

February 5, 2010

OIL AND GAS DOCKET NO. 03-0252897

ENFORCEMENT ACTION AGAINST NEI PRODUCTION, INC. (OPERATOR NO. 603230) FOR VIOLATIONS OF STATEWIDE RULES ON THE MAYES -B- (11526) LEASE, WELL NO. 1B, LOST LAKE FIELD, CHAMBERS COUNTY, TEXAS.

APPEARANCES:

FOR RESPONDENT:

Rex White, Attorney	NEI Production, Inc
Don Bloustine, President	“
Don Rhodes, Consulting Agent	“

FOR THE RAILROAD COMMISSION OF TEXAS:

Reese Copeland	Enforcement Section, RRC
Ramon Fernandez	Field Operations, RRC

AMENDED PROPOSAL FOR DECISION

PROCEDURAL HISTORY

COMPLAINT FILED:	August 1, 2007
NOTICE OF HEARING:	May 2, 2008
DATE CASE HEARD:	July 10, 2008
HEARING CLOSED:	July 10, 2008
DATE RE-OPENED CASE HEARD:	December 11, 2009
DATE RE-OPENED HEARING CLOSED:	December 11, 2009
PFD PREPARED BY:	Marshall Enquist, Hearings Examiner
CURRENT STATUS:	Contested
ORIGINAL PFD CIRCULATION DATE:	June 11, 2009
AMENDED PFD CIRCULATION DATE:	February 5, 2010

STATEMENT OF THE CASE

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

1. Whether the Respondent, NEI Production, Inc. (“NEI”), violated Statewide Rule 3 [Tex. R.R. Comm’n., 16 TEX. ADMIN. CODE §3.3(2)] by failing to post and maintain the required identification sign at the wellsite of the Mayes -B- (11526) Lease, Well No. 1B, Lost Lake Field, Chambers County;
2. Whether NEI Production, Inc. (“NEI”) 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 Mayes -B- (11526) Lease, Well No. 1B, Lost Lake Field, Chambers County;
3. Whether NEI Production, Inc. (“NEI”) 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 well and/or otherwise failing to place the subject well and lease into compliance with Statewide Rule 14(b)(2);
4. Whether NEI Production, Inc. (“NEI”) violated Statewide Rule 14(b)(3) [Tex. R.R. Comm’n., 16 TEX. ADMIN. CODE §3.14(b)(3)] by failing to perform and file the required successful H-15 test for Well No. 1B on the Mayes (11526) Lease;
5. Whether, pursuant to Texas Natural Resources Code §81.0531, NEI should be assessed administrative penalties of not more than \$10,000 per day for each offense committed regarding the subject lease and well; and
6. Whether any violations of Statewide Rules 3, 14(b)(2) and 14(b)(3) by NEI 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 2, 2008. The hearing was held July 10, 2008. Rex White, Donald Bloustine and Don Rhodes appeared at the hearing on behalf of NEI and offered testimony and evidence. Reese Copeland, Staff Attorney, appeared to represent Enforcement. Enforcement’s certified hearing file was entered into evidence.

The examiner later re-opened the hearing to take Official Notice of additional relevant evidence in the form of Commission records. A re-opened hearing was held December 11, 2009 in order to give NEI an opportunity to contest the Commission records proposed to be officially noticed.

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 3(3) [16 TEX. ADMIN. CODE §3.3(3)] requires the posting of such a sign or painted identification at each tank battery, satellite tank or approved crude oil measuring facility where tanks are not utilized, which must show the name of the property as carried on the records of the Commission, the name of the operator, the number of acres in the property, the Commission lease number for the formation from which the oil or gas is produced, and if applicable the number of the Commission permit that authorizes commingling of oil.

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 14(b)(3) [16 TEX. ADMIN. CODE §3.14(b)(3)] requires that the operator of any well more than 25 years old that becomes inactive and subject to the provisions of this subsection "... plug the well or successfully conduct a fluid level or hydraulic pressure test establishing that the well does not pose a potential threat of harm to natural resources, including surface and subsurface water, oil and gas."

Statewide Rule 14(c)(2) [16 Tex. Admin. Code §3.14(c)(2)] states "As to any well for which the most recent Commission-approved operator designation form was filed prior to September 1, 1997, the entity designated as operator on that form is presumed to be the entity responsible for the physical operation and control of the well and to be the entity responsible for properly plugging the well in accordance with this section and all other applicable Commission rules and regulations concerning plugging of wells. The presumption of responsibility may be rebutted only at a hearing called for the purpose of determining plugging responsibility."

DISCUSSION OF THE EVIDENCE

Enforcement

NEI Production, Inc. ("NEI") is a corporation performing activities in the State of Texas regulated by the Commission. NEI filed its most recent Form P-5 Organization Report on January 9, 2009 and is currently active. NEI designated itself the operator of the Mayes -B- (11526) Lease by filing a Commission Form P-4 (Certificate of Compliance and Producer's Transportation Authority) effective January 1, 1991, approved February 15, 1991.

Commission District office inspection reports made on April 30, 2007, June 27, 2007 and April 1, 2008 for the Mayes -B- (11526) Lease, Well No. 1B, show that the sign or identification required by Statewide Rule 3(2), [Tex. R.R. Comm'n., 16 TEX. ADMIN. CODE §3.3(2)] to be posted at the well was missing. By failing to maintain legible signs as required, NEI has violated Statewide Rule 3(2).

Commission District office inspection reports made on April 30, 2007, June 27, 2007 and April 1, 2008 for the Mayes -B- (11526) Lease, Well No. 1B, and reports filed by NEI with the Commission (reflecting zero production) since prior to 1993, showed that the Mayes -B- (11526) Lease, Well No. 1B, has been inactive for a period greater than one year. Production from the subject well ceased on or before January 1, 1993. The District Office estimates the cost to the State of plugging the subject well is \$3,005.00.

Statewide Rule 14(b)(3) requires the operator of any well more than 25 years old that becomes inactive to plug the well or successfully conduct a fluid level or hydraulic pressure test establishing the well does not pose a potential threat of harm to natural resources, including surface and subsurface water, oil and gas.

Commission records indicate no Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the Mayes -B- (11526) Lease, Well No. 1B. Commission records show that the Mayes -B- (11526) Lease, Well No. 1B was completed on July 26, 1951, that an H-15 test was due in May, 1996, and that the well has not been plugged. There is no Statewide Rule 14(b)(2) extension in effect for the subject well.

The Commission's "H-15 Data Inquiry" database shows that NEI conducted an unsuccessful fluid level test on the subject well on July 29, 1994. NEI's violation of Statewide Rule 14(b)(3) is serious and a hazard to the public health and safety because wells over 25 years old may develop holes or leaks in the casing, allowing oil or saltwater to communicate with usable quality water zones or to flow to the surface.

An affidavit by Ramon Fernandez, P.E., Field Operations Section, states, as to Statewide Rule 3, "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 actual location of the violation or emergency. Such confusion will cause delays in containing and remediating the violation or emergency, which is serious and may threaten the public health and safety. As to Statewide Rule 14(b)(2), the affidavit 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." As to Statewide Rule 14(b)(3), the affidavit states "Any inactive well that is greater than 25 years of age must be plugged or tested to determine whether the well poses a potential threat of harm to natural resources, including surface and subsurface water, oil and gas. Casing leaks and/or fluid levels above the base of usable quality water indicate a possible pollution hazard. Without the required test and

supporting documentation (Commission Form H-15), the Commission cannot determine if a well poses a threat to natural resources.”

Enforcement recommends that NEI be required to place the subject well and lease into compliance with all Commission Statewide Rules and pay an administrative penalty of \$4,250.00, consisting of one Statewide Rule 3(2) violation at \$250, one Statewide Rule 14(b)(2) violation at \$2,000 and one Statewide Rule 14(b)(3) violation at \$2,000.

NEI

NEI argues that it took an assignment of several leases from Plains Resources, Inc. in 1991, and, in hindsight, believes that assignment included one lease that had probably already terminated. The lease that had probably already terminated is the lease on which the subject well is found. The subject well, according to NEI, has never produced and was therefore incapable of holding its original lease. NEI admits that its President in 1991, David Morton, signed a two-signature P-4 accepting responsibility for the well, but claims that this was a mistake. NEI took over a number of wells from Plains Resources, and the subject well was simply one among many.

NEI also states that it never used the well and did not know the well’s location for several years. In addition, the well is located on property owned by the U.S. government. A license from the U.S. Army Corps of Engineers is necessary to enter the land and NEI never obtained such a license. NEI argues it would be a trespass for it to enter Federal lands for the purpose of plugging this well without obtaining a license.

NEI believes that the facts in this case parallel the facts in Railroad Commission v. American Petrofina Co. of Texas, 576 S.W.2d 658 (Tex. Civ. App. - Beaumont 1978, no writ), and that NEI should not be held responsible for plugging the well. NEI alleges that, as in the American Petrofina case, it did not use or produce the well, and did not know where the well was located.

Regarding P-4 transfers made prior to September 1, 1997, there is a rebuttable presumption that the operator signing the P-4 is the operator responsible for the well. In this case, several other operators had the P-4 plugging liability for this well before NEI, and the Commission should hold one of those operators responsible for plugging the subject well.

In addition, the Commission “Well Bore Completion Remarks” database indicates that Well No. 1, Lease 11526, District 3 was plugged and abandoned in 1984. If the well is already plugged, NEI should not even be in this hearing.

Enforcement’s Rebuttal Argument

The Commission mainframe entry in the “Well Bore Completion Remarks” database incorrectly indicates Well No. 1 on the 11526 Lease was plugged and abandoned in 1984. The Commission “Permit Numbers and Wells Within Well Bore” database indicates no Form W-3 (Plugging Record) was ever received for the well. There is a picture of the well in the file, taken April 1, 2008, strongly indicating that the well still exists. In addition, NEI conducted an H-15 test

of the well in 1994 (the well failed the test), ten years after the date the incorrect mainframe database indicates the well was plugged.

NEI acquired the subject well as part of a larger package of four leases and their associated wells. The subject well was part of that package. The assignment under which NEI acquired the lease expressly made no warranty of title. NEI may not have acquired a valid lease with the well, but it did acquire the well and its equipment. NEI's actions indicate it believed it had acquired title, as it filed a two-signature P-4 with the Commission taking responsibility for the well. NEI was not unaware of the well's location, as it performed a failed H-15 fluid level test on the well in July, 1994.

The facts in American Petrofina are not the same as the facts here. In the American Petrofina case, the operator did not know the well at issue was even on its lease. The operator had filed a Form P-4 to take over a gas well. Each gas well in Texas has a unique 6 digit Commission ID number. The operator, American Petrofina, did not know that another well existed within the boundaries of its gas lease and had not filed a P-4 with the Commission taking responsibility for that well. In the present case, in 1991, NEI filed a P-4 for the Mayes -B- (11526). NEI entered the subject well to perform an H-15 test in July, 1994. The 1994 H-15 test conducted by NEI belies NEI's claim that it did not know where the well was located. It also demonstrates that NEI was the last operator to enter the well.

EXAMINER'S OPINION

The examiner agrees with Enforcement. Photographic evidence in the certified file shows the subject well still exists, despite the erroneous notation in the Commission database. NEI filed a two-signature Form P-4 (Certificate of Compliance and Producer's Transportation Authority) taking over the Mayes -B- (11526) Lease in 1991, some seven years after the erroneous record suggests the well was plugged.

NEI did not make any claim, much less prove, that another operator subsequently entered or operated the well after NEI signed a two-signature P-4 for the well in 1991. It is undisputed that NEI did enter the well and conduct tests in July, 1994. Therefore its argument that its P-4 creates a rebuttable presumption of plugging liability is not applicable. NEI is the operator of Well No. 1B on the Mayes -B- (11526) Lease, Lost Lake Field, Chambers County, Texas and was responsible for maintaining signs on the lease, successfully conducting required H-15 tests for the well and plugging the well.

NEI's reliance on the American Petrofina case is misplaced. In that case, the operator, American Petrofina, had filed a P-4 for a gas well. The Commission assigns each gas well in Texas a unique six digit number. Consequently, American Petrofina received the plugging liability for the single well identified by that unique six digit number. When a second well, an abandoned saltwater disposal well, was subsequently discovered on the gas lease, American Petrofina asserted that it did not know the well was there, did not operate it and had not accepted responsibility for the plugging liability for the well. In American Petrofina, the court found that the operator could not be liable for plugging the saltwater disposal well because it had never acquired that liability through

the P-4 process and that American Petrofina could not be the operator of the saltwater disposal well at the time it was abandoned as it had never operated it.

In contrast, NEI filed a Form P-4 for an oil lease identified by a five digit number, which consisted of two oil wells, thereby receiving the plugging liability for both wells. Both wells were listed on the proration schedule at the time NEI acquired the lease. The two-signature P-4 was signed by Sandra Meche, agent for the prior operator, Plains Resources, and by David Morton, President of NEI, on January 11, 1991. The Form P-4 was approved by the Commission on February 15, 1991 with an effective date of January 1, 1991. On the same date that David Morton signed the P-4 for the Mayes -B- (11526) Lease, January 11, 1991, he also signed a Form W-1X which listed the Mayes -B- Lease, Well No. 1B, as a well that NEI would re-enter in the future or otherwise maintain in compliance with Commission rules. On July 29, 1994, NEI entered Well No. 1B to perform an H-15 test, which was required to maintain the well in compliance with Commission rules. The H-15 test was unsuccessful.

The only similarity between the American Petrofina case and the present case is that neither American Petrofina nor NEI “used” the respective wells at issue for production activities. To equate the two cases based on that similarity alone would create a precedent that would seriously damage the Commission’s ability to require operators to plug wells on leases they have taken by P-4 filings. Oil leases, with their five digit identification numbers, commonly contain multiple wells. It is not unusual for an oil lease to contain 5, 10, 20 or 100 wells. It is also not unusual for an oil lease to be held by the production of only one or two wells, with the remainder (98 in the case of a 100 well lease with only two producing wells) having Statewide Rule 14(b)(2) extensions and sitting unused. In this situation, if the holding in the American Petrofina case is expanded to apply to “unused” wells on an oil lease, the hypothetical operator of a 100 well lease acquired with only two producing wells which subsequently ceased production could claim not to have used the 98 Statewide Rule 14(b)(2) extension wells and attempt to escape plugging liability for those 98 wells. This would place an enormous number of wells in the state-funded well plugging program, which is already strained.

The documents Officially Noticed by the examiner in the re-opened hearing include a series of Oil Proration Schedules, or Strip-outs, which are sent monthly to the operator responsible for a particular well. In this case, the Oil Proration Schedule for January 1, 1991, shows Plains Resources as operator of the Mayes -B- (11526) Lease, Well Nos. 1 and 1B. The Oil Proration Schedule for March 1, 1991, shows NEI as operator of the Mayes -B- (11526) Lease, Well Nos. 1 and 1B. Subsequent Proration Schedules on August 1, 1995, October 1, 1995 and August 9, 2009, show NEI to be the operator of the Mayes -B- (11526) Lease, Well No. 1B. Oil Proration Strip-outs are sent to operators on a monthly basis. The evidence indicates that NEI was reminded on a monthly basis that the Commission considered it the operator of Well No. 1B.

The documents Officially Noticed by the examiner also include a series of W-1Xs (Application for Future Re-Entry of Inactive Wellbore and 14(b)(2) Extension Permit) filed by NEI. The Form W-1Xs recovered from Central Records listing NEI as the operator of the Mayes -B- (11526) Lease, Well No. 1, were filled out and signed by officers and agents of NEI on the following dates: January 11, 1991; December 31, 1991; February 22, 1994; November 21, 1994; November

30, 1995; January 29, 1998; December 29, 1998 and December 4, 2000. The signing officers for NEI were David Morton, President; Pamela Bloustine, Vice-President; and Donald Bloustine, President. The signing agent for NEI was Don Rhodes.

NEI submitted a failed H-15 test (fluid level) to the Commission for Well No. 1B which was conducted on July 29, 1994. The Commission would have issued a letter within 30 days requesting a Mechanical Integrity Test and giving the operator 30 additional days to conduct the test. No further testing was conducted by NEI, so Well No. 1B on the Mayes -B- (11526) Lease was in violation of Commission Rule 14(b)(3) by at least September 29, 1994.

Each signed Form W-1X submitted by NEI bears the following Certification:

I certify under penalties prescribed in the Texas Natural Resources Code that the identified wells are in compliance with the conservation laws of the State of Texas, and all rules, regulations, and orders of the Railroad Commission of Texas: I further certify that the information given in this application is true, complete, and correct, additionally, that the identified wells will be re-entered at a future date or otherwise kept in compliance with the provisions of Statewide Rule 14. (Emphasis added)

The Proration Schedules, the Form W-1Xs and the failed H-15 test all demonstrate that NEI was aware of the existence of the subject well. The Form W-1Xs also indicate that NEI had taken responsibility for the subject well and represented to the Commission that the well might have future utility. The examiner has taken Official Notice of the Commission "14(b)(2) Well History Inquiry" database which shows that the Statewide Rule 14(b)(2) extension for the subject well was denied October 26, 2002. The examiner recommends that NEI be required to plug the subject well and pay an administrative penalty of \$4,250.00.

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. NEI Production, Inc. ("NEI") (Operator No. 603230) was given at least 10 days notice of this proceeding. NEI appeared through its representatives Rex White, Donald Bloustine and Don Rhodes and presented evidence at the hearing.
2. The Form P-5 Organization Report of NEI is active. NEI has financial assurance on file with the Commission in the amount of \$25,000 in the form of a Letter of Credit.
3. The present officers of NEI are Donald A. Bloustine, President and Treasurer, and Pamela J. Bloustine, Vice-President and Secretary. David Morton was a former President of NEI, at least to the date November 21, 1994.
4. The violations involved in this docket are violations of Commission rules related to safety and the prevention or control of pollution.

5. NEI designated itself the operator of the Mayes -B- (11526) Lease by filing a Commission Form P-4 (Certificate of Compliance and Producer's Transportation Authority) for the lease, approved February 15, 1991 and effective on January 1, 1991. Well No. 1B was listed on the proration schedule for the Mayes -B- Lease at the time NEI filed the P-4.
6. NEI filed numerous Form W-1Xs seeking plugging extensions for Well No. 1B. In each extension application, NEI certified that it would re-enter the well or otherwise maintain it in compliance with Commission rules and regulations.
7. On or about July 29, 1994, NEI entered Well No. 1B on the Mayes -B- Lease and performed an unsuccessful H-15 test.
8. Commission District office inspection reports made on April 30, 2007, June 27, 2007 and April 1, 2008 for the Mayes -B- (11526) Lease, Well No. 1B, show that the sign or identification required by Statewide Rule 3(2) to be posted at the well was missing.
9. Well No. 1B on the Mayes -B- (11526) Lease has been out of compliance with Statewide Rule 3(2) since at least April 30, 2007 to the date of the hearing on July 10, 2008, a period of one year and two months.
10. Commission District office inspection reports made on April 30, 2007, June 27, 2007 and April 1, 2008 for the Mayes -B- (11526) Lease, Well No. 1B, and reports filed by NEI with the Commission (reflecting zero production) since prior to 1993, showed that the Mayes -B- (11526) Lease, Well No. 1B, has been inactive for a period greater than one year. Production from the subject well ceased on or before January 1, 1993.
11. Well No. 1B on the Mayes -B- (11526) Lease has been out of compliance with Statewide Rule 14(b)(2) from at least October 26, 2002 to the date of the hearing on July 10, 2008, a period of time over five years.
12. Commission records indicate no Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the Mayes -B- (11526) Lease, Well No. 1B. Commission records show that the Mayes -B- (11526) Lease, Well No. 1B, was completed on July 26, 1951, and that the well has not been plugged.
13. NEI conducted an unsuccessful fluid level test on Well No. 1B, Mayes -B- (11526) Lease, Lost Lake Field, Chambers County, Texas, on July 29, 1994. Commission practice is to issue the operator of the well that failed a fluid level test a letter within 30 days, allowing the operator an additional 30 days to conduct a Mechanical Integrity Test. No such test was conducted by NEI. Well No. 1B was in violation of Statewide Rule 14(b)(3) by at least September 29, 1994. NEI was the last operator to enter the subject well.
14. NEI received and Oil Proration Schedule Strip-Out on a monthly basis from at least March 1, 1991 through at least the date of the hearing which stated that NEI was the operator of the

Mayes -B- (11526) Lease, Well No. 1B.

15. NEI filled out and filed with the Commission Forms W-1X signed by officers and agents of NEI indicating NEI intended to re-enter or otherwise maintain in compliance with Commission rules the Mayes -B- (11526) Lease, Well No. 1B on January 11, 1991; December 31, 1991; February 22, 1994; November 21, 1994; November 30, 1995; January 29, 1998; December 29, 1998 and December 4, 2000. The signing officers for NEI were David Morton, President; Pamela Bloustine, Vice-President; and Donald Bloustine, President.
16. Well No. 1B has been out of compliance with Statewide Rule 14(b)(3) since at least September 29, 1994, to the date of the hearing, July 10, 2008.

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. NEI Production, Inc. has been the operator of the Mayes -B- (11526) Lease, Well No. 1B, Lost Lake Field, Chambers 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 since at least January 1, 1991.
4. As operator of the subject lease and well, NEI Production, Inc. has the primary responsibility for complying with Statewide Rules 3(2), 14(b)(2) and 14(b)(3) [Tex. R.R. Comm'n, 16 Tex. Admin. Code §3.3(2), §3.14(b)(2) and §3.14(b)(3)], Chapters 89 and 91 of the Texas Natural Resources Code, and other applicable statutes and Commission rules respecting the subject lease and well.
5. NEI Production, Inc. violated Statewide Rule 3(2) [Tex. R.R. Comm'n, 16 Tex. Admin. Code §3.3(2)] by failing to post appropriate identification signs on the Mayes -B- (11526) Lease, Well No. 1B.
6. NEI Production, Inc. violated Statewide Rule 14(b)(2) [Tex. R.R. Comm'n, 16 Tex. Admin. Code §3.14(b)(2)] by failing to timely plug the Mayes -B- (11526) Lease, Well No. 1B.
7. NEI Production, Inc. violated Statewide Rule 14(b)(3) [Tex. R.R. Comm'n, 16 Tex. Admin. Code §3.14(b)(3)] by failing to conduct a successful H-15 test on the Mayes -B- (11526) Lease, Well No. 1B.
8. The documented violations committed by NEI Production, Inc. constitute acts deemed serious and a hazard to the public health and safety within the meaning of Texas Natural Resources Code §81.0531.

9. NEI Production, Inc. has not demonstrated good faith within the meaning of Texas Natural Resources Code §81.0531.
10. As officers of NEI Production, Inc. at the time NEI violated Commission rules related to safety and the prevention or control of pollution, Donald A. Bloustine and Pamela J. Bloustine, and any organization subject to the Commission's jurisdiction in which any of them may hold a position of ownership or control, is subject to the restrictions of Texas Natural Resources Code §91.114(a)(2).

RECOMMENDATION

The examiner recommends that NEI Production, Inc. be required to plug Well No. 1B on the Mayes -B- (11526) Lease, Lost Lake Field, Chambers County, Texas and pay an administrative penalty of \$4,250.00.

Respectfully submitted,

Marshall Enquist
Hearings Examiner