

June 18, 2007

OIL AND GAS DOCKET NO. 03-0247275

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ENFORCEMENT ACTION AGAINST IND. RESOURCES OPERATING CO. INC (OPERATOR NO. 423710) FOR VIOLATIONS OF STATEWIDE RULES ON THE FREEWAY LEASE, WELL NO. 1 (DRILLING PERMIT NO. 610463), BROOKSHIRE FIELD, WALLER COUNTY, TEXAS.

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**APPEARANCES:**

**FOR THE RRC:**

Susan German                      Attorney, Enforcement Section

**FOR RESPONDENT:**

Bradley M. James                      President, Ind. Resources Operating Co. Inc

**AMENDED PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

<b>COMPLAINT FILED:</b>	April 26, 2006
<b>NOTICE OF HEARING:</b>	November 3, 2006
<b>DATE CASE HEARD:</b>	January 25, 2007
<b>HEARING CLOSED:</b>	February 14, 2007
<b>HEARING RE-OPENED:</b>	June 1, 2007
<b>RE-OPENED HEARING CLOSED:</b>	June 18, 2007
<b>PFD PREPARED BY:</b>	Marshall Enquist, Hearings Examiner
<b>PFD CIRCULATION DATE:</b>	June 18, 2007
<b>CURRENT STATUS:</b>	Contested

**STATEMENT OF THE CASE**

This is an Enforcement action against Ind. Resources Operating Co. Inc (“Independent”) for alleged violations of Statewide Rules 3 and 13. A hearing in this docket was scheduled for January 25, 2007. Notice of the hearing date was given to Independent and signed green cards were returned to the Commission indicating receipt of the notice by Independent. Independent appeared at that hearing through its President, Bradley M. James. Susan German, Staff Attorney, appeared at the hearing representing the Railroad Commission of Texas, Office of General Counsel, Enforcement Section (“Enforcement”).

The hearing was re-opened, February 1, 2007 in order to circulate an Enforcement late-filed exhibit for objections. No objection was received and the late-filed exhibit was admitted. The hearing was closed February 14, 2007. The hearing was again re-opened on June 1, 2007 in order to admit another late-filed exhibit. The hearing was finally closed on June 18, 2007.

#### AUTHORITY

Statewide Rule 3 [16 Tex. Admin. Code §3.3] 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) [Tex. Admin. Code §3.3(1)] requires the posting of such 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) [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 13(a)(1) [16 Tex. Admin. Code §3.13(a)(1)] requires that casing be securely anchored in the hole in order to effectively control the well at all times, all usable-quality water zones be isolated and sealed off to effectively prevent contamination or harm, and all potentially productive zones be isolated and sealed off to prevent vertical migration of fluids and gases behind the casing.

#### ENFORCEMENT'S EVIDENCE

Independent designated itself an operator by filing a Commission Form P-5 Organization Report on November 14, 2005. The officers of Independent were identified as Bradley M. James, President; Michael Zatorski, Vice-President; and Christopher Roach, Secretary. Independent subsequently failed to renew its P-5 Organization Report and is now delinquent. Independent designated itself as the operator of the Freeway lease, Well No. 1 (Drilling Permit No. 610463) by filing a Commission Form W-1 (Application for Permit to Drill, Recomplete, or Re-enter (dated December 2, 2005, issued December 6, 2005).

#### Statewide Rule 3 Violation:

Commission District Office inspection reports made on February 16, 2006, March 1, 2006, March 24, 2006, and May 18, 2006 for the Freeway Lease, Well No. 1 (Drilling Permit No. 610463) showed that the sign required by Statewide Rule 3(2) to be posted by at Well No. 1 was missing. A Commission District Office inspection report made on December 14, 2006 showed that a new sign had been posted by the well, in compliance with Statewide Rule 3(2).

Enforcement requests a penalty of \$250 be assessed against Independent for time out of compliance with Statewide Rule 3(2).

Statewide Rule 13 Violation:

Commission District Office inspection reports made on January 23, 2006, February 16, 2006, March 1, 2006, March 24, 2006, and May 18, 2006 showed that drilling operations for Well No. 1 were suspended and that the Respondent failed to set proper casing to protect all ground water, or plug the well, as required by Commission regulations. The inspection reports indicate that a homemade 8 5/8" cap was screwed onto the casing collar and the casing was not set to protect usable quality groundwater. A Commission District Office inspection report made on December 14, 2006, erroneously showed that the subject well was in compliance with the casing/cementing requirements of Statewide Rule 13. A later District Office inspection report made on May 21, 2007, showed that the well casing was set to a depth of only 525 feet. Because the base of usable quality water in the area is at 1500 feet, the existing casing is insufficient, and the well is not in compliance with the casing/cementing requirements of Statewide Rule 13.

Respondent's violation of Statewide Rule 13 is serious and a hazard to public health and safety because the failure to set proper casing in the well poses a severe risk of pollution of aquifers containing usable quality subsurface waters. In an uncased well, highly pressured wellbore fluids containing hydrocarbons or high concentrations of chlorides may have direct access to low-pressured aquifers. Enforcement requests a penalty of \$2,000 be assessed against Independent for its violation of Statewide Rule 13(a)(1).

History:

On May 25, 2006, Independent advised Enforcement that it would plug the well and settle the Enforcement docket. Plugging did not occur and no settlement was reached. On August 10, 2006, Independent advised that the well would be plugged within 30 days. On October 5, 2006, Enforcement sent Independent a letter requesting a status report on the plugging. Independent did not answer. On January 23, 2007, prior to this hearing, Enforcement attempted to call Independent concerning this docket but found that all known telephone numbers for the operator had been disconnected.

Independent received a bid from Continental Production Services in February, 2006 to either retrieve a "fish" (a tool lost in the wellbore) or plug the well. The District Office was given a copy of the estimate. In the event plugging was necessary, Continental estimated the cost to be \$40,000, a figure that the District Office agrees with.

Requested Action:

Enforcement requests a penalty of \$2,000 be assessed against Independent for its violation of Statewide Rule 13(a)(1). In combination with the previously noted violation of Statewide Rule 3, Enforcement is requesting a penalty of \$2,250.00 against Independent. Additionally, Enforcement requests that Independent place the subject lease and well in compliance with all Commission Statewide Rules.

### INDEPENDENT'S EVIDENCE

Independent, through its president, Bradley M. James, stated that the subject well was plagued with problems almost from the beginning. One of the owners of the contract drilling company employed by Independent passed away, shortly before Christmas of 2005. The contractor did not come back for three weeks, and when they did return, had numerous problems with their mud pump, resulting in further delay. In February, 2006, at a depth of 2700 feet, the directional tool became stuck. By this time, the turnkey estimate for drilling and completing the well had been exceeded. The contract driller twisted off (left the directional tool in the hole), came out of the hole, rigged down and left location. At this time, Bradley James, President of Independent, put a homemade cap and valve on the well.

After failing to find another contractor to finish the well, Independent decided in March, 2006, to plug the well, but was advised by the RRC that a plug must be set under the location of the twisted-off directional tool (the "fish"). Attempts to recover the "fish" failed, by which time Independent had exhausted all funds.

Since that time, Independent has tried to find another company willing to take over the property and either drill a new well or kick out from the existing wellbore. Independent is currently negotiating with United Meridian, a company that Independent asserts may be willing to take the well by Form P-4 transfer and accept plugging liability for the well. Bradley James, President of Independent, states that he intends to fulfill his responsibilities to the Commission.

### EXAMINERS' OPINION

Independent did not deny that it was out of compliance with Statewide Rule 3 from at least January 23, 2006 through May 18, 2006. Neither did it deny that it was in violation of Statewide Rule 13 from at least January 23, 2006 through at least May 18, 2006. A subsequent District Office inspection report made on May 21, 2007, shows that Independent is not in compliance with Statewide Rule 13. That inspection shows that the well is cased only to 525 feet, not to 1500 feet which is the base of usable quality water in this area.

The examiner agrees with Enforcement's recommended penalty amounts and recommends that Independent be assessed a penalty of \$250 for its time out of compliance with Statewide Rule 3(2) and \$2,000 for its violation of Statewide Rule 13(a)(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. Respondent Ind. Resources Operating Co. Inc ("Independent") (Operator No. 423719) was given at least 10 days notice of this proceeding by certified mail, addressed to its most recent Form P-5 (Organization Report) address. Independent appeared through its President,

Bradley M. James, and presented evidence at the hearing.

2. The initial Form P-5 Organization Report for Independent was filed on November 14, 2005. Bradley M. James was identified as the President of Independent. Michael Zatorski was identified as Independent's Vice-President and Christopher Roach was identified as Independent's Secretary. Independent has not re-filed its Form P-5 and is currently delinquent.
3. Independent designated itself operator of the Freeway Lease, Well No. 1 (Drilling Permit No. 610463) by filing a Commission Form W-1 (Application to Drill, Recomplete or Re-enter) dated December 2, 2005, issued December 6, 2005.
4. Commission District Office inspections reports made on January 23, 2006, February 16, 2006, March 1, 2006, March 24, 2006 and May 18, 2006 showed that the sign required to be posted by Well No. 1 on the Freeway Lease by Statewide Rule 3(2) was missing.
5. Commission District Office inspections reports made on January 23, 2006, February 16, 2006, March 1, 2006, March 24, 2006 and May 18, 2006 showed that the casing required to protect the hole in Well No. 1 on the Freeway Lease by Statewide Rule 13(a)(1) was not in place.
6. A District Office inspection conducted on December 14, 2006 showed that Well No. 1 on the Freeway Lease was in compliance with Statewide Rule 3, but erroneously showed that Well No. 1 on the Freeway Lease was in compliance with Statewide Rule 13.
7. A District office inspection report conducted on May 21, 2007, showed that casing was set in Well No. 1 on the Freeway Lease only to a depth of 525 feet. In this area, usable quality water must be protected to a depth of 1500 feet.
8. Bradley M. James, as President of Independent, Michael Zatorski, as Vice-President and Christopher Roach as Secretary, were in positions of ownership and control of Independent at the time of Independent's violations of Statewide Rules 3 and 13.
9. Independent's violations of Statewide Rules 3 and 13 were serious and threatened the public health and safety. In the event of a pollution or safety violation, the lack of legible signs and identification required by Statewide Rule 3 could cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency. Such confusion could cause delays in containing and remediating the violation or emergency. The failure to properly case and control a well, as required by Statewide Rule 13 poses a severe risk of pollution of aquifers containing usable quality subsurface waters. In an uncased well, highly pressured wellbore fluids containing hydrocarbons or high concentrations of chlorides may have direct access to low-pressured aquifers.

**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. Ind. Resources Operating Co. Inc (“Independent”) (Operator No. 423719) was the operator of the Freeway Lease, Well No. 1 (Drilling Permit No. 610463), Brookshire Field, Waller County, Texas and had the primary responsibility for complying with Commission rules.
4. Ind. Resources Operating Co. Inc (“Independent”) (Operator No. 423719) violated Commission Statewide Rule 3(2) on the Freeway Lease, Well No. 1 (Drilling Permit No. 610463), Brookshire Field, Waller County, Texas.
5. Ind. Resources Operating Co. Inc (“Independent”) (Operator No. 423719) violated Commission Statewide Rule 13(a)(1) on the Freeway Lease, Well No. 1 (Drilling Permit No. 610463), Brookshire Field, Waller County, Texas.
6. The violations of Commission Statewide Rules 3 and 13 by Ind. Resources Operating Co. Inc (“Independent”) (Operator No. 423719) on the Freeway Lease, Well No. 1 (Drilling Permit No. 610463), Brookshire Field, Waller County, Texas were related to safety and the control of pollution.
7. The documented violations committed by Respondent were a hazard to the public health and demonstrated a lack of good faith pursuant to Texas Natural Resources Code §81.0531(c).

**RECOMMENDATION**

The examiner recommends that the above findings of fact and conclusions of law be adopted and that Ind. Resources Operating Co. Inc be assessed an administrative penalty of \$250 for one violation of Statewide Rule 3(2) and \$2,000 for one violation of Statewide Rule 13(a)(1), for a total administrative penalty of \$2,250.

The examiner also recommends that Ind. Resources Operating Co. Inc (Operator No. 423710) be required to place the Freeway Lease, Well No. 1 (Drilling Permit No. 610463), Brookshire Field, Waller County, in compliance with all Commission Statewide Rules.

Respectfully submitted,

Marshall Enquist  
Hearings Examiner