

April 14, 2006

OIL AND GAS DOCKET NO. 7B-0242264

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**ENFORCEMENT ACTION AGAINST GRIFFIN, BILLY PAUL, SOLE PROPRIETOR, GRIFFIN, BILL DRILLING (OPERATOR#333940) FOR VIOLATIONS OF STATEWIDE RULES ON THE RUTHERFORD, JIM C. ET UX LEASE, WELL NO. 1 (RRC ID # 077568), COLEMAN COUNTY REGULAR (GAS) FIELD, COLEMAN COUNTY, TEXAS.**

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**APPEARANCES:**

**FOR MOVANT RAILROAD COMMISSION OF TEXAS:**

Elaine Moore, Staff Attorney

**FOR RESPONDENT GRIFFIN, BILL DRILLING**

Billy Paul Griffin, Owner/Operator

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

<b>COMPLAINT FILED:</b>	March 17, 2005
<b>NOTICE OF HEARING:</b>	March 2, 2006
<b>DATE CASE HEARD:</b>	April 6, 2006
<b>PFD PREPARED BY:</b>	Marshall Enquist, Hearings Examiner
<b>PFD CIRCULATION DATE:</b>	April 14, 2006
<b>CURRENT STATUS:</b>	Protested

**STATEMENT OF THE CASE**

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

1. Whether respondent, Billy Paul Griffin d/b/a Griffin, Bill Drilling (“Griffin”) violated

Statewide Rule 3(a) on the Rutherford, Jim C. et ux Lease, Well No. 1 (RRC ID# 077568), Coleman County Regular (Gas) Field, Coleman County, Texas; and

2. Whether respondent, Griffin, violated Statewide Rule 14(b)(2) on the Rutherford, Jim C. et ux Lease, Well No. 1 (RRC ID# 077568), Coleman County Regular (Gas) Field, Coleman County, Texas; and
3. Whether the respondent 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 Rules 3 and 14;
4. Whether the respondent should be assessed administrative penalties of not more than \$10,000.00 per day for each offense committed regarding said lease and wells;
5. 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.

Elaine Moore, Staff Attorney, appeared at the hearing representing the Railroad Commission of Texas, Office of General Counsel, Enforcement Section (“Enforcement”). Billy Paul Griffin, representing Griffin, Billy Drilling (hereinafter “Griffin”) appeared by telephone and presented testimony. Enforcement's hearing file was admitted into evidence.

Enforcement recommended that Griffin be ordered to bring the subject lease and well into compliance with Commission rules, and pay a total administrative penalty of \$2,500.00, which is \$500 for one violation of Statewide Rule 3(a) and \$2,000 for one violation of Statewide Rule 14(b)(2). The examiner agrees with Enforcement's recommendations.

### **DISCUSSION OF THE EVIDENCE**

#### *Organization and Permit Records*

Commission records show that Griffin filed its initial Commission Form P-5 (Organization Report) with the Commission on September 2, 1986. The most recent Organization Report for Griffin was filed on August 1, 2001. Billy Paul Griffin is identified as the owner/operator of the sole proprietorship titled Griffin, Billy Drilling (Operator No. 333940).

Griffin was recognized as the operator of the Rutherford, Jim C. et ux Lease, Well No. 1 (RRC ID# 077568), Coleman County Regular (Gas) Field, (“subject lease” and “subject well”) after filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority) effective August 1, 1986, which was approved by the Commission on September 11, 1986.

#### *Commission Inspections*

Commission inspections of the subject lease made on October 29, 2004, December 16, 2004, January 31, 2005, April 21, 2005, October 4, 2005 and March 31, 2006 showed the signs and identification required by Statewide Rule 3(a)(1) and (2) to be posted at the lease entrance and well site to be missing.

Commission District inspection reports made on October 29, 2004, December 16, 2004, January 31, 2005, April 21, 2005, October 4, 2005 and March 31, 2006 and either reports filed by Respondent with the Commission reflecting zero production, or the absence of production reports filed by Respondent, since November, 1995 show that the Rutherford, Jim C. et ux Lease, Well No. 1 (RRC ID# 077568) has been inactive for a period greater than one year. Production from the well ceased on or before October 31, 1995.

No workovers, re-entries or subsequent operations have taken place on the subject well within the last twelve months. The subject well has not been plugged and no SWR 14(b)(2) extension is in effect for the subject well as allowed by Statewide Rule 14(b)(2)(A).

#### **ENFORCEMENT'S POSITION**

Enforcement argues that subject lease is out of compliance with Statewide Rule 3(a) due to a lack of proper signage on the lease as shown by District inspection reports. Enforcement contends this violation is serious and threatens the public health and safety in that in the event of a pollution or safety violation or other emergency, the lack of correct identifying information may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency.

Enforcement also notes the subject well is out of compliance with Statewide Rule 14(b)(2) because production ceased on or before October 31, 1995 and no SWR 14(b)(2) extension is in effect for the subject well as allowed by Statewide Rule 14(b)(2)(A). Griffin last filed a Form P-5 Organization Report in August of 2001 and does not have any form of financial security in place.

The estimated cost to plug the subject well is \$4,500. Enforcement requests that Griffin be ordered to bring the subject lease and well into compliance with Commission rules, and pay an administrative penalty of \$2,500.00, being \$500 for the violation of Statewide Rule 3(a) and \$2,000 for the violation of Statewide Rule 14(b)(2).

#### **GRIFFIN'S POSITION**

Griffin argues that he should not be considered the operator of the subject well because the P-4 transfer in 1986 should never have taken place. After the P-4 transfer, Griffin discovered that the underlying lease for the well had expired. Griffin argues that a family tragedy at the time of the P-4 transfer distracted him from correcting the problem.

### APPLICABLE AUTHORITY

Statewide Rule 3(a) 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(a)(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(a)(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 14(b)(2) provides that the operator of a well must plug the well in accordance with Commission rules within one year after operations cease, unless an extension is granted. For wells transferred prior to September 1, 1997, the operator of a well for purposes of plugging liability is the person who assumed responsibility for the physical operation and control of a well as shown by an approved Form P-4 designating that person as operator. The presumption may be rebutted at a hearing called for the purpose of determining plugging responsibility.

### EXAMINER'S OPINION

Under Statewide Rule 14(c)(2), 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 Statewide Rule 14 and all other applicable Commission rules and regulations concerning plugging of wells. The presumption of responsibility may only be rebutted at a hearing called for the purpose of determining plugging responsibility.

Griffin asserts that he never should have been designated the operator of the subject well despite the fact that he signed a P-4 taking over the well in 1986. However, under questioning by Enforcement, Griffin admitted that he sporadically produced the well in 1993, 1994 and 1995. Records in the certified file show that Griffin produced the well and reported the production to the Commission in September, 1993; February, 1994; March, 1994; March, 1995, April, 1995; and October, 1995. Griffin did not allege that any other operator had taken over control of its well or operated it after Griffin last produced it in 1995. Griffin failed to rebut the presumption that he is the operator responsible for the operation of the subject lease and well. Additionally, under Statewide Rule 14, well plugging responsibility does not depend on whether the operator has, or ever has had, an effective oil and gas lease.

The evidence shows that Griffin is the operator responsible for the subject lease and well, and is therefore the operator responsible for bringing the lease and well into compliance with Statewide Rule 3 and Statewide Rule 14 and should be assessed an administrative penalty of \$2,500 as recommended by Enforcement.

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 Billy Paul Griffin, d/b/a Griffin, Bill Drilling (Operator No. 333940) (“Griffin”) was given at least 10 days notice of this proceeding by certified mail, addressed to its most recent Form P-5 (Organization Report) address. Griffin appeared telephonically through its Owner/Operator, Billy Paul Griffin.
2. Commission records show that Griffin filed its initial Commission Form P-5 (Organization Report) with the Commission on September 2, 1986. The most recent Organization Report renewal for Griffin was filed on August 1, 2001. Billy Paul Griffin is the sole proprietor of Griffin, Bill Drilling.
3. Griffin was recognized as the operator of the Rutherford, Jim C. et ux Lease, Well No. 1 (RRC ID# 077568), Stephens County Regular Field, (“subject lease” and/or “subject well”) after filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority) which was effective August 1, 1986 and approved by the Commission on September 11, 1986.
4. Griffin operated Well No. 1 on the Rutherford, Jim C. et ux Lease (RRC ID# 077568) and reported production from the well to the Commission in September, 1993; February, 1994; March, 1994; March, 1995, April, 1995; and October, 1995.
5. Commission District inspection reports made on October 29, 2004, December 16, 2004, January 31, 2005, April 21, 2005, October 4, 2005 and March 31, 2006 and either reports filed by Respondent with the Commission reflecting zero production, or the absence of production reports filed by Respondent with the Commission since November, 1995 show that the Rutherford, Jim C. et ux Lease, Well No. 1 (RRC ID# 077568) has been inactive for more than one year. The well last produced in October, 1995.
6. Well No. 1 (RRC ID# 077568) on the Rutherford, Jim C. et ux Lease does not have a plugging extension.
7. Commission District inspection reports made on October 29, 2004, December 16, 2004, January 31, 2005, April 21, 2005, October 4, 2005 and March 31, 2006 show that the signs and identification required by Statewide Rule 3(a)(1) and (2) to be posted at the lease entrance and well site were missing.
8. Billy Paul Griffin, as sole proprietor, was in a position of ownership and control of Griffin, Billy Drilling (Operator No. 333940) at the time of the violations of Statewide Rules 3 and 14.
9. The violations of Statewide Rules 3 and 14 committed by Griffin were serious and relate to safety and the prevention of pollution.

10. The estimated cost to plug the subject well is \$4,500.00.

**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. Billy Paul Griffin d/b/a Griffin, Bill Drilling (Operator No. 333940) is the operator of the Rutherford, Jim C. et ux Lease, Well No. 1 (RRC ID# 077568), Coleman County Regular (Gas) Field, Coleman County, as defined by Statewide Rule 14 and §89.002 of the Texas Natural Resources Code.
4. Griffin has the primary responsibility for complying with Statewide Rules 3 and 14, and Chapter 89 of the Texas Natural Resources Code as well as other applicable statutes and Commission rules relating to the Rutherford, Jim C. et ux Lease, Well No. 1 (RRC ID# 077568).
5. Griffin violated Commission Statewide Rule 3(a) on the Rutherford, Jim C. et ux Lease, Well No. 1 (RRC ID# 077568).
6. Griffin violated Commission Statewide Rule 14(b)(2) on the Rutherford, Jim C. et ux Lease, Well No. 1 (RRC ID# 077568).
7. Well No. 1 on the Rutherford, Jim C. et ux Lease has been out of compliance with Commission Statewide Rule 14(b)(2) from on or before October 31, 1996 to the present.
8. The Rutherford, Jim C. et ux Lease has been out of compliance with Commission Statewide Rule 3(a) from on or before October 29, 2005 to the present.
9. Billy Paul Griffin held a position as the owner of Griffin, Billy Drilling (Operator No. 333940), as defined by Texas Natural Resources Code § 91.114, during the time period of the violations of Commission rules committed by the Respondent.
10. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
11. As the owner at the time of the violations of Commission rules related to safety and the control of pollution, Billy Paul Griffin and any other 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.

12. The documented violations committed by respondent are a hazard to the public health and demonstrate a lack of good faith pursuant to Texas Natural Resources Code §81.0531(c).

**RECOMMENDATION**

The examiner recommends that the above findings and conclusions be adopted and the attached order approved, requiring Billy Paul Griffin d/b/a Griffin, Billy Drilling (Operator No. 333940), within 30 days of the entry of a Final Order in this matter; 1) to place in compliance with Statewide Rule 3 the Rutherford, Jim C. et ux Lease, Coleman County Regular (Gas) Field; and 2) to plug Well No. 1 (RRC ID# 077568) on the Rutherford, Jim C. et ux Lease, Coleman County Regular (Gas) Field; and 3) to pay an administrative penalty of \$2,500.00.

Respectfully submitted,

Marshall Enquist  
Hearings Examiner