



RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

OIL & GAS DOCKET NO. 7B-0241537

ENFORCEMENT ACTION AGAINST ROBERT V. RATTS, INCORPORATED (OPERATOR NO. 694755) AND/OR BILBO WIRE LINE SERVICE, INC. (OPERATOR NO. 070788) FOR VIOLATION OF A STATEWIDE RULE ON THE HOUSE (12061) LEASE, WELL NOS. 1 & 2 AND THE HOUSE A (12470) LEASE, WELL NOS. 1 & 2, SAXON-GUION (MORRIS) FIELD, TAYLOR COUNTY, TEXAS

APPEARANCES:

FOR MOVANT:

Reese Copeland
Becky Tate

MOVANT:

Enforcement Section
Railroad Commission of Texas

FOR RESPONDENTS:

Robert Ratts
Bill Kilpatrick

RESPONDENTS:

Robert V. Ratts, Incorporated
Bilbo Wireline Service, Inc.

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

DATE COMPLAINT FILED:	December 7, 2006
DATE AMENDED COMPLAINT FILED:	December 8, 2011
DATE OF NOTICE OF HEARING:	October 12, 2011
DATE OF HEARING:	December 8, 2011
HEARD BY:	Michael Crnich, Hearings Examiner
DATE PFD CIRCULATED:	July 9, 2012

STATEMENT OF THE CASE

The Commission called this proceeding on the recommendation of the District Office to determine the following:

1. Whether the respondents Robert V. Ratts, Incorporated ("Ratts") and/or Bilbo Wire Line Service, Inc. ("Bilbo") violated provisions the Texas Natural Resources Code, the Texas Water Code, or Railroad Commission Statewide Rule 14(d)(12) by failing, within 120 days

after plugging was completed, to remove from the House (12061) Lease and House A (12470) Lease all tanks, vessels, related surface piping, all subsurface piping less than three feet beneath the ground surface, loose junk, and trash.

2. Whether Ratts and/or Bilbo should be assessed administrative penalties of not more than \$10,000.00 per day for each offense committed regarding the subject leases.
3. Whether any violation of Statewide Rule 14(d)(12) by Ratts and/or Bilbo should be referred to the Office of the Attorney General for further civil action pursuant to Tex. Nat. Res. Code Ann. § 81.0534.

The Commission held a hearing on December 8, 2011. Reese Copeland, staff attorney, and Becky Tate, legal assistant, appeared to represent the Enforcement Section of the Office of General Counsel (“Enforcement”). Robert Ratts, President, appeared to represent respondent Robert V. Ratts, Incorporated, and presented evidence. Bill Kilpatrick, President, appeared to represent Bilbo and presented evidence. The certified enforcement case file was admitted into evidence without objection.

Enforcement recommends that Bilbo be found to be the responsible operator for the violation of Statewide Rule 14(d)(12) and that a penalty in the amount of \$1,500.00 be assessed against Bilbo. The examiner agrees with Enforcement and recommends that Bilbo be ordered to place the subject leases in compliance with Statewide Rule 14(d)(12) and pay an administrative penalty of \$1,500.

APPLICABLE LAW

Statewide Rule 14(d)(12) provides that, within 120 days after plugging work is completed, the operator of a lease shall remove all tanks, vessels, related piping, and flowlines that will not be actively used in the continuing operation of the lease, and remove all loose junk and trash from the location.

MATTERS OFFICIALLY NOTICED

The examiner has officially noticed the Final Order, Proposal for Decision, and evidentiary exhibits from Oil & Gas Docket No. 7B-0234575, an enforcement case against the same parties. The findings of fact from this previous case are applicable to the current case based on collateral estoppel. The facts were fully and fairly litigated in the first case, the facts were essential to the judgment in the first case, and the issues in the first case are identical to the issues in this case. *Goldstein v. Commn. for Lawyer Discipline*, 109 S.W.3d 810, 812 (Tex. App.—Dallas 2003, pet. denied).

DISCUSSION OF THE EVIDENCE

Enforcement's Position and Evidence

Enforcement asserts that since Well Nos. 1 and 2 (collectively, the "wells") on the House and House A Leases (collectively, the "Leases") were plugged by March 20, 2000, and all tanks, vessels, and related piping and flowlines not actively used in continuing operations of the Leases were not removed within 120 days, Statewide Rule 14(d)(12) was violated. Neither Ratts nor Bilbo dispute that Rule 14(d)(12) had been violated on the Leases; rather, they dispute which operator should be held responsible for the violations.

Notwithstanding the fact that Ratts is the designated Form P-4 operator of the Leases, Enforcement believes that Ratts has rebutted the presumption that it was the operator responsible for plugging the wells and complying with Statewide Rule 14(d)(12). Enforcement argues that by purchasing the Leases and Lease equipment from Ratts, signing the two-signature Forms P-4 (Producer's Transportation Authority and Certificate of Compliance) requesting a change of operator from Ratts to Bilbo, plugging the wells on the Leases, and removing and selling downhole and surface equipment, Bilbo assumed the responsibility for regulatory compliance on the Leases. Enforcement recommends that the Forms P-4 requesting a change of operator from Ratts to Bilbo be approved and that Bilbo be assessed a penalty of \$1,500.00 for noncompliance with Statewide Rule 14(d)(12).

Ratts designated itself as the operator of the Leases by filing Forms P-4, effective January 1, 1986. On or around March 21 and 20, 2000, Bilbo filed Forms W-3 (Plugging Record) for the wells on the Leases. These Forms W-3 showed that the House No. 1 was plugged on March 9, 2000; the House No. 2 on March 7, 2000; the House A No.1 on March 15, 2000; and the House A No. 2 on March 20, 2000. The forms listed Bilbo as the cementing company and were signed as Benny Kilpatrick as agent for Bilbo. The last Form P-5 filed by Bilbo on June 6, 2001, listed Benny Kilpatrick as President of Bilbo.

A District Office inspection of the House Lease on October 19, 2011, showed that one joint of 2 and 3/8 inch tubing and one 3/4 inch sucker rod were left on the lease after its two wells were plugged. A District Office inspection of the House A Lease on October 19, 2011, showed that one joint of 4 and 1/2 inch casing, one 500-barrel bolted oil storage tank, one 300-barrel oil storage tank, one 22-barrel open-top fiberglass water storage tank, and one 4 by 20 foot separator were left on the lease after its two wells were plugged.

On July 16, 2002, Ratts filed two-signature Forms P-4 with the Commission's Abilene District Office requesting a change of operator for the Leases from Ratts to Bilbo. The Forms P-4 were proposed to be effective February 1, 2000, were signed on behalf of Ratts by Robert V. Ratts on February 14, 2000, and were signed on behalf of Bilbo by Bill Kilpatrick, CEO, on March 7, 2000. Ratts filed these same Forms P-4 with the Commission's Austin office on August 29, 2002.

The last Form P-5 filed by Bilbo on June 6, 2001, listed Bill Kilpatrick as Chairman of the Board and Vice President. Enforcement's counsel stated that the Forms P-4 were not approved by the Commission's Proration Unit because by the time of filing the wells on the Leases had been plugged, and the Leases had been removed from the proration schedule.

Enforcement presented the affidavit of Mark England, Engineering Specialist, Field Operations, showing that loose junk and trash left on a lease after the lease has been abandoned can constitute a fire hazard and a safety hazard.

Ratts' Position and Evidence

Ratts argues that it sold the Leases to Bilbo pursuant to an agreement that provided that Bilbo would become the Form P-4 operator of the Leases with responsibility for regulatory compliance. Two-signature Forms P-4 to accomplish this purpose were filed by Ratts, but because Bilbo did not live up to its agreement to file the Forms P-4, the Forms P-4 did not reach the Commission until after Bilbo had plugged the wells, and the Proration Unit advised Ratts that the Forms P-4 could not be approved. Ratts requests that the Commission approve the Forms P-4 and determine that Ratts is not responsible for noncompliance with Statewide Rule 14(d)(12).

Robert V. Ratts, Incorporated was dissolved as a corporation on November 18, 2002. It last filed a Form P-5 with the Commission on July 12, 2001, and is now shown by Commission P-5 records as inactive. According to the last Form P-5 filed by Ratts, Robert V. Ratts was President, Vice President, Secretary, and Treasurer.

In January 2000, Robert V. Ratts decided to sell his remaining leases. On January 5, 2000, he sent letters to three well pluggers inviting bids for the sale of the leases for salvage. These letters specified that it would be necessary that the successful bidder sign a Form P-4 to take over the leases.

Bilbo submitted a bid to Ratts, agreeing to pay \$8,500.00 for five leases, including the Leases. On February 14, 2000, Robert V. Ratts signed multiple copies of Forms P-4 for the purpose of changing the operator of the leases sold to Bilbo from Robert V. Ratts, Incorporated to Bilbo Wire Line Service, Inc., and sent the Forms P-4 to Bilbo for signing and filing with the Commission. Bilbo signed the Forms P-4 and returned completely signed copies, bearing the original signatures, to Ratts.

Thereafter, Bilbo plugged the wells on the leases acquired from Ratts, removed certain downhole and surface equipment, and sold the equipment to others. Ratts did not learn that Bilbo had not filed the Forms P-4 with the Commission until he received a letter from the Commission in July 2002, regarding needed compliance on the leases. Ratts then proceeded to file the original copies of the two-signature Forms P-4 that previously had been signed by Bilbo and returned to Ratts.

In October 2002, Robert V. Ratts called Bill Kilpatrick with Bilbo regarding the need to comply with Statewide Rule 14(d)(12) on the Leases. Kilpatrick advised Ratts that he had sold some of the equipment from the Leases, but the purchasers did not want all of the equipment. Kilpatrick also told Ratts that Bilbo was out of business and no longer had the equipment necessary to remove the remaining surface equipment from the Leases.

Ratts believes that Bilbo should be the party responsible for compliance with Statewide Rule 14(d)(12) on the Leases, and requests that the Commission approve the Forms P-4 changing the operator of the Leases from Ratts to Bilbo.

Bilbo's Position and Evidence

Bilbo contends that it should not be responsible for regulatory compliance on the Leases because its agreement with Ratts did not contemplate that. According to Bilbo, it agreed to remove and sell salvagable piping and equipment, but it did not agree to become the P-4 operator responsible for removing junk equipment that could not be sold. Bilbo submitted a letter from 2003 in which Ratts stated that it would be in everyone's best interest to split the cost of cleaning up the Stewart (25251) Lease, which was considered in Oil & Gas Docket No. 7B-0234575.

EXAMINER'S OPINION

Pursuant to Statewide Rule 14(c)(2), because it became the operator of the Leases by Form P-4 transfer prior to September 1, 1997, Ratts was entitled to an opportunity to rebut the presumption that it had the responsibility for plugging the wells and for other regulatory compliance on the Leases. The Commission has determined that this presumption may be rebutted by a showing that some other entity assumed responsibility for the physical operation and control of the wells.¹

The evidence shows that Bilbo plugged the wells on the Leases on March 7, 9, 15, and 20, 2000, and filed the Forms W-3 (Plugging Record) for the wells on March 21 and 22, 2000. Prior to that time, Bilbo had agreed to acquire the Leases and their equipment from Ratts and to sign Forms P-4 changing the operator of the Leases from Ratts to Bilbo. Prior to the plugging of the wells, both Ratts and Bilbo signed Forms P-4 for this purpose. By signing the Forms P-4, Bilbo specifically acknowledged the responsibility for regulatory compliance on the Leases, including the responsibility for plugging the wells. The parties intended that Bilbo would assume the responsibility for the physical operation and control of the Leases and wells. When Bilbo plugged the wells, it did so in its own right, not as an agent for Ratts. When the Commission approved the Forms W-3, operator responsibility for plugging the wells ended. Thereafter, Bilbo possessed, controlled, removed, and sold to others certain of the downhole and surface equipment from the Leases, but left on the Leases unused tanks, some tubing, some casing, a sucker rod, and a separator that could not be sold. Bilbo, not Ratts, abandoned on the Leases the equipment that could not be

¹See 23 Tex. Reg. 9300 (1998) (preamble to 1998 amendments to Statewide Rule 14).

sold.

An operator does not avoid the responsibility for compliance with Statewide Rule 14(d)(12) by simply selling surface equipment to another. Neither does an operator necessarily avoid responsibility for compliance with Statewide Rule 14(d)(12) by contracting with a well plugger to plug a well for salvage as agent for the operator. However, in this case, the examiner concludes that Bilbo assumed the responsibility for the Leases, including responsibility for compliance with Statewide Rule 14(d)(12), by purchasing the Leases for salvage, occupying and possessing the Leases in its own right, plugging the wells in its own right, and signing Forms P-4 acknowledging responsibility for regulatory compliance on the Leases.

The examiner concludes that the Forms P-4 changing the operator of the Leases to Bilbo should be approved by the Commission effective February 1, 2000, for the limited purpose of properly assigning responsibility for regulatory compliance on the Leases. If Bilbo had fulfilled its agreement with Ratts and promptly filed the Forms P-4, they would have been approved. The Leases were not removed from the proration schedule until August 31, 2000. At that time, Bilbo was an active operator qualified to receive a Form P-4 transfer of the Leases. Bilbo was not a bonded operator, but at the time the transferee of a well was not required to be a bonded operator. Approval of the Forms P-4 is not at this time barred by Tex. Nat. Res. Code Ann. § 91.107, which requires that a transferee of *an active or inactive well* be a bonded operator. In this case, the only wells on the Leases have been plugged, and the Forms W-3 Plugging Record have been approved by the Commission. A plugged well is neither an active nor an inactive well; therefore, Section 91.107 does not apply because no *active or inactive well* would be transferred to Bilbo by approving the Forms P-4. The Commission may approve the forms for the limited purpose of properly assigning responsibility for regulatory compliance on the Leases, even though Bilbo does not currently have an active organization report and financial assurance. Under Tex. Nat. Res. Code Ann. § 91.142(f)(1), an entity without an organization report and financial security is permitted to perform operations to remedy a violation of Commission rules as authorized by the Commission.

The examiner concludes that under the facts of this case, Ratts has rebutted the presumption that it is responsible for compliance with Statewide Rule 14(d)(12). Enforcement concedes that Ratts has made this showing. The examiner further concludes that Bilbo assumed this responsibility.

The examiner therefore recommends that the Commission approve, effective February 1, 2000, the Forms P-4 filed by Ratts to change the operator of the Leases from Ratts to Bilbo for the limited purpose of properly assigning responsibility for regulatory compliance on the Leases. The examiner recommends further that Bilbo be ordered to place the Leases in compliance with Statewide Rule 14(d)(12) and be assessed an administrative penalty in the amount of \$1,500.00. The recommended penalty is appropriate because (1) the violation of Statewide Rule 14(d)(12) was serious and created a safety hazard; and (2) Bilbo did not show good faith because it failed to remove tanks, some tubing, some casing, a sucker rod, and a separator from the Leases as required by Statewide Rule 14(d)(12). The examiner recommends that the complaint with respect to Ratts be

dismissed with prejudice.

Based on the record in this case, the examiner recommends that the Commission adopt the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Robert V. Ratts, Incorporated (“Ratts”) was given at least 10 days notice of this proceeding by certified mail, addressed to its most recent Form P-5 (Organization Report) address. Ratts appeared at the hearing and presented evidence.
2. Bilbo Wire Line Service, Inc. (“Bilbo”) was given at least 10 days notice of this proceeding by certified mail, addressed to its most recent Form P-5 (Organization Report) address. The receipt for certified mail (green card) was signed and returned to the Commission. Bilbo appeared at the hearing and presented evidence.
3. Ratts was a corporation and was dissolved on November 18, 2002. Robert V. Ratts was listed as President, Vice President, Secretary, and Treasurer on the most recent Form P-5 filed by Ratts on July 12, 2001. Ratts’ Form P-5 is now inactive. Ratts last filed financial assurance in the form of an annual nonrefundable fee of \$100.00.
4. Bilbo is a corporation, and last filed a Form P-5 on June 6, 2001. Bilbo’s Form P-5 is now inactive. On the last Form P-5 filed by Bilbo, Bill Kilpatrick was listed as Chairman of the Board and Vice President, and Benny Kilpatrick was listed as President. Bilbo last filed financial assurance in the form of an annual nonrefundable fee of \$100.00.
5. Ratts designated itself to the Commission as operator of the House (12061) and House A (12470) Leases (the “Leases”) by filing Forms P-4 (Producer’s Transportation Authority and Certificate of Compliance) with the Commission, effective January 1, 1986. The Commission approved the House Form P-4 on October 7, 1986 and the House A Form P-4 on January 8, 1986.
6. On January 5, 2000, Ratts sent a letter to three plugging contractors placing five leases, including the Leases, “up for sale to be plugged.” The letter stated that the leases were being sold for salvage and that bids would be accepted until February 10, 2000. The letter stated also that the successful bidder would be required to sign a Form P-4 and accept responsibility for plugging the wells on the leases in accordance with Commission rules.
7. Bilbo bid the sum of \$8,500.00 to be paid by Bilbo to Ratts for the leases and was the successful bidder. Ratts signed multiple copies of Forms P-4 to change the operator of the leases from Ratts to Bilbo and sent them to Bilbo. Bilbo also signed these Forms P-4, including the Forms P-4 for the Leases, and returned copies bearing the original signatures

to Ratts. Ratts and Bilbo had an understanding that Bilbo would file the Forms P-4 with the Commission.

8. Bilbo did not file with the Commission the Forms P-4 relating to the leases acquired from Ratts. Ratts did not discover this until July 2002. On July 16, 2002, Ratts filed the Forms P-4 relating to the leases, bearing original signatures for Ratts and Bilbo, with the Commission's Abilene District Office. These Forms P-4 were filed with the Commission's Austin office on August 29, 2002. The Forms P-4 requesting a change of operator from Ratts to Bilbo were proposed to be effective February 1, 2000.
9. The Commission's Proration Unit did not approve the Forms P-4 relating to the leases that were filed by Ratts. By the time the Forms P-4 were filed, the leases had been removed from the proration schedule because all wells on the leases had been plugged. Had Bilbo filed the Forms P-4 prior to March 20, 2000, when the last well on the Leases was plugged, the Forms P-4 would have been subject to approval by the Proration Unit because, at the time, Bilbo was an operator with an active Form P-5 Organization Report and approved financial assurance.
10. The facts contained in Findings 7, 8, and 9 were fully and fairly litigated and adopted by a final Commission Order in Oil & Gas Docket No. 7B-0234575, Enforcement Action Against Ratts and/or Bilbo for Violation of a Statewide Rule on the Stewart Lease, Well No. 1, Saxon-Guion (Morris) Field, Taylor County, Texas. These facts were essential to the Commission's Conclusions of Law in the case. The factual issues in the prior case are identical to those in the current case.
11. Bilbo plugged the House No. 1 on March 9, 2000; the House No. 2 on March 7, 2000; the House A No. 1 on March 15, 2000; and the House A No. 2 on March 20, 2000. On March 21 and 22, 2000, Bilbo filed Forms W-3 (Plugging Record) for the wells. The Forms W-3 identified Ratts as the operator and Bilbo as the cementing company. The Forms W-3 were signed by Benny Kilpatrick as "agent."
12. Bilbo removed downhole and surface equipment from the Leases and sold it to others. The purchasers were not interested in acquiring all of the surface equipment, and some of the equipment was left on the Leases.
13. According to the terms of the Forms P-4, by the signature of its CEO and Vice President, Bilbo acknowledged its responsibility for regulatory compliance on the Leases.
14. As of the dates of District Office inspections on July 12, 2004, August 16, 2004, September 13, 2004, August 23, 2006, December 27, 2006, and October 19, 2011, one 500-barrel tank, one 300-barrel tank, one 200-barrel fiberglass water storage tank, one 4 by 20 foot separator, and related piping were left on the House A Lease and not being used in any continuing

operation of the lease.

15. As of the dates of District Office inspections on July 12, 2004, August 16, 2004, September 13, 2004, August 23, 2006, December 27, 2006, and October 19, 2011, steel piping and fitting related to tanks and vessels were left on the House Lease and not being used in any continuing operation of the lease.
16. Tanks, loose junk, and trash left on a lease after all wells have been plugged can constitute a fire and safety hazard.

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. Robert V. Ratts, Incorporated (“Ratts”) rebutted the presumption of Statewide Rule 14(c)(2) [16 Tex. Admin. Code § 3.14(c)(2)] that as the designated Form P-4 operator of the House (12061) and House A (12470) Leases (the “Leases”), it was the entity responsible for the physical operation and control of the Leases and the entity responsible for plugging the wells and other regulatory compliance on the Leases.
4. Ratts was not the entity responsible for plugging the wells or for compliance with Statewide Rule 14(d)(12) [16 Tex. Admin. Code § 3.14(d)(12)] on the Leases.
5. Bilbo Wire Line Service, Inc. (“Bilbo”) assumed the responsibility for the physical operation and control of the Leases, was the entity responsible for plugging the wells on the Leases, and is the entity responsible for compliance with Statewide Rule 14(d)(12) on the Leases.
6. Bilbo violated Statewide Rule 14(d)(12) on the Leases. The Leases have been out of compliance with Statewide Rule 14(d)(2) since July 18, 2000.
7. The documented violations committed by Bilbo constitute acts deemed serious and a hazard to the public health, and demonstrate a lack of good faith as provided by Tex. Nat. Res. Code Ann. § 81.0531(c).

RECOMMENDATION

The examiner recommends that the Commission enter the attached final order (1) approving the Forms P-4 changing the operator of the Leases from Robert V. Ratts, Incorporated to Bilbo Wire Line Service, Inc., effective February 1, 2000, for the limited purpose of properly assigning responsibility for regulatory compliance on the Leases; (2) ordering Bilbo Wire Line Service, Inc.

to place the Leases into compliance with Statewide Rule 14(d)(12); (3) assessing an administrative penalty against Bilbo Wire Line Service, Inc. in the amount of \$1,500.00; and (4) as to Robert V. Ratts, Incorporated, dismissing the complaint with prejudice.

Respectfully submitted,

A handwritten signature in cursive script that reads "Michael Crnich".

Michael R. Crnich
Hearings Examiner