

December 1, 2008

OIL AND GAS DOCKET NO. 03-0256179

**ENFORCEMENT ACTION AGAINST COMANCHE WELL SERVICE CORP. (OPERATOR NO. 169420)
FOR VIOLATIONS OF STATEWIDE RULES ON THE NELLIE K. GRAMM (00699) LEASE, WELL NO.
1, CHRISMAN FIELD, BURLESON COUNTY, TEXAS.**

APPEARANCES:

FOR RESPONDENT:

Rex White, Attorney

Comanche Well Service Corp.

FOR THE RAILROAD COMMISSION OF TEXAS:

Susan German

Enforcement Section, RRC

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

COMPLAINT FILED:	March 24, 2008
NOTICE OF HEARING:	May 6, 2008
DATE CASE HEARD:	July 24, 2008
HEARING CLOSED:	July 24, 2008
PFD PREPARED BY:	Marshall Enquist, Hearings Examiner
CURRENT STATUS:	Contested
PFD CIRCULATION DATE:	December 1, 2008

STATEMENT OF THE CASE

1. Whether Comanche Well Service Corp. (hereinafter "Comanche") violated Statewide Rule 3 [Tex. R.R. Comm'n., 16 TEX. ADMIN. CODE §3] by failing to post and maintain required identification signs at the lease entrance, well site, and tank battery of the Nellie K. Gramm (00699) Lease, Well No. 1; and

2. Whether Comanche 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 Nellie K. Gramm (00699) Lease, Well No. 1; and
3. Whether Comanche violated Statewide Rule 14(b)(3) [Tex. R.R. Comm'n., 16 TEX. ADMIN. CODE §3.14(b)(3)] on the Nellie K. Gramm (00699) Lease, Well No. 1, by failing to perform and file the required H-15 test; and
4. Whether Comanche 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 wells and/or otherwise failing to place the subject wells and lease into compliance with Statewide Rules 3, 14(b)(2) and 14(b)(3); and
5. Whether, pursuant to Texas Natural Resources Code §81.0531, Comanche 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 Comanche 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 6, 2008 for the hearing date of July 24, 2008. Attorney Rex White appeared at the hearing on behalf of Comanche and offered evidence. Susan German, Staff Attorney, appeared to represent Enforcement. Enforcement's certified hearing file was entered into evidence.

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."

DISCUSSION OF THE EVIDENCE

Enforcement

Comanche Well Service Corp. is a corporation, and Don Lambert was its President, Dorothea Krempein its Vice-President-Finance and Paul Willingham its Vice-President Comptroller during the time of the pled violations. The P-5 Organization Report of Comanche is active and Comanche has approved financial assurance on file in the form of a cash deposit in the amount of \$250,000. The most recent renewal date for Comanche was February 29, 2008, at which time there was an officer change. Currently, Don Lambert is not listed as an officer of Comanche and the company does not have a President listed on its Form P-5. Dorothea Krempein and Paul Willingham remain in their prior offices and Eric Brewster has been added as Treasurer. The period after the February 29, 2008 Form P-5 renewal date and officer change is also within the time period of the pled violations of Commission rules.

Comanche designated itself the operator of the Nellie K. Gramm (00699) Lease, Well No. 1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority) for the lease, effective April 1, 2006 and approved April 4, 2006.

The Nellie K. Gramm (00699) Lease

Statewide Rule 3

Commission District Office inspection reports made on January 3, 2008, February 6, 2008 and July 11, 2008, showed that the required signs for the lease entrance and the tank battery of Well No. 1 were missing. This is a violation of Statewide Rule 3(1) and a violation of Statewide Rule 3(3).

Commission District Office inspection reports made on January 3, 2008 and February 6, 2008, showed that the required signs for the wellsite of Well No. 1 were missing. This is a violation of Statewide Rule 3(2). The most recent inspection report, made on July 2, 2008, found the required sign at the well site to be posted.

An affidavit by Ramon Fernandez, Jr., P.E., Field Operations Section, states in reference to Statewide Rule 3, “A lease, well, tank or approved crude oil measuring facility where tanks are not used, which is in violation of Statewide Rule 3 by failing to maintain correct and legible signs or identification as required, must immediately be placed in compliance with the requirements of Statewide Rule 3 in order to allow correct identification of the responsible operator and to allow correct determination of the actual location of the lease, well, tank or approved crude oil measuring facility where tanks are not used. 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 the actual location of the violation or emergency. Such confusion will cause delays in containing and remediating the violation or emergency, which may threaten public health and safety.”

Statewide Rule 14(b)(2)

Commission District Office inspection reports made on January 3, 2008, February 6, 2008 and July 2, 2008, showed that Well No. 1 was inactive and not equipped to produce (no connecting flow lines). No production reported to the Commission since May 31, 2003, with zero production reported from June 1, 2003 through December 31, 2004, and no production reports filed thereafter, showed that the Nellie K. Gramm (00699) Lease, Well No. 1 has been inactive for a period greater than one year. Production from the well ceased on or before May 31, 2003.

No workovers, re-entries, or subsequent operations have taken place on the subject well in this complaint within the last twelve months and the well has not been plugged. The plugging extension for the well as allowed by Statewide Rule 14 was denied March 15, 2007, because of a delinquent H-15 test on the well, and Respondent has not requested a hearing on the matter.

An affidavit by Ramon Fernandez, Jr., P.E., Field Operations Section, 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.”

Statewide Rule 14(b)(3)

Commission records indicate no Form H-15 (Test on an Inactive Well More Than 25 Years Old) has been filed and approved for the Nellie K. Gramm (00699) Lease, Well No. 1. Commission records further show that the Nellie K. Gramm (00699) Lease, Well No. 1 was completed in 1972 and is approximately 36 years old. No production for the well has been reported since May 31, 2003. An H-15 test was due by at least May 2006, and the well has not been plugged.

An affidavit by Ramon Fernandez, Jr., P.E., Field Operations Section, 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 the well poses a threat to natural resources.”

Enforcement’s Recommendation Regarding the Nellie K. Gramm (00699) Lease

Enforcement recommends that Comanche be required to pay an administrative penalty of \$4,750.00, consisting of three violation of Statewide Rule 3 at \$250 each, one violation of Statewide Rule 14(b)(2) at \$2,000 and one violation of Statewide Rule 14(b)(3) at \$2,000. Enforcement also recommends that Comanche be required to place the subject lease and well in compliance with all Commission rules.

Comanche

Attorney Rex White, appearing on behalf of Comanche, stated that Comanche’s parent company is Energytec, Inc. Mr. White entered into evidence a letter from Dorothea Krempein, signing as CFO of Comanche, reading in relevant part as follows:

Energytec, Inc. has not been able to take action on the above referenced wells due to a lack of funds.

The Company has undertaken to sell 100% of its interest in an unrelated field in order to raise cash necessary to address the issues related to these wells. The transaction has not been closed, but the Company anticipates that closing will occur on or about August 8, 2008.

Energytec letter to RRC, July 21, 2008, signatory Dorothea Krempein, Chief Financial Officer. “The above referenced wells...” referred to in the letter relate to the dockets listed in the subject block of the letter, being RRC Docket Nos. 7B-0254592, 03-0256179, 01-0253161 and 01-0253159.

To further demonstrate the connection between Comanche and Energytec, Mr. White offered a 2006 Texas Franchise Tax Public Information Report listing the officers of Energytec as Don L. Lambert, Dorothea Krempein and Paul Willingham, the same officers as those in Comanche prior to the February 29, 2008 officer change in Comanche’s P-5 filing which removed President Don Lambert and added Treasurer Eric Brewster.

EXAMINER’S OPINION

Comanche does not contest the accuracy of Enforcement’s allegation of violations in this docket. It only raises the argument that it would correct the violations itself if it were within its financial capabilities.

District Office inspections from January 3, 2008 through July 2, 2008 demonstrate that there were no signs posted at the lease entrance or tank battery of the Nellie K. Gramm (00699) Lease, Well No. 1, which were violations of Commission Statewide Rule 3(1) and 3(3). District Office inspections made January 3, 2008 and February 6, 2008 show that the sign required to be posted at the site of Well No.1 was missing, a violation of Statewide Rule 3(2).

The Statewide Rule 14(b)(2) extension for the Nellie K. Gramm (00699) Lease, Well No. 1, was denied in March 15, 2007. The well was in violation of Statewide Rule 14(b)(2) from at least April, 2007 until the date of the hearing on July 24, 2008, a period of one year and one month.

An H-15 test was due for the Nellie K. Gramm (00699) Lease, Well No. 1 on May, 2006 and was not received by the Commission. The well has been in violation of Statewide Rule 14(b)(3) from May, 2006 to the date of the hearing in July, 2008, a period of two years and two months.

The certified file contains Commission letters to Comanche dated February 14, 2008; January 10, 2008 and October 17, 2007 advising Comanche of the violations on the Nellie K. Gramm (00699) Lease. Comanche did not respond to the Commission letters.

The examiner agrees with Enforcement's requested penalties in the amount of \$4,750.00 and with the recommendation that Comanche be required to bring the subject lease and well into compliance with all Commission rules and regulations.

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. Comanche Well Service Corp. ("Comanche") (Operator No. 169420) was given at least 10 days notice of this proceeding. Comanche appeared through its counsel, Attorney Rex White and presented evidence at the hearing.
2. Comanche is a corporation, and its officers prior to February 29, 2008 were Don Lambert, President; Dorothea Krempein, Vice-President - Finance; and Paul Willingham, Vice-President - Comptroller. On and after February 29, 2008, Comanche's officers were Dorothea Krempein, Vice-President - Finance; Paul Willingham, Vice-President - Comptroller; and Eric Brewster, Treasurer.
3. The Form P-5 Organization Report of Comanche is active and Comanche has approved financial assurance on file in the form of a cash deposit in the amount of \$250,000.
4. The violations involved in this docket were violations of Commission rules related to safety and the prevention or control of pollution.
5. Comanche designated itself the operator of the Nellie K. Gramm (00699) Lease, Well No. 1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority) for the lease, effective April 1, 2006 and approved April 4, 2006.
6. Commission District Office inspection reports made on January 3, 2008, February 6, 2008 and July 11, 2008, showed that the required signs for the lease entrance and the tank battery of Well No. 1 were missing.

7. Commission District Office inspection reports made on January 3, 2008 and February 6, 2008, showed that the required signs for site of Well No. 1 were missing.
8. Well No. 1 on the Nellie K. Gramm (00699) Lease was out of compliance with Statewide Rule 3(1) and 3(3) from January 3, 2008 to at least the date of the last inspection on July 2, 2008, a period of six months.
9. Well No. 1 on the Nellie K. Gramm (00699) Lease was out of compliance with Statewide Rule 3(2) from January 3, 2008 to at least the date of the next inspection on February 6, 2008, a period of one month.
10. A lease, well, tank or approved crude oil measuring facility where tanks are not used, which is in violation of Statewide Rule 3 by failing to maintain correct and legible signs or identification as required, must immediately be placed in compliance with the requirements of Statewide Rule 3 in order to allow correct identification of the responsible operator and to allow correct determination of the actual location of the lease, well, tank or approved crude oil measuring facility where tanks are not used. 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 the actual location of the violation or emergency. Such confusion will cause delays in containing and remediating the violation or emergency, which may threaten public health and safety.
11. Commission District Office inspection reports made on January 3, 2008, February 6, 2008 and July 2, 2008, showed that Well No. 1 was inactive and not equipped to produce (no connecting flow lines). Production from the well ceased on or before May 31, 2003.
12. The plugging extension for Well No. 1 on the Nellie K. Gramm (00699) lease, Well No. 1 was denied March 15, 2007 due to a delinquent H-15. Comanche did not request a hearing on the Statewide Rule 14(b)(2) extension denial. The well has been out of compliance with Statewide Rule 14 from March 15, 2007 through at least the date of the hearing on July 24, 2008, a period of one year and four months.
13. 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.
14. Commission records indicate no Form H-15 (Test on an Inactive Well More Than 25 Years Old) has been filed and approved for the Nellie K. Gramm (00699) Lease, Well No. 1. Commission records further show that the Nellie K. Gramm (00699) Lease, Well No. 1 was completed in 1972 and is approximately 36 years old. No production for the well has been reported since May 31, 2003. An H-15 test was due by at least May 2006, and the well has

not been plugged.

15. Well No. 1 on the Nellie K. Gramm (00699) Lease has been in violation of Statewide Rule 14(b)(3) from at least May, 2006 through at least the date of the hearing on July 24, 2008, a period of two years and two months.
16. By letters dated February 14, 2008; January 10, 2008 and October 17, 2007, the Commission advised Comanche of the violations on the Nellie K. Gramm (00699) Lease. Comanche did not respond to the Commission letters.

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. Comanche Well Service Corp. was the operator of the Nellie K. Gramm (00699) Lease, Well No. 1, Chriesman Field, Burleson County, 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 from at least April 1, 2006 through at least July 24, 2008.
4. As Operator of the subject lease, Comanche Well Service Corp. had the primary responsibility for complying with Statewide Rules 3(1),(2) and (3), 14(b)(2) and 14(b)(3) [Tex. R.R. Comm'n, 16 Tex. Admin. Code §3.3(1),(2) and (3), §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 leases and wells.
5. Comanche Well Service Corp. violated Statewide Rule 3(1) and 3(3) [Tex. R.R. Comm'n, 16 Tex. Admin. Code §3.3(1) and (3)] by failing to post and maintain required identification signs at the lease entrance and tank battery of Well No. 1 on the Nellie K, Gramm (00699) Lease.
6. Comanche Well Service Corp. violated Statewide Rule 3(2) [Tex. R.R. Comm'n, 16 Tex. Admin. Code §3.3(2)] by failing to post and maintain the required identification sign at the site of Well No. 1 on the Nellie K. Gramm (00699) Lease.
7. Comanche Well Service Corp. violated Statewide Rule 14(b)(2) [Tex. R.R. Comm'n, 16 Tex. Admin. Code §3.14] by failing to plug the Nellie K. Gramm (00699) Lease, Well No. 1, after its Statewide Rule 14(b)(2) extension was cancelled in March, 2007.
8. Comanche Well Service Corp. violated Statewide Rule 14(b)(3) [Tex. R.R. Comm'n, 16 Tex. Admin. Code §3.14(b)(3)] by failing to perform and submit a required H-15 test for the Nellie K. Gramm (00699) Lease, Well No. 1 by the time it was due in May, 2006.

9. The documented violations committed by Comanche Well Service Corp. constitute acts deemed serious and a hazard to the public health and safety within the meaning of Texas Natural Resources Code §81.0531.
10. Comanche Well Service Corp. has not demonstrated good faith within the meaning of Texas Natural Resources Code §81.0531.
11. As officers of Comanche Well Service Corp. at the time Comanche violated Commission rules related to safety and the prevention or control of pollution, Don Lambert, Dorothea Krempein, Paul Willingham and Eric Brewster, and any organization subject to the Commission's jurisdiction in which any or all 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 Comanche Well Service Corp. be required to pay an administrative penalty of \$4,750.00 and place the Nellie K. Gramm (00699) Lease, Well No. 1, in compliance with all Commission rules and regulations.

Respectfully submitted,

Marshall Enquist
Hearings Examiner