

February 3, 2003

**OIL & GAS DOCKET NO. 03-0220251**

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**ENFORCEMENT ACTION AGAINST COLEMAN OIL & GAS CORP. AND/OR DESTIN ENERGY, INC. AND/OR L & C ENTERPRISES, INC. FOR VIOLATIONS OF STATEWIDE RULES ON THE BENTON-SIMPSON (19119) LEASE, WELL NO. 1B, GIDDINGS (AUSTIN CHALK - 3) FIELD, BURLESON COUNTY, TEXAS.**

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**APPEARANCES:**

**FOR MOVANT:**

Lowell Williams, Staff Attorney

**MOVANT:**

Railroad Commission of Texas

**FOR RESPONDENTS:**

Stephen Fenoglio, Attorney  
Randy Wolsey, President  
Rod Clanton, Field Representative  
J. B. Register, Attorney  
Skelly Strong, President  
Lee Alexander, President

**RESPONDENT:**

Coleman Oil & Gas Corp.  
Coleman Oil & Gas Corp.  
Coleman Oil & Gas Corp.  
Destin Energy, Inc.  
Destin Energy, Inc.  
L & C Enterprises, Inc.

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

<b>INITIAL COMPLAINT FILED:</b>	April 4, 1999
<b>FIRST AMENDED COMPLAINT FILED:</b>	August 2, 1999
<b>HEARING HELD:</b>	June 13, 2002
<b>HEARD BY:</b>	Scott Petry, Hearings Examiner
<b>RECORD CLOSED:</b>	July 17, 2002
<b>PFD PREPARED BY:</b>	Mark Helmueller, Hearings Examiner
<b>PFD CIRCULATION DATE:</b>	February 3, 2003
<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 any of the respondents should be required to plug or otherwise place in compliance with Statewide Rules 3 and 14, the Benton-Simpson (19119) Lease, Well No. 1B, Giddings (Austin Chalk - 3) Field, Burleson County, Texas;
2. Whether any of the respondents 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;
3. Whether any of the respondents should be assessed administrative penalties of not more than \$10,000 per day for each offense committed regarding said lease and well;
4. 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.

Lowell Williams, Staff Attorney, appeared at the hearing representing the Railroad Commission of Texas, Enforcement Section. Respondents, Coleman Oil & Gas Corp. ("Coleman"), Destin Energy, Inc. ("Destin"), and L & C Enterprises, Inc. ("L & C"), all appeared and presented evidence at the hearing. The Enforcement Section's hearing file was admitted into evidence.

Enforcement recommended that Coleman be ordered to properly plug the well and to pay an administrative penalty of \$2,500 for the violation of Statewide Rules 3 and 14. Enforcement further recommended that the examiner find L & C responsible for any additional plugging costs caused by L & C's improper salvage and plugging activities. The examiner concurs with Enforcement's recommendation as to Coleman and further recommends that this docket be dismissed as to Destin and L & C.

#### **DISCUSSION OF THE EVIDENCE**

Coleman last filed a Commission Form P-5 (Organization Report) with the Commission on September 23, 1999. Coleman's organization status is currently listed as delinquent. At the time of its last filing, Coleman submitted financial assurance in the form of a \$100 annual fee. Rick Wolsey is listed as the President and Secretary after August 1, 1999. Randy Wolsey is listed as the President prior to August 1, 1999. Coleman's Organization Report in effect as of May 1995, lists Randy Wolsey as the President, and Rick Wolsey as the Vice-President/Secretary.

Destin last filed an Organization Report with the Commission on July 28, 1999. Destin is currently listed as an inactive operator. At the time of its last filing, Destin submitted financial assurance in the form of a \$100 annual fee. Skelly Strong, Jr. was identified as the President of the organization, and Dana Strong was identified as the Secretary/Treasurer.

L & C last filed an Organization Report with the Commission on March 4, 1996. L & C is currently a delinquent operator, and cannot renew its Organization Report due to several unresolved Final Orders entered against it and its officers. At the time of its last filing, L & C submitted financial assurance in the form of a \$100 fee. In its last Organization Report, Lee Alexander was

identified as the President, and Connie Alexander was listed as the Secretary/Treasurer.

The Benton-Simpson Well No. 1B (“subject well” and/or “subject lease”) was permitted by the Commission on October 24, 1985 for the Giddings (Austin Chalk - 3) Field. The well was completed on January 4, 1986.

Destin was recognized as the operator of the subject well by filing a Commission Form P-4 (Producer’s Transportation Authority and Certificate of Compliance) which was approved by the Commission on May 1, 1989. On May 5, 1995, a two signature Form P-4 was filed to recognize Coleman as the new operator. The Commission approved the Form P-4 on May 11, 1995.

On July 14, 1995, an inspection of the subject lease found violations of Statewide Rules 2, 3, 8, 21, 26 and 27. The report erroneously identified Destin as the operator, but notice of the violations was sent to Coleman. An inspection on August 8, 1995 found continuing violations.

On August 20, 1995, Dana Strong, as Coleman’s agent, filed Commission Form P-1s (Producer’s Monthly Report of Oil Wells), to report sales and production from May 1995 through August 1995. On August 23, 1995, Randy Wolsey advised in correspondence that production reports were filed. Wolsey further advised that Coleman installed a pump on the well, determined that the well would not produce in commercial quantities, and intended to plug the well.

On September 5, 1995, a further follow-up inspection found continuing violations of Statewide Rules 2, 3, and 8. In correspondence dated September 14, 1995, Wolsey advised that the well would be plugged within 60 days. Coleman filed a Commission Form W-3A (Notice of Intent to Plug) with the District Office on November 16, 1995.

Between November 1995 and January 1996, Skelly Strong with Destin, arranged for L & C to plug the well for the salvage value of the equipment. Strong claims that Coleman ratified this agreement, a claim admitted by Randy Wolsey at the hearing. Additionally, Coleman had a representative at the well site during plugging operations. The parties dispute what action was taken by L & C, but all agree that a cast iron bridge plug was set at a depth of -7460 feet and that the well bore was filled with mud laden fluid. Additionally, 1500 feet of 5 1/2" production casing was cut and removed from the well. The parties also agree that L & C did not complete the plugging job, but dispute the facts concerning L & C’s actions.

The District Office inspected the subject lease again on January 31, 1996, noting a violation of Statewide Rule 3 for the lack of signs at the lease entrance and well site. Inspections on April 17, 1996, August 8, 1996, September 9, 1996, and September 27, 1996 found continued sign violations, and noted that the well was inactive. The District Office sent violation letters to Coleman on August 15, 1996 and October 14, 1996.

On March 12, 1996, Ann Voyles filed an amended Form P-1 for November 1995 on behalf of Coleman. On March 26, 1996, Ms. Voyles filed amended Form P-1s for July, August, September, October and November 1995. Dana Strong filed an amended Form P-1 for November 1995 on April 20, 1996. Ms. Voyles filed a final amended Form P-1 for November 1995 on August 27, 1996. All of the amended reports identified Coleman as the operator of the subject well. The last amended Form P-1 for November 1995 indicates that the well produced 17 barrels in November, and that 120

barrels were sold.

On October 18, 1996, Coleman advised the District Office that it was not the operator of the well and that the well was separately owned by Randy Wolsey. Randy Wolsey was not listed as an officer in Coleman's October 9, 1996 Organization Report.

A further District Office inspection was conducted on November 6, 1996. The lease was still missing the required signs at that time. The inspector also determined that there was no pressure build-up on the well. The inspector further confirmed with Lee Alexander with L & C that a cast iron bridge plug was set and mud was circulated in the well in January 1996.

On December 13, 1996, the District Office referred the violations of Statewide Rules 3 and 14 to the Enforcement Section. In response to the referral, Rick Wolsey sent correspondence to the District Office advising that the well did not belong to Coleman, because his brother Randy had made a deal to obtain the well without Coleman's consent. Rick Wolsey admitted that Coleman filed the production reports from May 1995 through November 1995. However, he claimed that this was not an admission that Coleman was the operator, and was an attempt to bring the subject well into compliance.

In July 1997, the Wolseys sought to bring the Statewide Rule 14(b)(2) violation into compliance by filing a plugging extension. Coleman filed a Commission Form W-1X (Application for Future Re-Entry of Inactive Well Bore and 14(b)(2) Extension Permit) on July 14, 1997. Coleman's application included a copy of an assignment from Carmel Investments dated October 10, 1995 in support of Coleman's good faith claim of a continuing right to operate the well. On August 11, 1997 Coleman sent a copy of a lease, farmout agreement and title opinion to further augment its good faith claim of a continuing right to operate the well. On October 14, 1997, the plugging extension was approved. Based on this action, the original violations were dismissed on October 15, 1997.

Commission inspections continued after the dismissal of the initial enforcement action. Inspections on November 5, 1997, December 18, 1997, January 20, 1998, February 20, 1998, and April 7, 1998 found no action taken by Coleman to either plug the well or to post the proper signs. Based on the continued violations of Statewide Rule 3, the Commission canceled Coleman's plugging extension on May 8, 1998. Additional inspections on June 2, 1998, July 20, 1998, August 14, 1998, January 12, 1999, April 12, 1999, July 19, 1999, February 2, 2000, and June 7, 2000 found continuing violations of Statewide Rules 3 and 14.

Coleman filed two more Form W-3As for the subject well on March 1, 1999 and March 20, 2000. On September 15, 2000, Coleman again attempted to plug the subject well. During plugging operations, an obstruction was found in the well bore at the depth of -1150 feet. An impression block was run which indicated that the production casing and surface casing were no longer in alignment. A request to plug the well at the level of the obstruction was rejected by the District Office. Coleman abandoned plugging operations on September 19, 2000. An additional inspection on February 7, 2002 found that no further action had been taken by Coleman.

**Coleman's Position**

Coleman contends that either Destin or L & C should be held responsible for properly plugging the well. Coleman contends that Destin forged the signature of Randy Wolsey on the Form P-4 approved by the Commission, and that Randy Wolsey never had the authority to enter into the transaction acquiring the subject lease. Coleman further contends that Destin's agreement with L & C to plug the well for the salvage value of any equipment constitutes active control by Destin over the well within the definition of Texas Natural Resources Code §89.002 in effect at that time.

Coleman alternatively contends that L & C negligently performed the salvage operations, stole equipment in breach of its oral agreement, and caused the obstruction in the wellbore. Coleman argues that because L & C reentered the well, it should be considered the operator as the last party to exercise physical control over the well. Coleman also provided extensive evidence that L & C had been prosecuted by the Commission for several violations of Commission rules.

**Destin's Position**

Destin contends that it properly transferred the well to Coleman and that the only reason it was included as a party was the question raised by Coleman concerning the authenticity of the Form P-4 filed in May 1995. Destin argues that Randy Wolsey was President of Coleman at the time of the submission of the Form P-4 and that Coleman ratified the Form P-4 even though it was not signed directly by Mr. Wolsey.

Destin also admitted that it arranged for the plugging for salvage agreement with L & C, but that Coleman again ratified that oral contract. Destin further argued that if Coleman was not responsible, then responsibility should fall upon L & C.

**L & C's Position**

L & C claims no responsibility for the subject well. L & C confirms that it entered into an oral agreement to plug the well in exchange for the salvage rights to any equipment. L & C indicated that it commenced plugging operations in January 1996, which included setting the cast iron bridge plug, circulating mud, and removing approximately 1500' of production casing. L & C claims that the casing it removed was badly pitted, and that none of the other promised equipment was present. L & C further claims that access to the well site was difficult and required special equipment. When L & C did not receive assurances from Destin or Coleman that it would be paid, it removed its equipment from the job site. Because it never obtained any interest in the well and never executed a P-4, L & C argues that it cannot be ordered to plug the well.

**Enforcement's Position**

Enforcement contends that Coleman, as the last operator of record recognized by the Commission, violated Statewide Rules 14(b)(2) and Statewide Rule 3. In response to Coleman's argument that Destin remains the operator because the signature on the Form P-4 for Coleman was forged, Enforcement argues that Coleman's subsequent actions and Commission filings show that Coleman accepted operator status for the subject well. Additionally, in response to Coleman's arguments that L & C last exercised control over the well when it engaged in plugging operations,

Enforcement advises that L & C never filed a Form P-4 or obtained any interest in the lease. Enforcement further urges that the Commission has never found that plugging and salvage operations alone constitute physical operation and control within the definition of Texas Natural Resources Code §89.002.

Enforcement requests that Coleman be ordered to properly plug the well and pay an administrative penalty of \$2,500 broken down as follows: \$500 for 2 violations of Statewide Rule 3 at \$250 for each violation, and \$2,000 for the violation of Statewide Rule 14(b)(2). Enforcement further recommends that Destin not be held responsible for plugging or be assessed any administrative penalty. Finally, Enforcement requests that L & C be held responsible for any increased plugging costs caused by L & C's negligence or breach of the oral agreement.

#### **APPLICABLE AUTHORITY**

Statewide Rule 3(a) requires the posting of signs at the principal entrance of the property which show: the name of the property as carried on Commission records; the name of the operator; and, the number of acres in the property. Statewide Rule 3(a) also requires the posting of signs at each well site which show: the name of the property; the name of the operator; and the well number.

Statewide Rule 14(b)(2) provides that the operator of a well must plug the well when required and in accordance with Commission rules. Texas Natural Resources Code §89.002 defines the operator of the well as the person who assumes responsibility for the physical operation and control of a well as shown by a form the person files with the Commission and the Commission approves. For Form P-4s filed prior to September 1, 1997, the operator, for purposes of plugging liability, is presumed to be the person who assumed responsibility for the physical operation and control of a well as shown on the approved Form P-4 designating that person as operator.

#### **EXAMINER'S OPINION**

While the facts in this matter are convoluted, no party contests the fact that the subject lease was not in compliance with Statewide Rules 3 and 14. The primary concern of the parties appears to be who is now responsible for resolving the violations. The answer to this question is straightforward despite the unusual facts.

As noted above, for Form P-4s filed prior to September 1, 1997, the person responsible for the subject lease for the purposes of regulatory compliance is presumed to be the operator identified on the approved Form P-4. In this instance, the last approved Form P-4 identifies Coleman as the operator. It is therefore Coleman's burden to show that either the Form P-4 is invalid, or that other evidence rebuts the presumption that it is responsible for plugging the well as the operator of record.

#### **Validity of the Form P-4 Identifying Coleman as the Operator**

Coleman contests the validity of the last approved Form P-4, arguing that it was forged by Destin. Destin admits that it signed the Form P-4 on behalf of Wolsey, but claims that it was specifically authorized to do so. Randy Wolsey confirmed that he authorized Destin to sign the P-4 on his behalf. In light of the fact that Coleman's Organization Report for 1995 identifies Randy Wolsey as its President, and Wolsey's testimony, there appears to be no question that Randy Wolsey

possessed proper authority to execute the Form P-4 on behalf of Coleman.

Additionally, Coleman's failure to timely question the validity of the Form P-4 severely undermines the credibility of this defense. Coleman waited nearly 18 months to dispute its status as the operator of the subject lease. Additionally, when initially arguing this issue, Coleman did not claim that the signature was forged, but instead urged that Randy Wolsey did not have any authority to obtain the property on behalf of Coleman. These facts further support the conclusion that the Form P-4 approved by the Commission in May 1995 was valid.

Further, the evidence also overwhelmingly shows that Coleman accepted operator status for the subject lease and well. Coleman admitted that it filed production reports for the well from May 1995 through November 1995. These production reports indicate that Coleman sold the oil it produced from the well. Coleman also specifically admitted in its 1995 correspondence responding to the violations noted by the District Office, that it had put the well on pump, produced the well and intended to plug and abandon the well because it was not commercial. Coleman also filed an intent to plug the well in November 1995. These actions and admissions belie any current claim that the P-4 approved by the Commission was not valid.

Finally, Coleman's actions and responses in 1997 to the violations observed on the subject lease discredit its claim that the Form P-4 was not valid. In response to the initial enforcement action filed against it, Coleman obtained a plugging extension for the well, *and provided the Commission with evidence of a good faith claim of a continuing right to operate the well*. This action is a clear admission of responsibility, which even without any other evidence, would support a finding that the original P-4 was valid.

### **Destin Did Not Assume Responsibility for Plugging**

Coleman also argues that Destin exercised physical control over the well and should be deemed to be the operator under the definition in Texas Natural Resources Code §89.002 in effect at that time. This defense has no merit under the evidence presented. The testimony confirms that Coleman ratified the plugging for salvage agreement initiated by Destin. Coleman had representatives on site who testified as to L & C's activities. Additionally, Coleman's actions after January 1996 which are discussed regarding its claim that the Form P-4 was invalid also negate its defense that Destin was the last party to exercise control over the well. Finally, Coleman itself retained a plugging contractor in September 1999 who unsuccessfully attempted to plug the well. There is no basis under these facts for shifting plugging responsibility to Destin.

### **L & C Did Not Assume Responsibility for Plugging**

Coleman's last defense is that L & C should be considered the operator of the well within the definition in Texas Natural Resources Code §89.002 in effect at that time because it last exercised physical control over the well. Once again this defense is baseless. L & C acted as an agent of Coleman's under the plugging for salvage agreement. Additionally, as noted previously, Coleman's actions after January 1996 also contradict this defense. Accordingly, there is no basis for imposing plugging responsibility on L & C.

### **The Commission May Not Require L & C To Pay Additional Plugging Costs**

Finally, although Enforcement requests that L & C bear any additional plugging costs caused by its actions, the determinations of negligence or breach, causation, and damages are outside of the Commission's jurisdiction in this proceeding.<sup>1</sup> The Commission does not have jurisdiction over tort claims and cannot make an order relating to negligence, proximate cause or damages. See *Foree v. Crown Central Petroleum Corp.*, 431 S.W.2d 312, (Tex. 1968.) Additionally, the Commission does not have jurisdiction over contractual claims and cannot make an order determining property rights and contractual obligations between parties. See *Amarillo Oil Co. v. Energy-Agri Products, Inc.*, 794 S.W.2d 20, 26, (Tex. 1990). Accordingly, the examiner cannot recommend entry of an order that L & C pay for any costs caused by its alleged breach or negligence.

### **CONCLUSION**

It is the examiner's conclusion that from May 1995 to the present, Coleman was the operator of the subject lease and well responsible for regulatory compliance, including the proper plugging of the well. Neither Destin nor L & C was shown to have assumed the responsibility for regulatory compliance by their actions and should be dismissed from this action. However, L & C may have violated Commission Statewide Rule 14(d)(1) in its plugging for salvage operations. Accordingly, the dismissal of L & C should specifically be made without prejudice to the Commission pursuing a separate complaint for any violations of Statewide Rule 14(d)(1).

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. Respondents were given at least 10 days notice of this proceeding by certified mail, addressed to their most recent Form P-5 (Organization Report) addresses. Respondents all appeared at the hearing and offered evidence.
2. Coleman Oil & Gas Corp. ("Coleman") last filed a Organization Report with the Commission on September 23, 1999. Coleman is currently listed as delinquent. At the time of its last filing, Coleman submitted financial assurance in the form of a \$100 annual fee. Rick Wolsey is listed as the President and Secretary after August 1, 1999. Randy Wolsey is listed as the President prior to August 1, 1999.
3. Coleman's Organization Report in effect on May 1995, lists Randy Wolsey as the President, and Rick Wolsey as the Vice-President/Secretary. The Organization Report filed by Coleman on October 9, 1996 does not identify Randy Wolsey as an officer.
4. Destin Energy, Inc. ("Destin") last filed an Organization Report with the Commission on

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<sup>1</sup> While the Commission cannot adjudicate contractual rights or determine liability based on negligence or other fault, it can determine whether L & C violated Commission Rule 14(d). Allegations that L & C violated Rule 14(d) were not pled in this matter, and therefore are not addressed in this proposal for decision.



- July 28, 1999. Destin is currently listed as an inactive operator. At the time of its last filing, Destin submitted financial assurance in the form of the \$100 annual fee. Skelly Strong, Jr. was identified as the President, and Dana Strong was identified as the Secretary/Treasurer.
5. L & C Enterprises, Inc. (“L & C”) last filed an Organization Report with the Commission on March 4, 1996. L & C is currently listed as a delinquent operator, and cannot renew its Organization Report due to several unresolved Final Orders entered against it and its officers. At the time of its last filing, L & C submitted financial assurance in the form of a \$750 fee. In its last Organization Report, Lee Alexander was identified as the President, and Connie Alexander was listed as the Secretary/Treasurer.
  6. The Benton-Simpson Well No. 1B (“subject well” and/or “subject lease”) was permitted by the Commission on October 24, 1985 for the Giddings (Austin Chalk - 3) Field. The well was completed on January 4, 1986.
  7. Destin was recognized as the operator of the subject well by filing a Commission Form P-4 (Producer’s Transportation Authority and Certificate of Compliance) which was approved by the Commission on May 1, 1989.
  8. On May 5, 1995, a two signature Form P-4 was filed to recognize Coleman as the new operator. The Commission approved the Form P-4 on May 11, 1995.
    - (a) The Form P-4 was signed on Coleman’s behalf by Destin as Coleman’s agent.
    - (b) Randy Wolsey, president of Coleman, specifically authorized Destin to execute the Form P-4 on Coleman’s behalf.
  9. After acquiring the well, Coleman filed and amended Commission Form P-1s (Producer’s Monthly Report of Oil Wells) to report production and sales from the subject well.
    - (a) On August 20, 1995, Dana Strong, as an agent for Coleman filed Form P-1s for May, June, July, and August 1995.
    - (b) On March 12, 1996, Ann Voyles, an agent for Coleman, filed an amended Form P-1 for November 1995.
    - (c) On March 26, 1995, Ms. Voyles filed additional amended Form P-1s for the months of July, August, September, October and November 1995.
    - (d) Ms. Strong filed an amended Form P-1 for November 1995 on April 20, 1996.
    - (e) Ms. Voyles filed a final amended Form P-1 for November 1995 on August 27, 1996.
    - (f) The last amended Form P-1 for November 1995 indicates that the well produced 17 barrels in November, and that 120 barrels were sold.

10. On July 14, 1995, the District Office inspected the subject lease and found violations of Statewide Rules 2, 3, 8, 21, 26 and 27. Destin was identified as the operator on the inspection report, but notice of the violations was sent to Coleman. A follow up inspection on August 8, 1995 found the same continuing violations.
11. On August 23, 1995, Randy Wolsey forwarded correspondence to the District Office on behalf of Coleman advising that production reports had been filed. Wolsey further advised that Coleman installed a pump on the well, determined that the well would not produce in commercial quantities, and intended to plug the well.
12. On September 5, 1995, a further follow-up inspection found continuing violations of Statewide Rules 2, 3, and 8. Randy Wolsey responded in correspondence dated September 14, 1995 that the well would be plugged within 60 days.
13. Coleman filed a Commission Form W-3A (Notice of Intent to Plug) with the District Office on November 16, 1995.
14. Between November 1995 and January 1996, L & C entered into an oral agreement to plug the well for the salvage value of the equipment. On January 18, 1996, a cast iron bridge plug was set at a depth of -7460 feet and the well bore was filled with mud laden fluid. Approximately 1500 feet of 5 1/2" production casing was cut and removed from the well.
15. The evidence submitted indicates that Coleman violated Statewide Rule 3 on the subject lease between January 31, 1996 and September 27, 1996.
  - (a) An inspection on January 31, 1996, found no signs at the lease entrance and well site.
  - (b) Inspections on April 17, 1996, August 8, 1996, September 9, 1996, and September 27, 1996 noted that signs remained missing.
16. The evidence submitted indicates that Coleman violated Statewide Rule 14(b)(2) on the subject lease between December 1, 1996 and October 14, 1997.
  - (a) The last reported production from the subject well was in November 1995.
  - (b) Commission inspections on January 31, 1996, April 17, 1996, August 8, 1996, September 9, 1996, and September 27, 1996 observed that the well was inactive.
17. On December 13, 1996, the District Office referred the violations of Statewide Rules 3 and 14 to the Enforcement Section. In response to the referral, Rick Wolsey sent correspondence to the District Office advising that the well did not belong to Coleman, and that his brother Randy had made a deal to obtain the well without Coleman's consent.
18. Coleman initially resolved the violation of Statewide Rule 14(b)(2) by obtaining a plugging

extension for the subject well.

- (a) Coleman filed a Commission Form W-1X (Application for Future Re-Entry of Inactive Well Bore and 14(b)(2) Extension Permit) on July 14, 1997.
  - (b) Coleman's application included a copy of an assignment from Carmel Investments dated October 10, 1995 in support of Coleman's good faith claim of a continuing right to operate the well.
  - (c) On August 11, 1997, Coleman submitted to the Commission a copy of a lease, farmout agreement and title opinion to augment its good faith claim of a continuing right to operate the well.
  - (d) On October 14, 1997, the plugging extension was approved.
19. The evidence submitted indicates that Coleman violated Statewide Rule 3 on the subject lease between November 5, 1997 through the present.
- (a) Inspections on November 5, 1997, December 18, 1997, January 20, 1998, February 20, 1998, and April 7, 1998 found that the signs at the well site and lease entrance were missing.
  - (b) Additional inspections on June 2, 1998, July 20, 1998, August 14, 1998, January 12, 1999, April 12, 1999, July 19, 1999, February 2, 2000, June 7, 2000 and February 7, 2002 found that the signs remained missing.
20. The evidence submitted indicates that Coleman violated Statewide Rule 14(b)(2) on the subject lease between May 8, 1998 through the present.
- (a) Based on the continued violations of Statewide Rule 3, the Commission canceled Coleman's plugging extension on May 8, 1998.
  - (b) Additional inspections on June 2, 1998, July 20, 1998, August 14, 1998, January 12, 1999, April 12, 1999, July 19, 1999, February 2, 2000, June 7, 2000, and February 7, 2002 found that the well remained inactive.
21. On September 15, 2000, Coleman unsuccessfully attempted to plug the subject well.
- (a) During plugging operations, an obstruction was found in the wellbore at the depth of -1150 feet.
  - (b) An impression block was run which indicated that the production casing and surface casing were no longer in alignment.

- (c) Coleman was denied authority to plug the well at the level of the obstruction.
  - (d) Coleman abandoned plugging operations on September 19, 2000.
22. Failure to properly identify a well by the posting of the sign required by Statewide Rule 3 has the potential for causing confusion and delay in remedying a violation or emergency and poses a threat to the public health and safety.
  23. Usable quality groundwater may be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject well. Unplugged well bores constitute a cognizable threat to the public health and safety because of the probability of pollution.
  24. Coleman has no previous history of violations.

#### 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. Coleman was the operator of the subject lease as defined by Statewide Rule 14 and Section 89.002 of the Texas Natural Resources Code and is a person as defined by Statewide Rule 79 and Chapters 85 and 89 of the Texas Natural Resources Code.
4. During the time period it was the Commission recognized operator of the subject lease, Coleman possessed the primary responsibility for complying with Rules 3 and 14 and with Chapter 89 of the Texas Natural Resources Code as well as other applicable statutes and Commission rules.
5. Coleman has failed to keep the subject lease in compliance with Statewide Rule 3 from July 14, 1995 through the present time.
6. Coleman has failed to keep the subject lease in compliance with Statewide Rule 14 from May 8, 1998 through the present time.
7. The action against Destin should be dismissed with prejudice.
8. The action against L & C should be dismissed without prejudice to filing a separate complaint for violations of Statewide Rule 14(d).

**RECOMMENDATION**

The examiner recommends that the above findings and conclusions be adopted and the attached order approved, requiring Coleman Oil & Gas Corp. to plug the Benton-Simpson (19119) Lease, Well No. 1B, Giddings (Austin Chalk - 3) Field, Burleson County, Texas, and pay an administrative penalty of \$2,500. The examiner further recommends dismissing this action with prejudice as to Destin Energy, Inc. Finally, the examiner recommends dismissing this action against L & C Enterprises, Inc. without prejudice to filing a separate complaint for violations of Statewide Rule 14(d).

Respectfully submitted,

Mark J. Helmueller  
Hearings Examiner