

February 4, 2008

OIL AND GAS DOCKET NO. 7B-0251655

ENFORCEMENT ACTION AGAINST FRONTIER RESOURCES, INC. (OPERATOR NO. 287200) FOR VIOLATIONS OF STATEWIDE RULES ON THE FRED K. MOSELEY (14427) LEASE, COMANCHE-HITES (CADDO) FIELD, EASTLAND COUNTY, TEXAS.

APPEARANCES:

For Movant Railroad Commission of Texas:

Susan German, Staff Attorney

For Respondent Frontier Resources, Inc.

Mahlon DeBard, Agent

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

COMPLAINT FILED:	May 9, 2007
NOTICE OF HEARING:	August 1, 2007
HEARING CONVENED:	October 18, 2007
RECORD CLOSED:	February 1, 2008
PFD PREPARED BY:	Mark Helmueller, Hearings Examiner
PFD CIRCULATION DATE:	February 4, 2008
CURRENT STATUS:	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 should be required to plug or otherwise place in compliance with Statewide Rule 14(d)(12), the Fred K. Moseley (14427) Lease, Comanche-Hites (Caddo) Field, Eastland County, Texas;

2. 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 14(d)(12);

3. Whether the respondent should be assessed administrative penalties of not more than \$10,000 per day for each offense committed regarding said lease and well;

4. 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.

Susan German, Staff Attorney, appeared at the hearing representing the Railroad Commission of Texas, Enforcement Section. Mahlon DeBard appeared on behalf of respondent, Frontier Resources, Inc. (hereinafter "Frontier" or "respondent"). The Enforcement Section's hearing file was admitted into evidence.

At the hearing, Frontier requested additional time to clean up the lease, advising that it had contracted for the removal of the remaining tanks and equipment. On January 16, 2008, the examiner requested the parties advise as to whether they agreed to defer issuance of a proposal for decision until April 30, 2008. Enforcement advised that a proposal for decision should be issued.

Enforcement recommended that Frontier be ordered to properly remove the remaining equipment and to pay an administrative penalty of \$1,000 for one violation of Statewide Rule 14(d)(12). The examiner agrees with the recommendation.

MATTERS OFFICIALLY NOTICED

Official Notice was taken of Commission mainframe computer records with respect to two prior dockets related to the Moseley Lease. On June 27, 1994 the Commission entered a Final Order in *Oil & Gas Docket No. 7B-0203397: Enforcement Action against Frontier Energy for Violations of Statewide Rules on the Moseley, Fred K. (14427) Lease, Comanche-Hites (Caddo) Field, Eastland County, Texas* requiring Frontier to bring the Moseley Lease into compliance with Statewide Rules 8, 14 and 46 and pay an administrative penalty. Compliance was obtained in July 1995, and the administrative penalty was collected by the Office of the Attorney General in July 1997.

On October 1, 2005, a complaint was filed in *Oil & Gas Docket No. 7B-0240168: Enforcement Action against Frontier Energy for Violations of Statewide Rules on the Moseley, Fred K. (14427) Lease, Comanche-Hites (Caddo) Field, Eastland County, Texas* alleging violations of Statewide Rules 3 and 14(b)(2). A hearing was held on March 23, 2006. Following the hearing, Frontier plugged the wells and paid an administrative penalty to resolve the violations. An agreed order was entered on August 8, 2006.

DISCUSSION OF THE EVIDENCE

Commission records show the most recent approved Commission Form P-5 (Organization Report) for respondent was filed on April 23, 2007. Respondent deposited \$25,000 with the Commission as its financial security at the time of its last renewal. Ellsworth M. Jones is listed as Frontier's president. Respondent is listed as the operator of 6 wells with a total depth of 26,446 feet.

Frontier was recognized as the operator of the Fred K. Moseley (14427) Lease (hereinafter "Moseley Lease"), upon the approval of a Commission Form P-4 (Producer's Transportation Authority and Certificate of Compliance) on May 27, 1988.

Commission Form W-3s (Plugging Record) for Well Nos. 1 and 2 on the Moseley Lease show that the wells were plugged on April 7, and April 13, 2006. Commission inspection reports dated August 22, 2006, September 25, 2006, November 3, 2006, January 30, 2007, June 4, 2007 and October 8, 2007 on the Moseley Lease reported two 250 barrel open top fiberglass tanks, one 210 barrel steel tank, and one 4' by 20' heater-treater had not been removed. Accordingly, Enforcement contends that the lease is currently in violation of Statewide Rule 14(d)(12) and recommends an administrative penalty of \$1,000.00

Frontier acknowledges its responsibility for the equipment, and claims that the plugger did not remove the equipment because it was "junk". Frontier also provided documentation to show it had hired a contractor to complete the clean-up in July 2007, but the contractor did not show up. Documentation was also provided to show that a different contractor had been retained to remove the equipment within 30 days of the hearing at an approximate cost of \$5,000.00. On November 19, 2007, approximately 30 days after the hearing, Frontier submitted additional documentation indicating that clean-up operations would not commence until after November 28, 2007.

Finally, on January 15, 2008, Frontier provided correspondence confirming commencement of clean up operations, but noting that the tanks could not be removed because the contractor could not dispose of accumulated solids in the tanks due to cold weather. The correspondence estimates that removal of the solids and fluids would not be possible until temperatures reached 80 degrees.

Frontier urged that it was left responsible for the current problem by the plugging contractor. Frontier further claims it made attempts to get the equipment removed, but has had difficulties securing a contractor to complete such a small job. Frontier asks that its ongoing attempts to remedy the problem be considered in determining the amount of any administrative penalty.

APPLICABLE AUTHORITY

Statewide Rule 14(d)(12) requires an operator to fill the rathole, mouse hole, and cellar, and empty and remove all tanks, vessels, related piping and flowlines that will not be actively used in the continuing operation of the lease within 120 days after plugging work is completed. The operator is further required to close all pits, remove all loose junk and trash from the location, and contour the location to discourage pooling of surface water at or around the facility site.

EXAMINER'S OPINION

It is uncontested that the Moseley Lease is currently in violation of Rule 14(d)(12) and has been so since at least August 22, 2006. Frontier also admits its responsibility for cleaning up the remaining equipment on the lease.

Frontier's problems reportedly begin with equipment in such poor condition that the plugging contractor hired in April 2006 would not even take it for salvage purposes. Frontier has made some progress on completing the final clean up of the Moseley Lease, but the process has been painfully slow. Frontier promised to finish the clean up within 30 days in July 2007, just after the complaint was filed, but the company it hired did not show up. It provided evidence that it had retained another company on October 12, 2007, but that contractor did not even commence operations until after November 28, 2007. Finally, while operations to remove the equipment have finally started, they are now apparently on hold for at least another 60 days.

The saga concerning Frontier's regulatory compliance related to this lease has dragged on for several years. Even the final issue regarding the removal of equipment is now expected to extend to a full two years after the wells on the lease were plugged. While Frontier has pointed to others as the reason for delays, it at least shares responsibility for the failure to achieve timely compliance. In light of the history and extended time period the Moseley Lease has been out of compliance, the examiner does not believe it is appropriate to reduce the administrative penalty.

Accordingly, the examiner recommends that Frontier be ordered to clean up the lease and remove the tanks and equipment in compliance with Commission Rule 14(d)(12). Frontier should also be required to pay an administrative penalty of \$1,000.

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, Frontier Resources, Inc. ("Frontier" or "respondent") was given at least 10 days notice of this proceeding by certified mail, addressed to the most recent Form P-5 (Organization Report) address. Frontier appeared at the hearing and presented evidence.

2. The most recent approved Commission Form P-5 (Organization Report) for respondent was filed on April 23, 2007. Respondent deposited \$25,000 with the Commission as its financial security at the time of its last renewal. Ellsworth M. Jones is listed as Frontier's president. Respondent is listed as the operator of 6 wells with a total depth of 26,446 feet.
3. Frontier was recognized as the operator of the Fred K. Moseley (14427) Lease (hereinafter "Moseley Lease"), upon the Commission's approval of the Commission Form P-4 (Producer's Transportation Authority and Certificate of Compliance) on May 27, 1988.
4. On June 27, 1994 the Commission entered a Final Order in *Oil & Gas Docket No. 7B-0203397: Enforcement Action against Frontier Energy for Violations of Statewide Rules on the Moseley, Fred K. (14427) Lease, Comanche-Hites (Caddo) Field, Eastland County, Texas* requiring Frontier to bring the Moseley Lease into compliance with Statewide Rules 8, 14 and 46. Compliance was obtained in July 1995, and the administrative penalty was collected by the Office of the Attorney General in July 1997.
5. On October 1, 2005, a complaint was filed in *Oil & Gas Docket No. 7B-0240168: Enforcement Action against Frontier Energy for Violations of Statewide Rules on the Moseley, Fred K. (14427) Lease, Comanche-Hites (Caddo) Field, Eastland County, Texas* alleging violations of Statewide Rules 3 and 14(b)(2). A hearing was held on March 23, 2006. Following the hearing, Frontier plugged the wells and paid an administrative penalty to resolve the violations. An agreed order was entered on August 8, 2006.
6. The Moseley Lease still contains equipment related to operations which has not been removed.
 - a. Commission Form W-3s (Plugging Record) for Well Nos. 1 and 2 on the Moseley Lease show that the wells were plugged on April 7, and April 13, 2006.
 - b. Commission inspection reports dated August 22, 2006, September 25, 2006, November 3, 2006, January 30, 2007, June 4, 2007 and October 8, 2007 of the Moseley Lease reported that two 250 barrel open top fiberglass tanks, one 210 barrel steel tank, and one 4' by 20' heater-treater had not been removed from the property.
7. Loose junk, trash, tanks, heater treater, piping and miscellaneous equipment left behind after wells have been plugged, may potentially cause pollution of surface and subsurface water, and 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. Frontier is the operator of the Moseley Lease, as defined by Statewide Rule 14 and §89.002 of the Texas Natural Resources Code.
4. Frontier has the primary responsibility for complying with Rule 14, and Chapter 89 of the Texas Natural Resources Code as well as other applicable statutes and Commission rules relating to the Moseley Lease.
5. The Moseley Lease is not in compliance with Rule 14(d)(12) or Chapters 85, 89 and 91 of the Texas Natural Resources Code.
6. The Moseley Lease has been out of compliance with Rule 14(d)(12) from at least August 22, 2006 to the present.
7. Ellsworth M. Jones as Frontier's president is in a position of ownership or control of respondent, as defined by Texas Natural Resources Code Section 91.114, during the time period of the violation of Commission Rule 14 committed by respondent.
8. The violation of Commission Rule 14 committed by respondent is related to safety and the control of pollution.
9. As an officer in a position of ownership or control of respondent at the time respondent violated Commission rules related to safety and the control of pollution, Ellsworth M. Jones 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 Section 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.

RECOMMENDATION

The examiner recommends that the above findings and conclusions be adopted and the attached order approved, requiring Frontier Resources, Inc. to place in compliance with Statewide Rule 14(d)(12), the Moseley, Fred K. (14427) Lease, and pay an administrative penalty of \$1,000.

Respectfully submitted,

Mark Helmueller
Hearings Examiner