

September 17, 2002

OIL AND GAS DOCKET NO. 03-0222092

ENFORCEMENT ACTION AGAINST J. A. LEONARD AND/OR AIM CONSULTANTS, INC. FOR VIOLATIONS OF STATEWIDE RULES ON THE COFFIELD -F- (10327) LEASE, WELL NO. 1, CHRISMAN FIELD, BURLESON COUNTY, TEXAS.

APPEARANCES:

FOR MOVANT:

Lowell Williams, Staff Attorney

MOVANT:

Railroad Commission of Texas

FOR RESPONDENT J. A. LEONARD:

J. David Trotter, Attorney
J. A. Leonard

RESPONDENT:

J. A. Leonard
J. A. Leonard

NO APPEARANCE BY RESPONDENT AIM CONSULTANTS, INC.

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

NOTICE OF HEARING:

March 22, 2002

DATE CASE HEARD:

May 30, 2002

RECORD CLOSED:

May 30, 2002

PFD PREPARED BY:

Mark Helmueller, Hearings Examiner

PFD CIRCULATION DATE:

September 17, 2002

CURRENT STATUS:

Protested

STATEMENT OF THE CASE

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

1. Whether the respondents J. A. Leonard and/or Aim Consultants, Inc. should be required to plug or otherwise place in compliance with Statewide Rule 14, the Coffield -F- (10327) Lease, Well No. 1, Chriesman Field, Burlson County, Texas;
2. Whether the respondents have 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 Rule 14;
3. Whether the respondents should be assessed administrative penalties of not more than \$10,000.00 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. J. A. Leonard ("Leonard") also appeared and presented evidence at the hearing. Respondent Aim Consultants, Inc. ("Aim") did not appear at the hearing. The Enforcement Section's hearing file was admitted into evidence. The staff recommended that Leonard and/or Aim be ordered to properly plug the well and to pay an administrative penalty of \$2,000.00 for the violation of Statewide Rule 14(b)(2). The examiner recommends that Aim be determined as the proper operator of the well, that Aim be ordered to plug the subject well and that Aim be ordered to pay an administrative penalty of \$2,000. The examiner further recommends the docket be dismissed as to Leonard.

DISCUSSION OF THE EVIDENCE

Enforcement presented Commission records showing that the most recent approved Commission Form P-5 (Organization Report) for Leonard was filed July 2, 1997. J. A. Leonard is listed as the sole proprietor. Enforcement also presented Commission records showing that the most recent approved Organization Report for Aim was filed May 20, 1993. Aim's Organization Report lists Rodney Rose as its President and Treasurer, John Franklin as its Senior Vice-President and Maribel Meza as its Vice-President and Secretary. R. Rose acknowledged receipt of the certified mailing for the Amended Complaint and Notice of Hearing on April 8, 2002.

The last approved Commission Form P-4 (Producer's Transportation Authority and Certificate of Compliance) for the Coffield -F- (10327) Lease, Well No. 1, was approved by the Commission on November 17, 1972.

To establish that the Coffield -F- (10327) Lease, Well No. 1 was not in compliance with Rule

14(b)(2), Enforcement submitted reports from District Office inspections conducted on February 26, 1999, October 11, 1999, and February 7, 2002 to show that the well is not equipped for production. Commission records indicate that no Commission Form W-3 (Plugging Report) has been filed for this well. Commission production records show that no production has been reported from the well since at least January 1993.

Enforcement also submitted evidence that the subject lease and well were at issue in Oil & Gas Docket No. 1 & 3 - 91,568; *Commission Called Hearing to Consider Complaint of A.I.M. Consultants, Inc. Concerning Designation of Proper Operator of Various Leases, Burleson and Milam Counties, Texas*. Official Notice was taken of the hearing file for this docket. The docket was dismissed on March 15, 1988 after the parties, Aim and Leonard, reported that they had settled their dispute. A copy of the settlement agreement entered into between Leonard and Aim was included in the Commission records submitted with the hearing file in the current proceeding.¹ The terms of the settlement agreement provide: "P-4s will be executed and delivered naming Rose and AIM as operators of the Leases." The Coffield -F- (10327) Lease, Well No. 1, is specifically identified in Exhibit A as one of the leases governed by the terms of the settlement agreement. However, it appears that Aim did not file the P-4 for the transfer of operator for this lease.

Leonard argues that he is not the operator of the well, and that operations were taken over by Aim. Leonard testified that he drilled the Coffield -F- (10327) Lease, Well No. 1 in 1972. He advised that he had entered into the settlement agreement and had signed the P-4 for the well and provided it directly to Aim's attorney. Leonard said that all of the wells and leases that were subject to the terms of the settlement agreement were transferred with the exception of this well and lease and one other. Leonard further testified that the well was equipped at the time of transfer and subsequently stripped of its equipment by Aim.

In support of his testimony that Aim took over operations for the subject lease and well, Leonard presented original invoices from Supreme Well Service and Ideal Pump & Supply to Aim for equipment and services showing Aim's efforts to reestablish production in the well in November 1990. Supreme's work descriptions in its invoices from November 9th through November 11th indicate that Supreme's rig crew reworked the well by drilling through two bridge plugs, rehangng tubing, and running rod. Supreme's crew successfully reestablished flowing pressure in the well.

The invoices from Ideal Pump show that Aim purchased \$1,783.18 in equipment for the "Coffield F-1 Lease" in October and November 1990, including: a wellhead assembly, valves, rods, bushings, nipples, bull plugs, a plunger cage, a valve rod guide, and seating cups. The nature of the equipment purchased is consistent with Leonard's testimony that Aim reentered and reworked the subject well in order to reestablish production, thereby exercising physical control over it.

EXAMINER'S OPINION

The operator of a well must plug a well when required and in accordance with Commission rules. 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

¹The hearing file for Oil & Gas Docket No. 1 & 3 - 91,568 does not include a copy of the settlement agreement.

control of a well as shown on the approved Form P-4 designating that person as operator.

Prior to 1997, Texas Natural Resources Code §89.002 defined an operator as follows:

‘Operator’ means a person who is responsible for the physical operation and control of a well at the time the well is about to be abandoned or ceases operation.

The evidence in this case clearly rebuts the statutory presumption that Leonard is the operator responsible for plugging this well. In fact the only basis upon which Leonard has any responsibility for the well is the last P-4 approved by the Commission. The testimonial and documentary evidence in this docket shows that Aim was responsible for the physical operation and control of the well as seen by: 1) the terms of the settlement agreement concerning the transfer of the well; 2) the removal of equipment from the well; and 3) the invoices establishing that Aim reentered and reworked the well in November 1990 to successfully reestablish production. Together this evidence both rebuts the presumption that Leonard is the operator of this well and establishes that Aim was the responsible operator. Accordingly, the examiner recommends that this docket be dismissed with prejudice as to Leonard. The examiner further recommends that Aim be ordered to plug the well, and to pay an administrative penalty of \$2,000.

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 J. A. Leonard (“Leonard”) and Aim Consultants, Inc. (“Aim”) were given at least 10 days notice of this proceeding by certified mail, addressed to the most recent Form P-5 (Organization Report) address. Leonard appeared at the hearing and offered evidence. Aim did not appear at the proceeding. Aim’s president, Rodney Rose, acknowledged receipt of the certified mailing of the complaint and notice of hearing on April 8, 2002.
2. Commission records show that the most recent approved Organization Report for Leonard was filed July 2, 1997. J. A. Leonard is listed as a sole proprietor.
3. Commission records show that the most recent approved Organization Report for Aim was filed May 20, 1993. Aim provided financial assurance for the most recent renewal in the form of the \$100 “good guy” fee. Aim’s Organization Report lists Rodney Rose as its President and Treasurer, John Franklin as its Senior Vice-President, and Maribel Meza as its Vice-President and Secretary.
4. The last Commission Form P-4 (Producer’s Transportation Authority and Certificate of Compliance) for the Coffield -F- (10327) Lease, Well No. 1, (“subject lease” and “subject well”) was filed by Leonard on November 17, 1972 and approved on the same date.
5. District Office inspections conducted on February 26, 1999, October 11, 1999, and February 7, 2002 show that the subject well is not equipped for production. Commission records indicate that no Commission Form W-3 (Plugging Report) has been filed for the subject

- well.
6. Commission records show that no production has been reported from the well since at least January 1993.
 7. The subject lease and well were at issue in Oil & Gas Docket No. 1 & 3 - 91,568; *Commission Called Hearing to Consider Complaint of A.I.M. Consultants, Inc. Concerning Designation of Proper Operator of Various Leases, Burleson and Milam Counties, Texas.*
 - a. The docket was dismissed on March 15, 1988 after the parties, Aim and Leonard, reported that they had settled their dispute.
 - b. The terms of the settlement agreement provide: "P-4s will be executed and delivered naming Rose and AIM as operators of the Leases."
 - c. The Coffield -F- (10327) Lease, Well No. 1, is specifically identified in Exhibit A as one of the leases governed by the terms of the settlement agreement.
 8. Original invoices from Supreme Well Service and Ideal Pump & Supply to Aim for equipment and services show that Aim exercised physical control over the subject lease and subject well.
 - a. Aim reestablished production in the well in November 1990.
 - b. Supreme's work descriptions in its invoices from November 9, 1990 through November 11, 1990 indicate that Supreme's rig crew reworked the well by drilling through two bridges, rehanging tubing, and running rod.
 - c. The invoices from Ideal Pump show that Aim purchased \$1,783.18 in equipment for the "Coffield F-1 Lease", including a wellhead assembly, valves, rods, bushings, nipples, bull plugs, a plunger cage, a valve rod guide, and seating cups.
 9. Aim 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. The presumption under Statewide Rule 14(c)(2) that the operator designated on the most recent approved Commission P-4 was the person responsible for the physical operation and control of the well at the time it ceased operation was successfully rebutted. Leonard was

not the operator of the subject well at the time it ceased operation or was abandoned and is not required to plug it.

4. Aim exercised physical operation and control of the subject lease and well and therefore is the responsible operator as defined by Statewide Rule 14 and Texas Natural Resources Code §89.002.
5. Aim is a person as defined by Statewide Rule 79 and Chapters 85 and 89 of the Texas Natural Resources Code.
6. Aim has the primary responsibility for complying with Rule 14 and with Chapter 89 of the Texas Natural Resources Code as well as other applicable statutes and Commission rules.
7. The subject lease has been out of compliance with Statewide Rule 14 from January 1, 1993 through the present time.
8. The action against Leonard should be dismissed with prejudice.

RECOMMENDATION

The examiner recommends that the above findings and conclusions be adopted and the attached order approved, dismissing J. A. Leonard from this docket with prejudice and further requiring that Aim Consultants, Inc., within 30 days from the day immediately following the date this order becomes final, to:

1. Plug Well No. 1, on the Coffield -F- (10327) Lease; and
2. Pay an administrative penalty in the amount of TWO THOUSAND DOLLARS (\$2,000.00); and

Respectfully submitted,

Mark J. Helmueller
Hearings Examiner