the date on which the drilling operation is completed, whichever is earlier. If the well is a dry hole, the operator must file an appropriate plugging report within 30 days after the well is plugged.

DISCUSSION OF THE EVIDENCE

Enforcement

The examiner has officially noticed the Commission's P-5 Master Inquiry and P-5 Financial Assurance Inquiry databases which show that Sabinal currently is an active operator with approved financial assurance on file in the amount of \$50,000. The most recent Form P-5 organization report filed by Sabinal indicates that it is a corporation. At the time of the hearing, Sabinal's officers were James Carl Yeatman, President, Douglas A. Newman, CFO, and Carl Glenn, Vice President. The examiner has officially noticed the Commission's P-5 Officer/Agent Inquiry database which shows that Sabinal's officers as reported on the most recent Form P-5 organization report filed January 6, 2010, are the same except that Mr. Glenn has been replaced as Vice President by James Holdridge.

Sabinal designated itself the operator of the House Brothers #1 Lease, Well No. 1, by filing a Form W-1 (Application to Drill, Deepen, Plug Back, or Reenter) on December 30, 2005, resulting in the issuance of Drilling Permit No. 611765 on January 3, 2006. Sabinal designated itself the operator of the House Brothers #2 Lease, Well No. 2 by filing a Form W-1 on February 16, 2006, resulting in the issuance of Drilling Permit No. 614381 on February 17, 2006.

On the occasion of a District Office inspection of the House Brothers #2 Lease on May 21, 2008, Sabinal was found to be maintaining or using a pit adjacent to Well No. 2 which was four feet deep and four feet square. The pit contained no fluid at the time of the inspection. Subsequent inspections on September 9, 2008, and May 5, 2009, showed no change in the condition of the pit. Enforcement's hearing file contained no information to indicate the type of pit being used and maintained. Commission records show that Sabinal did not obtain a permit to maintain and use this pit.

District Office inspections of the House Brothers #1 Lease, Well No. 1 and the House Brothers #2 Lease, Well No. 2 on May 21, 2008, disclosed that both wells were inactive. No equipment was found on the location of the House Brothers #1 Lease, Well No. 1, with the exception that the well was found to be equipped with a wellhead and tubing with a 2" valve. The House Brothers #2 Lease, Well No. 2 had no pumping unit and was shut-in. A flowline from the well was hooked up to a small production tank. A string of rods and tubing was laying on the ground beside the well. Subsequent inspections of these wells on September 9, 2008, and May 5, 2009, showed

no changes, except that with respect to the House Brothers #2 Lease, Well No. 2, the production tank had been removed as of the inspection on May 5, 2009. No production has ever been reported to the Commission for either well.

The House Brothers #1 Lease, Well No. 1 was spudded on January 29, 2006, and surface casing was set on January 31, 2006. On October 4, 2007, Sabinal filed correspondence with the District Office stating that this well was being evaluated for completion and there was a high probability that the well would be plugged and abandoned. The correspondence also stated that “proper paperwork” would be filed as soon as a decision was made. The House Brothers #2 Lease, Well No. 2 was spudded on February 20, 2006, and surface casing was set on February 21, 2006. On October 4, 2007, Sabinal filed correspondence with the District Office stating that this well was perforated on April 19, 2007, and the well was being reviewed for a frac job due to the low volume heavy crude oil recovered. Sabinal also stated in this correspondence that the well would not be commercially viable without some form of stimulation, and as soon as the frac job was completed, the well would be tested and “completion paperwork” would be filed. Commission records show that no completion reports or approved plugging reports have been filed for either well.

Between September 19, 2007, and May 28, 2008, the District Office sent correspondence to Sabinal on six separate occasions regarding the outstanding violations on the subject leases, requesting Sabinal’s compliance.

An affidavit of Keith Barton, P.E., Field Operations, in Enforcement’s hearing file states that 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 water zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface.

The Barton affidavit also states that any unauthorized use or maintenance of an unpermitted pit for storage or disposal of oil and gas wastes is serious and a hazard to the public health and public safety because the continued maintenance of an unpermitted pit may result in unpermitted storage and/or discharges of hydrocarbon liquids and other associated wastes which may contaminate surface or subsurface waters causing pollution. For these reasons, the operator is required to dispose of all oil and gas wastes which are in the pit in an authorized manner and backfill and compact the unauthorized pit.

The Barton affidavit also states that without the completion report required by Statewide Rule 16, the Commission is without sufficient information to determine if a wellbore has been properly cased and cemented to protect usable water from oil and saltwater present in the wellbore.

Sabinal

Sabinal was represented at the hearing by Ralph S. Drake, a consultant and agent for Sabinal, who testified that he had been authorized by Sabinal's officers to appear and present evidence for Sabinal. Mr. Drake stated that at the time the notices of hearing were served in these dockets, Mr. Yeatman, Sabinal's President, was ill with heart problems. He also stated that at the time of the hearing, Sabinal had a rig on the House Brothers #2 Lease, Well No. 2 to plug the well, although a mechanical problem had been experienced with the rig. According to Mr. Drake, Sabinal had contracted with a well plugger to plug both of the subject wells, and would proceed to plug the wells as soon as reasonably possible. Mr. Drake also stated that he was working with the District Office to file all required completion paperwork.

EXAMINER'S OPINION

Enforcement proved violations of Statewide Rules 14(b)(2). The evidence shows that the House Brothers #1 Lease, Well No. 1 was drilled at least as of January 31, 2006, when surface casing was set in the well. The House Brothers #2 Lease, Well No. 2 was drilled at least as of February 21, 2006, when surface casing was set. The first District Office inspection made on May 21, 2008, disclosed that both wells were inactive, and subsequent inspections on September 9, 2008, and May 5, 2009, showed no changes in the status of the wells. No production has ever been reported for either well, and the wells have not been entitled to a Statewide Rule 14(b)(2) plugging extension because completion reports have never been filed and the wells have never been placed on schedule. This evidence is sufficient to show that the House Brothers #1 Lease, Well No. 1 was out of compliance with Statewide Rule 14(b)(2) from January 31, 2007, until at least May 5, 2009, and the House Brothers #2 Lease, Well No. 2 was out of compliance with Statewide Rule 14(b)(2) from February 21, 2007, until at least May 5, 2009.

Enforcement also proved violations of Statewide Rule 16(b). Although surface casing was set in both wells early in 2006, and the first District Office inspections on May 21, 2008, showed that the wells had been completed, no completion reports for the wells have ever been filed.

Although the small pit that remained open on the House Brothers #2 Lease as of the dates of the District Office inspections may constitute some kind of violation of Statewide Rule 8, Enforcement's complaint alleges a violation of Statewide Rule 8(d)(2) which provides that, with certain exceptions, no person may maintain or use any pit for storage of oil field fluids, or for storage or disposal of oil and gas wastes, without obtaining a permit to maintain or use the pit. The examiner is not persuaded that the evidence presented by Enforcement proved a violation of this particular subsection of Statewide Rule 8. The evidence shows that Sabinal did not obtain a permit for the pit, but under Statewide Rule 8 there are some types of pits that do not require a permit, and Enforcement was without any information as to the type of pit found on the House Brothers #2 Lease. Also, no fluid was observed in the pit during any of the inspections, and Enforcement did not prove that the pit was ever used for storage of oil field fluids or disposal of oil and gas wastes.

The examiner recommends that Sabinal be assessed an administrative penalty in the amount of \$8,000 calculated on the basis of two violations of Statewide Rule 14(b)(2) at \$2,000 each, two

violations of Statewide Rule 16(b) at \$500 each, and a \$3,000 enhancement for three prior enforcement orders against Sabinal for violations of Commission rules at \$1,000 each. The examiner has officially noticed that Sabinal has already paid the sum of \$3,000 as a part of a failed attempt to settle this docket. The recommended penalty conforms to the standard penalty guidelines for enforcement cases. In determining the amount of recommended penalty, the examiner has considered the penalty standards in Texas Natural Resources Code §81.0531. Sabinal has a history of prior violations of Commission rules. The involved violations are serious, and presented a hazard to the health and safety of the public, because of the threat of pollution of usable quality water presented by the inactive and unplugged wellbores. Sabinal cannot be considered to have acted in good faith because it did not correct the involved violations timely in response to multiple written requests from the District Office for such compliance. The examiner also recommends that the Commission order that the subject wells be plugged in conformity with the requirements of Statewide Rule 14 and that appropriate Forms W-3 (Plugging Record) and Forms W-15 (Cementing Report) be filed with the District Office.

Based on the record in this case, the examiner recommends adoption of the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Sabinal Resources, Inc. (“Sabinal”) was given at least ten (10) days notice of this hearing by certified mail sent to its most recent Form P-5 organization report address. Sabinal appeared at the hearing and presented evidence.
2. Sabinal is a corporation. Its most recent Form P-5 organization report as of the date of the hearing listed its officers as James Carl Yeatman, President, Douglas A. Newman, CFO, and Carl Glenn, Vice President.
3. As officers, James Carl Yeatman, Douglas A. Newman, and Carl Glenn were persons in a position of ownership or control of Sabinal at the time the violations in this docket were committed.
4. The violations involved in this docket are violations of Commission rules related to safety and the prevention or control of pollution.
5. Sabinal’s Form P-5 organization report is active and Sabinal has approved financial assurance on file in the amount of \$50,000.
6. Sabinal designated itself the operator of the House Brothers #1 Lease, Well No. 1, Wildcat Field, Zavala County, Texas, by filing a Form W-1 (Application to Drill, Deepen, Plug Back, or Reenter) on December 30, 2005, resulting in the issuance of Drilling Permit No. 611765

- on January 3, 2006. Sabinal designated itself the operator of the House Brothers #2 Lease, Well No. 2, Wildcat Field, Zavala County, Texas, by filing a Form W-1 on February 16, 2006, resulting in the issuance of Drilling Permit No. 614381 on February 17, 2006.
7. On the occasion of a District Office inspection of the House Brothers #2 Lease on May 21, 2008, Sabinal was found to be maintaining or using a pit adjacent to Well No. 2 which was four feet deep and four feet square.
 - a. The pit contained no fluid at the time of the inspection.
 - b. Subsequent inspections on September 9, 2008, and May 5, 2009, showed no change in the condition of the pit.
 - c. Enforcement presented no information to indicate the type of pit being used and maintained or whether the pit was ever used or maintained for storage of oil field fluids or disposal of oil and gas wastes.
 - d. Commission records show that Sabinal did not obtain a permit to maintain and use this pit.
 8. The House Brothers #1 Lease, Well No. 1 and the House Brothers #2 Lease, Well No. 2 had been inactive for more than 12 consecutive months and had not been plugged as of the date of the hearing on July 2, 2009.
 - a. The House Brothers #1 Lease, Well No. 1 was spudded on January 29, 2006, and surface casing was set on January 31, 2006. The House Brothers #2 Lease, Well No. 2 was spudded on February 20, 2006, and surface casing was set on February 21, 2006. The House Brothers #2 Lease, Well No. 2 was perforated on April 19, 2007.
 - b. District Office inspections on May 21, 2008, September 9, 2008, and May 5, 2009, disclosed that both wells were inactive.
 - c. No production has ever been reported to the Commission for either well.
 - d. No Form W-3 (Plugging Record) or Form W-15 (Cementing Report) had been filed for either well as of the date on the hearing on July 2, 2009.
 9. As of the date of the hearing on July 2, 2009, no completion reports had been filed for the House Brothers #1 Lease, Well No. 1 and House Brothers #2 Lease, Well No. 2.
 10. A well that is in violation of Statewide Rule 14 must be plugged in order to prevent pollution of usable quality surface and subsurface waters. 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 water zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface.

11. Without the completion report required by Statewide Rule 16, the Commission is without sufficient information to determine if a wellbore has been properly cased and cemented to protect usable quality water from oil and saltwater present in the wellbore.
12. Sabinal has a history of prior enforcement orders entered against it for violations of Commission rules. Oil & Gas Docket No. 03-0246035 resulted in a Final Order dated April 24, 2007. Oil & Gas Docket No. 01-0252392 resulted in a Final Order dated October 9, 2007. Oil & Gas Docket No. 01-0253847 resulted in a Final Order dated January 28, 2008.
13. Between September 19, 2007, and May 28, 2008, the District Office sent correspondence to Sabinal on six separate occasions regarding the outstanding violations on the subject leases, requesting Sabinal's compliance. Sabinal had not placed the subject wells into compliance as of the date of the hearing on July 2, 2009.
14. An order requiring Sabinal to plug the subject wells in conformity with Statewide Rule 14 and to file appropriate Forms W-3 (Plugging Record) and Forms W-15 (Cementing Report) is necessary and appropriate to achieve compliance with Commission rules.
 - a. The wells were drilled in early 2006 as dry holes and never produced.
 - b. Sabinal cannot obtain Statewide Rule 14(b)(2) plugging extensions for the subject wells because completion reports for the wells have not been filed and the wells have not been placed on schedule.
 - c. No evidence was presented at the hearing to show that the wells are capable of production.

CONCLUSIONS OF LAW

1. Proper notice of hearing was timely issued to appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. Sabinal Resources, Inc., is the operator of the House Brothers #1 Lease, Well No. 1 (Drilling Permit No. 611765) and the House Brothers #2 Lease, Well No. 2 (Drilling Permit No. 614381), Wildcat Field, Zavala County, Texas, 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.

4. As operator, Sabinal Resources, Inc., has the primary responsibility for complying with Statewide Rules 14(b)(2) and 16(b) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §§3.14(b)(2) and 3.16(b)], Chapters 89 and 91 of the Texas Natural Resources Code, and other applicable statutes and Commission rules respecting the subject leases and wells.
5. Sabinal Resources, Inc., violated Statewide Rule 14(b)(2) by failing to plug the subject wells within one year after operations ceased. The House Brothers #1 Lease, Well No. 1 was out of compliance with Statewide Rule 14(b)(2) from January 31, 2007, until at least May 5, 2009, and the House Brothers #2 Lease, Well No. 2 was out of compliance with Statewide Rule 14(b)(2) from February 21, 2007, until at least May 5, 2009.
6. Sabinal Resources, Inc., violated Statewide Rule 16(b) by failing to file completion reports for the subject wells within 30 days after the completion of the wells or within 90 days after the date on which drilling operations were completed, whichever was earlier.
7. The Enforcement Section did not sustain its burden of proving that Sabinal Resources, Inc., committed a violation of Statewide Rule 8(d)(2) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §§3.8(d)(2)].
8. The documented violations committed by Sabinal Resources, Inc., constituted acts deemed serious and a hazard to the public health and safety within the meaning of Texas Natural Resources Code §81.0531.
9. Sabinal Resources, Inc., did not demonstrate good faith within the meaning of Texas Natural Resources Code §81.0531.
10. As officers of Sabinal Resources, Inc., at the time Sabinal violated Commission rules related to safety and the prevention or control of pollution, James Carl Yeatman, Douglas A. Newman, and Carl Glenn and any organization subject to the Commission's jurisdiction in which they, or any 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 Sabinal Resources, Inc., be required to plug the subject wells in conformity with Statewide Rule 14 and file appropriate Forms W-3 (Plugging Record) and W-15

(Cementing Report). The examiner further recommends that Sabinal Resources, Inc., be ordered to pay a penalty of \$8,000, less \$3,000 already paid.

Respectfully submitted,

James M. Doherty
Hearings Examiner