

September 26, 2007

OIL AND GAS DOCKET NO. 05-0247628

ENFORCEMENT ACTION AGAINST BENNETT, TOM, JR., SOLE PROPRIETOR, B&J OIL COMPANY (OPERATOR NO. 040608) FOR VIOLATIONS OF STATEWIDE RULES ON THE BENNETT RANCH LEASE, WELL NO. 1 (DRILLING PERMIT NO. 601953) CORSICANA (SHALLOW) FIELD, NAVARRO COUNTY; AND BENNETT RANCH LEASE, WELL UNPERMITTED WELL "A", CORSICANA (SHALLOW) FIELD, NAVARRO COUNTY, TEXAS.

APPEARANCES:

FOR THE RRC:

Elaine Moore	Attorney, Enforcement Section
Roger Satterwhite	RRC District 5, Engineering Specialist
Mark England	RRC, Austin, Field Operations Section

FOR RESPONDENT:

Tom Bennett, Jr.	Sole Proprietor, B&J Oil Company
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PROPOSAL FOR DECISION

PROCEDURAL HISTORY

COMPLAINT FILED:	May 22, 2006
NOTICE OF HEARING:	March 15, 2007
DATE CASE HEARD:	May 17, 2007
HEARING CLOSED:	May 17, 2007
PFD PREPARED BY:	Marshall Enquist, Hearings Examiner
PFD RE-CIRCULATION DATE:	October 1, 2007
CURRENT STATUS:	Contested

STATEMENT OF THE CASE

This is an Enforcement action against Tom Bennett, Jr. as Sole Proprietor of B&J Oil Company (Operator No. 040608) for violations of Statewide Rules 13(b)(1)(B), 13(b)(2)(A)(i), 14(a)(3) and 5(c) on the Bennett Ranch Lease, Well No. 1 (Permit No. 601953) and Unpermitted Well "A", Corsicana (Shallow) Field, Navarro County, Texas.

A hearing in this docket was held May 17, 2007. The Original Complaint was sent to the officer listed on B&J Oil Company's most recent Form P-5 Organization Report. A signed green card was returned and Tom Bennett, Jr.'s Notice of Intent to Appear was received at the Commission on April 16, 2007. Mr. Bennett appeared at the hearing and represented B&J Oil Company. Elaine Moore, Staff Attorney, appeared at the hearing representing the Railroad Commission of Texas, Office of General Counsel, Enforcement Section ("Enforcement"). Ms. Moore presented two witnesses; Roger Satterwhite, an Engineering Specialist and Field Inspector from RRC District 5 and Mark England, Engineering Specialist in the Field Operations Section, RRC, Austin.

AUTHORITY

Statewide Rule 5(c) [16 Tex. Admin. Code §3.5] requires that operations of drilling, deepening, plugging back or re-entering shall not be commenced until a permit has been granted by the Commission pursuant to subsection (d) of Rule 5.

Statewide Rule 13(b)(1)(B) [16 Tex. Admin. Code §3.13] provides that wellhead assemblies shall be used on wells to maintain surface control of the well. Maintenance of surface control is necessary not only to prevent fluids from being discharged from the wellbore onto the ground surface, but also to prevent any oil and gas wastes present in the wellbore from being displaced to the surface by influxes of surface water into the open wellbore.

Statewide Rule 13(b)(2)(A)(i) [16 Tex. Admin. Code §3.13] requires that surface casing be set in each well to a depth sufficient to protect all usable-quality water strata, as defined by the Texas Commission on Environmental Quality. Surface casing is not required in wells 1,000 feet or less in depth provided that no shallow gas sands or abnormally high pressures are known to exist at shallower depths, and provided, further, that production casing is cemented from the casing shoe to the ground surface by the pump and plug method.

Statewide Rule 14(a)(3) [16 Tex. Admin. Code §3.14] requires that operations on a well shall not be suspended prior to plugging the well unless the hole is cased and casing is cemented in place in compliance with Commission rules.

ENFORCEMENT'S EVIDENCE

B&J Oil Company (hereinafter "B&J") applied to drill its Well No. 1 (Permit No. 601953) on the Bennett Ranch Lease by filing a Commission Form W-1 with an effective of June 13, 2005, approved by the Commission on July 13, 2005. A District Office inspection made on November 18,

2005 found a few feet of conductor pipe¹ in the hole at the site of the permitted well and an undetermined amount of drill pipe in the hole. A subsequent inspection made on January 26, 2006 found the rig had been moved off the hole to a location roughly 250 feet to the south. The conductor pipe remained in the hole, but the hole was otherwise open to atmosphere and uncased. The well did not have any form of wellhead control in place. An area 30 by 20 feet around the conductor pipe was covered in drilling mud. In later communications between the District Office and B&J, the operator stated that the well was drilled to 990 feet in depth.

The base of usable-quality water on the Bennett Ranch Lease is at 100 feet according to the TCEQ. Protection must be provided to a depth 200 feet below the base of usable-quality water, or 300 feet total depth in this case.

A District Office inspection made on February 21, 2006 found Well No. 1 remained abandoned with a short section of conductor pipe in the open hole and no wellhead control device. Failure to maintain wellhead control is a violation of Commission Statewide Rule 13(b)(1)(B). Because the well had only a few feet of conductor pipe in an otherwise casingless open hole, the well was also in violation of Statewide Rule 13(b)(2)(A)(i), which requires that surface casing be set in all wells to a depth sufficient to protect all usable-quality water strata. Surface casing is not required in wells 1,000 feet deep or less provided that no shallow gas sands or abnormally high pressures are known to exist at shallower depths, and provided, further, that production casing is cemented from the casing shoe to the ground surface by the pump and plug method.

Well No. 1 on the Bennett Ranch Lease was also in violation of Commission Statewide Rule 14(b)(3) which requires that operations on a well not be suspended prior to plugging the well unless the hole is cased and casing is cemented in place in compliance with Commission rules. From at least the date of the District Office inspection on January 26, 2006 until July 19, 2006 when the well was plugged, Well No. 1 was in violation of Statewide Rule 14(b)(3). The plugging was witnessed by the Commission and reported in a District Office inspection report made on July 19, 2006. The Commission Form W-3 reporting the plugging was received by the Kilgore District Office on January 5, 2007.

B&J had, on December 27, 2005, applied for and received a permit (Permit No. 611636) to drill its Well No. 2 at a location 255 feet southwest of Well No. 1. As previously mentioned, the rig that had been over Well No. 1 was found by the District Office on January 26, 2006 to have been moved to a new location approximately 250 feet to the south of Well No. 1. The new rig location was approximately that of the permitted Bennett Ranch Well No. 2. However, another inspection made on February 16, 2006 found the rig had been moved yet again, this time to an unpermitted location 150 feet northeast of Well No. 1. At the time of that inspection, no signs of drilling activity were evident at the site of the permitted Well No. 2, nor was there any activity at the site of the relocated rig 150 feet northeast of Well No. 1. However, a District Office inspection made on March 7, 2006, found the rig still located 150 feet northeast of Well No. 1 and actively drilling at the

¹ Conductor pipe acts as a collar for the drill pipe and bit, keeping loose soil and rock from falling into the newly drilled hole. It usually extends no more than 10-20 feet into the ground.

unpermitted site (referenced in this docket as Unpermitted Well "A"). The District Office inspector, Roger Satterwhite, told B&J that a drilling permit must be posted at the rig at all times. On April 14, 2006, the Commission received an amended drilling application from B&J reflecting the actual location being drilled for its Well No. 2. The Amended Permit was granted on May 25, 2006.

From at least March 7, 2006 through at least April 14, 2006, B&J was in violation of Commission Statewide Rule 5(c) by commencing drilling operations at the unpermitted site on the Bennett Ranch Lease. Statewide Rule 5(c) provides that operations of drilling, deepening, plugging back or re-entering shall not be commenced until a permit has been granted by the Commission and the waiting period, if any, has terminated, or authorization has been granted pursuant to subsection (d) of Statewide Rule 5.

Well No. 1 was plugged on July 19, 2006. Well No. 2 was properly permitted on May 25, 2006. Enforcement states that Well No. 2 is cased but has not been completed. The subject wells are currently in compliance with Commission rules.

The violations pled are serious and were a hazard to the public health and safety. Enforcement requests that B&J be assessed an administrative penalty of \$1,000 for one violation of Statewide Rule 13(b)(1)(B); \$1,000 for one violation of Statewide Rule 13(b)(2)(A); \$500 for one violation of Statewide Rule 14(a)(3); and \$5,000 for one violation of Statewide Rule 5(c). The requested penalties are for time out of compliance.

B&J'S EVIDENCE

B&J, through its Sole Proprietor, Tom Bennett, Jr., appeared at the hearing and presented evidence. B&J stated that the Commission's own inspection reports and accompanying photographs showed that there was casing in the hole of Well No. 1. Mr. Bennett stated that he was not aware of any rule requiring that a well less than 1,000 feet deep be cased. In his experience, it is not required and nobody does it. Mr. Bennett quoted a portion of SWR 13(b)(2)(A) to the effect that "Surface casing is not required in wells 1,000 feet or less in depth.....".

B&J represented that the rig originally over Well No. 1 was moved off due to mechanical problems, and was not capable of plugging the well anyway. B&J states that it is new to the oil and gas business and did not intentionally violate any rule. It left the hole open in Well No. 1 because it may have had future utility as an injection well. B&J did not find oil, gas or water in the hole and did not believe it endangered usable-quality water. Even so, B&J did not leave the wellbore completely open. B&J states that it placed 100 feet of gel² in the wellbore.

As to the location of Well No. 2, B&J represents that the originally applied-for location of Well No. 2 was mistaken due to a typographical error made by the surveyor. The location noted by the inspector on February 21, 2006, which the Commission is referring to as Unpermitted Well "A",

² Gel is created by mixing an additive with water to create a more viscous fluid. Gels are used in drilling to help sweep drill cuttings from the wellbore. In well fracturing, gels help carry the proppant into crevices. Gels are often designed to degrade due to the passage of time or due to increased temperature, to make fluid recovery more effective.

was the location that B&J had intended to apply for. This error was corrected by filing an amended W-1 which was received by the Commission on April 14, 2006.

B&J notes that no harm resulted from its actions. It had permits to drill two wells and only two wells were ever drilled. Both wells are now in compliance with Commission rules. B&J argues that the penalty proposed is excessive and out of proportion to the infractions of rules.

EXAMINERS' OPINION

The examiner hereby takes Official Notice of Commission Mainframe records regarding B&J Oil Company. B&J became a Commission-recognized operator by filing a Form P-5 effective April 30, 2004. B&J's most recent P-5 filing was on March 27, 2007 and it has posted financial security in the amount of a \$25,000 letter of credit which expires on July 1, 2008. At present, B&J has no wells on the proration schedule.

The examiner agrees with Enforcement. The District Office found a drilling rig on the Bennett Ranch on November 18, 2005 with no identification and no drilling permit posted. Drilling had commenced at that time. By the time of the next inspection, on January 26, 2006, drilling had been completed and the rig moved to another location, leaving an uncased open hole with little more than a short piece of conductor pipe protruding from the ground. The inspector contacted B&J and was told that a Form W-3A would be filed and plugging would commence as soon as possible. The well was not actually plugged until July 19, 2006, almost six months later. During that time, the wellbore remained uncased and without wellhead control. B&J presented no proof of its allegation that the wellbore had 100 feet of gel in the bottom of it, and even if this were true, 100 feet of gel is not a recognized method of wellhead control. Nor does it prevent runoff from entering the wellbore.

B&J may have mistakenly believed that casing was not required in a well less than 1,000 feet in depth and quoted the portion of Statewide Rule 13(B)(2)(A) which states this, without reading the rest of the rule which makes it clear that casing is required:

(ii) Any well drilled to a total depth of 1,000 feet or less below the ground surface may be drilled without setting surface casing provided no shallow gas sands or abnormally high pressures are known to exist at depths shallower than 1,000 feet below the ground surface; and further provided that production casing is cemented from the shoe to the ground surface by the pump and plug method.

Commission Statewide Rule 13(b)(2)(A)(ii). (emphasis added) This portion of Rule 13 is intended to benefit operators by eliminating a requirement that some shallow wells have both surface casing and production casing, a requirement that may be viewed as redundant in some cases. However, the rule still requires that production casing be run and cemented from top to bottom, protecting usable-quality water and eliminating the well as a possible breakout source. From at least January 26, 2006 through July 19, 2006, Well No. 1 on the Bennett Ranch lease was out of compliance with Commission Statewide Rules 13(b)(1)(B) and 13(b)(2)(A)(i). For at least the same period of time, there was no rig over the open hole and it was not cased, a violation of Commission Statewide Rule 14(b)(3).

B&J did have a permit for a second well on its lease, but did not drill that well at the permitted location. The record indicates that B&J only amended its drilling permit for its Well No. 2 to reflect its actual location after being urged to do so by the District Office. B&J seems to have believed that having a permit for a second well on its lease entitled it to drill that second well wherever it found appropriate. The Commission has a strong public interest in knowing where wells are drilled. For example, if Unpermitted Well "A" had been drilled and abandoned by B&J, the Commission would not have known that an uncased borehole with no wellhead protection existed 400 feet away from the permitted location of Bennet Ranch Lease Well No. 2. Besides being an existing conduit for pollution to usable-quality water, the unknown and uncased well would also be a possible breakout hazard in the future should there be applications for injection or disposal wells. By drilling an unpermitted location, here described as Unpermitted Well "A", B&J was in violation of Statewide Rule 5(c) from at least March 7, 2006 through at least April 14, 2006.

The violations pled are serious and relate to the public health and safety. These violations also relate to the prevention and control of pollution. Therefore, the examiner concurs with the administrative penalties recommended by Enforcement totaling \$7,500.00 for the violations of Statewide Rules 5, 13 and 14.

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 Tom Bennett Jr., Sole Proprietor of B&J Oil Company ("B&J") (Operator No. 040608) was given at least 10 days notice of this proceeding by certified mail, addressed to its most recent Form P-5 (Organization Report) address. B&J appeared through its Sole Proprietor, Tom Bennett Jr., and presented evidence at the hearing.
2. The initial Form P-5 Organization Report for B&J was filed on April 30, 2004. B&J has an active P-5 and has posted financial security in the form of a letter of credit in the amount of \$25,000 which expires on July 1, 2008.
3. B&J filed a Commission Form W-1 to drill its Well No. 1 (Permit No. 601953) on the Bennett Ranch Lease, effective June 13, 2005 and approved by the Commission on July 13, 2005.
4. A District Office inspection made on November 18, 2005 found a few feet of conductor pipe and an unknown quantity of drill pipe in the hole of Well No. 1 on the Bennett Ranch Lease, but no drilling permit was displayed at the site.
5. A District Office inspection made on January 26, 2006 found the drilling rig had been removed from the site of Well No. 1 on the Bennett Ranch Lease and placed at another location 250 feet to the south.

6. The District Office inspection made on January 26, 2006 found a short piece of conductor pipe remained in the hole of Well No. 1, but the wellbore was uncased and no wellhead control was in place.
7. B&J, on December 27, 2005, applied for and received a permit (Permit No. 611636) to drill its Well No. 2 on the Bennett Ranch Lease. The permitted location was 255 feet southwest of Well No. 1.
8. A District Office inspection made on January 21, 2006 found a drilling rig over the approximate site of the permitted Well No. 2, but drilling activity had not commenced.
9. A District Office inspection made on February 16, 2006 found the rig had been moved to an unpermitted location 150 feet northeast of Well No. 1. Drilling activity had not commenced.
10. A District Office inspection made on March 7, 2006 found the rig at the unpermitted site, here referenced as Unpermitted Well "A", was actively drilling. The District Office inspector informed B&J that a drilling permit must be posted at the well at all times.
11. On April 14, 2006, the Commission received an application to amend the drilling permit for Bennett Ranch Well No. 2 (Permit No. 611636) to reflect the as-drilled location at the site of Unpermitted Well "A". The amended permit was granted on May 25, 2006.
12. Well No. 1 on the Bennett Ranch Lease (Permit no. 601953) was plugged on July 19, 2006.
13. Unpermitted Well "A", also known as Well No. 2 (Permit No. 611636) on the Bennett Ranch Lease is cased and cemented. It has not been completed.

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. Tom Bennett Jr., Sole Proprietor of B&J Oil Company ("B&J") (Operator No. 040608) was the operator of the Bennett Ranch Lease, Well Nos. 1 (Permit No. 601953) and Well No. 2 (Permit No. 611636, previously known as Well Unpermitted Well "A") Navarro County, Texas and had the primary responsibility for complying with Commission rules.
4. B&J Oil Company violated Commission Statewide Rule 13(b)(1)(B) on the Bennett Ranch Lease, Well No. 1 (Permit No. 601953), Corsicana (Shallow) Field, Navarro County, Texas from January 26, 2006 to July 19, 2006.
5. B&J Oil Company violated Commission Statewide Rule 13(b)(2)(A)(i) on the Bennett Ranch Lease, Well No. 1 (Permit No. 601953), Corsicana (Shallow) Field, Navarro County, Texas from January 26, 2006 to July 19, 2006.

6. B&J Oil Company violated Commission Statewide Rule 14(a)(3) on the Bennett Ranch Lease, Well No. 1 (Permit No. 601953), Corsicana (Shallow) Field, Navarro County, Texas from January 26, 2006 to July 19, 2006..
7. B&J Oil Company violated Commission Statewide Rule 5(c) on the Bennett Ranch Lease, Well No. 2 (Permit No. 611636, also known as Unpermitted Well "A"), Corsicana (Shallow) Field, Navarro County, Texas from at least March 7, 2006 through April 14, 2006.
8. The violations of Commission Statewide Rules 5, 13 and 14 by B&J Oil Company (Operator No. 040608) on the Bennett Ranch Lease, Well No. 1(Permit No. 601953) and Well No. 2 (Drilling Permit No. 61611636, also known as Unpermitted Well "A"), Corsicana (Shallow) Field, Navarro County, Texas were related to safety and the control of pollution.
9. As Sole Proprietor of B&J Oil Company at the time of the violations of Commission rules related to safety and the control of pollution, Tom Bennett, Jr., and any organization in which he may hold a position of ownership or control shall be subject to the restrictions of Texas Natural Resources Code §91.114(a)(2) for a period of no more than seven years from the date the order entered in this matter becomes final, or sooner, if the conditions that constituted the violations herein are corrected or are being corrected in accordance with a schedule to which the Commission and the organization have agreed; and all administrative, civil and criminal penalties and all cleanup and plugging costs incurred by the State relating to those conditions are paid or are being paid in accordance with a schedule to which the Commission and the organization have agreed.
10. 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 Tom Bennett, Jr., Sole Proprietor of B&J Oil Company be assessed an administrative penalty of \$1,000 for one violation of Statewide Rule 13(b)(1)(B); \$1,000 for one violation of Statewide Rule 13(b)(2)(A)(i); \$500 for one violation of Statewide Rule 14(a)(3); and \$5,000 for one violation of Statewide Rule 5(c), for a total of \$7,500.

The examiner also recommends that Tom Bennett, Jr., Sole Proprietor of B&J Oil Company, (Operator No. 040608) be made subject to the requirements of Texas Natural Resources Code §91.114.

Respectfully submitted,

Marshall Enquist
Hearings Examiner