

March 15, 2007

OIL & GAS DOCKET NO. 7B-0249434

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**ENFORCEMENT ACTION FOR VIOLATIONS ALLEGEDLY COMMITTED BY CENTRAL BASIN OIL INV. CO. (141188) AS TO THE BARNES, P.H. (08680) LEASE, WELL NO. 2, BROWN COUNTY REGULAR FIELD, BROWN COUNTY, TEXAS.**

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**APPEARANCES:**

**FOR MOVANT RAILROAD COMMISSION OF TEXAS:**

Susan German  
Mark England

**FOR RESPONDENT CENTRAL BASIN OIL INV. CO.**

Damon Fox

**FOR LANDOWNER:**

Harry Witherspoon

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

<b>NOTICE OF HEARING:</b>	December 19, 2006
<b>DATE CASE HEARD:</b>	February 22, 2007
<b>HEARD BY:</b>	Mark Helmueller, Hearings Examiner
<b>PFD CIRCULATION DATE:</b>	March 15, 2007
<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 the respondent has 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 Rule 46 on the Barnes, P.H. (08680) Lease, Well No. 2, Brown County Regular Field, Brown County, Texas;
2. Whether the respondent should be assessed administrative penalties of not more than \$10,000 per day for each offense committed regarding such lease and well;
3. Whether any violations of Rule 46 by the respondent should be referred to the Office of the Attorney General for further civil action pursuant to TEX. NAT. RES. CODE ANN. § 81.0534.

Susan German, Staff Attorney, appeared at the hearing representing the Railroad Commission of Texas. Central Basin Oil Inv. Co. ("Central Basin" ) also appeared and presented evidence at the hearing. The landowner, Harry Witherspoon also appeared.

Enforcement recommends Central Basin be found in violation of Statewide Rule 46(a) for injecting into Well No. 2 without a permit and be assessed an administrative penalty of \$3,000.00. Central Basin responds that it was not conducting injection operations, but was performing well stimulation on Well No. 2. The examiner recommends the complaint be dismissed as there is no evidence that Central Basin continued to inject into Well No. 2 after being advised by the District Office that a permit would be required for any continued injection.

**MATTERS OFFICIALLY NOTICED**

Commission records show that the most recent approved Commission Form P-5 (Organization Report) for Central Basin was filed on September 18, 2006. Jason Halek is identified as the President. Central Basin is currently identified as the operator of 36 wells with a total vertical depth of 33,395 feet. Central Basin has posted a \$50,000 bond with the Commission as its financial assurance.

Commission records from the Production Data Query database report production from the wells on the Barnes, P.H. (08680) Lease through 2006. From January through April production was limited to less than 10 barrels per month. Beginning in May and continuing through December production increased to at least 25 barrels per month with a reported high of 50 barrels of production in August.

### FACTUAL SUMMARY

Central Basin became the operator of the Barnes, P.H. (08680) Lease, (hereinafter “subject lease” and/or “subject well”) by filing a Commission Form P-4 (Producer’s Transportation Authority and Certificate of Compliance) which was approved by the Commission on January 5, 2001.

On May 17, 2006, at the request of the landowner, the District Office conducted an inspection of the subject well with representatives of Central Basin. Injection of a nitrogen-carbon dioxide mix into the annulus of the wellbore was observed. Central Basin asserted that the injection was a stimulation method for the well. Central Basin was advised that it could continue the stimulation, but that continuous injection would require a permit. On June 8, 2006, the District Office confirmed in correspondence to Central Basin that continued stimulation of the well as observed during the inspection was acceptable. A follow-up inspection was scheduled for the week of June 26th.

On June 13, 2006, a follow-up inspection was conducted without any representative of Central Basin. Photographs taken during that inspection show the compressors and tanks on trailers adjacent to Well No. 2.

On June 27, 2006 a further follow-up inspection was conducted with a representative of Central Basin. The inspector noted continuing injection into Well No. 2. The inspection report does not discuss any admonition or instruction to the operator regarding continued injection activities.

On July 11, 2006, the District Office forwarded correspondence to Central Basin advising them to cease injection into Well No. 2 and obtain a permit. A second District Office letter was sent on July 26, 2006.

On August 7, 2006 Central Basin responded in correspondence to the District Office that it had engaged in four separate stimulation treatments on Well No. 2. Central Basin also noted it was no longer performing stimulation treatments on the well.

### Enforcement’s Position

Enforcement contends that Central Basin violated Rule 46(a) by engaging in continuous injection operations on Well No. 2 without obtaining the appropriate Commission permit. Enforcement admits that operations as described in the inspection reports may not require a permit for short term stimulation of a well. However, Enforcement urges the continuous injection into Well No. 2 is properly characterized as a production technique, not a stimulation treatment. Enforcement therefore asserts Central Basin violated Rule 46(a) as it should have obtained a permit for the injection into Well No. 2 and recommends an administrative penalty of \$3000.00 be assessed for the violation.

## **Respondent's Position**

Central Basin claims it was conducting approved well stimulation by injecting a nitrogen-carbon dioxide mix into the annulus for Well No. 2. Central Basin further notes it did not continue the well stimulation treatment after receiving the July 2006 letters, as confirmed by Central Basin's correspondence to the District Office dated August 7, 2006.

### **APPLICABLE AUTHORITY**

Statewide Rule 46(a) provides in pertinent part: "Any person who engages in fluid injection operations in reservoirs productive of oil, gas, or geothermal resources must obtain a permit from the commission."

### **EXAMINER'S OPINION**

The evidentiary record in this docket clearly shows that Central Basin was advised by the District Office following the first inspection that it could continue the stimulation of Well No. 2 through injection of the nitrogen-carbon dioxide mix into the annulus of the well. Central Basin was also warned at that time that continuous injection would require the appropriate Commission permit.

When the Commission inspectors observed in follow-up inspections that Central Basin was still "stimulating" the well, correspondence was sent advising Central Basin to cease the injection of the nitrogen-carbon dioxide mix into the annulus of the well. There is no evidence in the record that Central Basin continued the injection into Well No. 2 after being advised by the District Office to either cease injection or obtain a permit. Absent such evidence, the examiner recommends the complaint be dismissed.

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 Central Basin Oil Inv. Co. ("Central Basin") was given at least 10 days notice of this proceeding by certified, first-class mail, addressed to its most recent Form P-5 (Organization Report) addresses. Respondent appeared at the scheduled time and place for the hearing and presented evidence.
2. Commission records show that the most recent approved Commission Form P-5 (Organization Report) for Central Basin was filed on September 18, 2006. Jason Halek is identified as the President. Central Basin is currently identified as the operator of 36 wells with a total vertical depth of 33,395 feet. Central Basin has posted a \$50,000 bond with the Commission as its financial assurance.

3. Commission records from the Production Data Query database report production from the wells on the Barnes, P.H. (08680) Lease through 2006. From January through April production was limited to less than 10 barrels per month. Beginning in May and continuing through December production increased to at least 25 barrels per month with a reported high of 50 barrels of production in August.
4. Central Basin became the operator of the Barnes, P.H. (08680) Lease, (hereinafter “subject lease” and/or “subject well”) by filing a Commission Form P-4 (Producer’s Transportation Authority and Certificate of Compliance) which was approved by the Commission on January 5, 2001.
5. On May 17, 2006, at the request of the landowner, the District Office conducted an inspection of the subject well with representatives of Central Basin. Injection of a nitrogen-carbon dioxide mix into the annulus of the wellbore was observed. Central Basin asserted that the injection was a stimulation method for the well. Central Basin was advised that it could continue the stimulation, but that continuous injection would require a permit.
6. On June 8, 2006, the District Office confirmed in correspondence to Central Basin that continued stimulation of the well as observed during the inspection was acceptable. A follow-up inspection was scheduled for the week of June 26th.
7. On June 13, 2006, a follow-up inspection was conducted without any representative of Central Basin. Photographs taken during that inspection show compressors and tanks on trailers adjacent to the subject well.
8. On June 27, 2006 a further follow-up inspection was conducted with a representative of Central Basin. The inspector noted continuing injection into the subject well.
9. On July 11, 2006, the District Office forwarded correspondence to Central Basin advising them to cease injection into Well No. 2 and obtain a permit. A second District Office letter was sent on July 26, 2006.
10. On August 7, 2006 Central Basin responded in correspondence to the District Office that it had engaged in four separate stimulation treatments on Well No. 2. Central Basin also noted it was no longer performing stimulation treatments on the well.

#### CONCLUSIONS OF LAW

1. Proper notice of hearing was timely issued to appropriate persons legally entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.

3. Central Basin is the operator of the subject well and lease, as defined by Statewide Rule 14 (Tex. R.R. Comm'n, 16 Tex. Admin. Code § 3.14) and Section 89.002 of the Texas Natural Resources Code.
4. As operator, Central Basin has the primary responsibility for complying with Rule 46 (Tex. R.R. Comm'n, 16 Tex. Admin. Code § 3.46) and with Chapter 89 of the Texas Natural Resources Code as well as other applicable statutes and Commission rules relating to the subject wells.
5. No evidence shows that Central Basin engaged in unpermitted disposal activities in violation of Statewide Rule 46(a) after being advised by the District Office to cease injection or obtain a permit for the continued operations on July 11, 2006.
6. The complaint that Central Basin violated Statewide Rule 46(a) should be dismissed.

**RECOMMENDATION**

The examiner recommends that the above findings and conclusions be adopted and the attached order dismissing the complaint be approved.

Respectfully submitted,

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Mark J. Helmueller  
Hearings Examiner