

January 8, 2008

OIL AND GAS DOCKET NO. 7C-0250727

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ENFORCEMENT ACTION AGAINST COLO EXPLORATION COMPANY, INC. (OPERATOR NO. 168907)  
FOR VIOLATIONS OF STATEWIDE RULES ON THE LASSITER (07356) LEASE, WELL NO. 1,  
MEADOW CREEK (CANYON) FIELD, COKE COUNTY, TEXAS.

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**APPEARANCES:**

**For Railroad Commission of Texas:**

Susan German, Staff Attorney, Enforcement Section, Office of General Counsel

**For Respondent Colo Exploration Company, Inc.**

Lloyd Johnson

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

<b>COMPLAINT FILED:</b>	March 6, 2007
<b>DATE CASE HEARD:</b>	November 15, 2007
<b>PFD PREPARED BY:</b>	Mark Helmueller, Hearings Examiner
<b>PFD CIRCULATION DATE:</b>	January 8, 2008
<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 should be required to plug or otherwise place in compliance with Statewide Rule 14, the Lassiter (07356) Lease, Well No. 1, Meadow Creek (Canyon) Field, Coke County, Texas;
2. 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 13, and 14 for the Lassiter (07356) Lease, Well No. 1, Meadow Creek (Canyon) Field, Coke County, Texas<sup>1</sup>;

3. Whether the respondent should be assessed administrative penalties of not more than \$10,000.00 per day for each offense committed regarding said wells;
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, Office of General Counsel, Enforcement Section (“Enforcement”). Lloyd Johnson, Chief Executive Officer, appeared on behalf of Colo Exploration Company, Inc. (“Colo”) and presented evidence at the hearing. Enforcement's hearing file was admitted into evidence.

Enforcement recommended Colo be ordered to properly plug the Lassiter (07356) Lease, Well No. 1 (hereinafter “Lassiter Lease/Lassiter well”) and pay a total administrative penalty of \$3,000.00. The administrative penalty is broken down as follows: \$2,000.00 for one violation of Statewide Rule 14(b)(2) and \$1,000.00 for one violation of Statewide Rule 13(b)(1)(B). The examiner agrees with the recommended penalty.

### **DISCUSSION OF THE EVIDENCE**

#### *Organization and Permit Records*

Commission records show that at the time of the hearing, respondent had an active Commission Form P-5 (Organization Report) which was filed with the Commission on May 9, 2007. The Organization Report lists Cord Davis Johnson as Colo’s President, Logan Edward Johnson as its Vice President, and Laurel L. Vance as its Secretary/Treasurer. Lloyd Johnson identified himself as the Chief Executive Officer of Colo at the hearing. Commission records show that Colo is recognized as the operator of 48 wells with a total depth of 177,282 feet. Colo submitted a \$50,000 cash deposit as its financial assurance with the most recent Organization Report filing.

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<sup>1</sup>Commission inspections of the Lassiter Lease on December 9, 2005, March 8, 2006, June 8, 2006, July 18, 2006, August 9, 2006, September 19, 2006, November 9, 2006, and January 12, 2007, document a violation of Statewide Rule 8(d)(4)(G)(i)(III) for an open dry workover pit measuring 12' x 12' by 2' deep. The inspection on February 22, 2007, and subsequent inspections confirm that the pit was properly closed. Based on representations at the hearing that the workover operations were continuing through August and September 2006 to repair a casing leak, Enforcement withdrew this violation from consideration at the hearing.

Colo was recognized as the operator of the Lassiter Lease after filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority) which was approved by the Commission on April 17, 2006.

### *Commission Inspections*

Commission inspections of the Lassiter Lease were conducted on May 9, 2007, June 20, 2007, and October 31, 2007. These inspection reports observed that the Lassiter well was inactive and not capable of production. Commission records further document that the well was not in compliance with Statewide Rule 14(b)(2) by the failure to properly plug the Lassiter well after the certificate of compliance for the Lassiter Lease was cancelled by the District Office on September 28, 2006 for violations of Commission rules. The last reported production for the well was in February 2005. Commission records further indicate that Colo failed to submit the required Commission Form H-15 (Test on an Inactive Well More Than 25 Years Old) for the Lassiter well in 2007.

Commission inspections of the Lassiter Lease on December 9, 2005, March 8, 2006, June 8, 2006, July 18, 2006, August 9, 2006, September 19, 2006, November 9, 2006, January 12, 2007, February 22, 2007, May 9, 2007, and June 20, 2007, document a violation of Commission Statewide Rule 13(b)(1)(B) for open tubing and open casing on the Lassiter well. The most recent inspection on October 31, 2007 indicates that a valve had been installed to correct the open tubing violation, but that the casing was still open to atmosphere.

An affidavit from Ramon Fernandez states that the alleged violations pose a threat of pollution and safety. Unplugged wells in violation of Statewide Rule 14(b)(2) are a potential conduit for flows of oil or saltwater to zones of usable quality water or to the surface. Open well bores in violation of Statewide Rule 13(b)(1)(B) are potential pollution hazards due to the possibility of surface run-off entering the well bore and the possibility of fluid flowing out of the well bore.

### *Enforcement's Position*

Enforcement argues that the Lassiter well was out of compliance with Statewide Rules 14(b)(2) and 13(b)(1)(B) for an extended period of time after Colo was recognized as the operator of the lease. Enforcement urges that Colo be ordered to bring the Lassiter well into compliance with Commission rules, and pay an administrative penalty of \$3,000.00 for the violations.

### *Colo's Position*

Colo acknowledges responsibility for the Lassiter Lease and the violations of Commission rules. Colo claims it acquired the Lassiter well in April 2006 with awareness that there was a casing leak. The initial casing leak was repaired in June 2006. The well was put on pump for 30 days, but only water was produced by the well, leading Colo to believe that another casing leak was present. Further operations were conducted to locate and repair the second casing leak. That leak was located and isolated, but Colo no longer had sufficient funds to perform a cement squeeze to repair

the second casing leak.

In June 2007, Colo was actively seeking to sell the Lassiter well to another operator who would finish the repair and restore production, but was unable to reach a deal. Due to an unspecified title issue, Colo recently decided to plug the well. Colo submitted a Commission Form W-3A (Notice of Intention to Plug and Abandon) for plugging the Lassiter well which was prepared in October 2007. Colo believed that the well would be plugged within 1 week after the hearing. However, no documentation has been submitted confirming that the well was plugged prior to the issuance of this proposal for decision.

With respect to the violation of Statewide Rule 13(b)(1)(B), Colo asserted that valves were installed on both the tubing and the casing to correct this problem as of October 31, 2007. Finally, Colo requested that any administrative penalty amount be reduced in reflection of its attempts to bring the other violations into compliance.

#### **APPLICABLE AUTHORITY**

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 after September 1, 1997, the operator of a well for purposes of plugging liability is shown by an approved Form P-4 designating that person as operator.

Statewide Rule 13(b)(1)(B) requires that wellhead assemblies be used to maintain surface control of the well. Wellhead assemblies are necessary to prevent fluids from being discharged from the well bore onto the ground surface and to prevent any oil and gas waste in the well bore from being displaced to the surface by potential influxes of water into the open well bore.

#### **EXAMINER'S OPINION**

Colo's responsibility for the violations is not contested. Colo has also failed to provide any additional evidence that the violations of Statewide Rules 14(b)(2) and 13(b)(1)(B) were resolved. While Colo has made some efforts to bring the violations into compliance as verified by the most recent inspection in October 2007, both of the violations were observed for over one year prior to the hearing in this case. Accordingly, it is recommended that the administrative penalty of \$3,000.00 requested by Enforcement be ordered against Colo for these two violations and that Colo be further ordered to bring the violations into compliance.

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 Colo Exploration Company, Inc., (“Colo”) was given at least 10 days notice of this proceeding by certified mail, addressed to its most recent Form P-5 (Organization Report) address. Lloyd Johnson appeared at the hearing on behalf of Colo and presented evidence.
2. Colo has an active Commission Form P-5 (Organization Report) which was filed with the Commission on May 9, 2007. The Organization Report lists Cord Davis Johnson as Colo’s President, Logan Edward Johnson as its Vice President, and Laurel L. Vance as its Secretary/Treasurer. Lloyd Johnson identified himself as the Chief Executive Officer of Colo at the hearing. Commission records show that Colo is recognized as the operator of 48 wells with a total depth of 177,282 feet. Colo submitted a \$50,000 cash deposit as its financial assurance with the most recent Organization Report filing.
3. Colo was recognized as the operator of the Lassiter (07356) Lease, Well No. 1, (hereinafter “Lassiter Lease/Lassiter Well”) after filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority) which was approved by the Commission on April 17, 2006.
4. The Lassiter well is currently inactive, has been inactive for more than 12 months, and has not been properly plugged.
  - a. Commission inspection reports dated on May 9, 2007, June 20, 2007, and October 31, 2007 found the well inactive and not capable of production because no flow lines were connected to the well.
  - b. Commission records report no production from the well since March 1, 2005.
  - c. The certificate of compliance for the Lassiter was cancelled by the District Office on September 28, 2006 for violations of Commission rules.
5. No plugging extension was in effect for the Lassiter Well at the time of issuance of the proposal for decision.
  - a. The certificate of compliance for the Lassiter Lease was cancelled by the District Office on September 28, 2006 for violations of Commission rules.
  - c. Colo failed to submit the required Commission Form H-15 (Test on an Inactive Well More Than 25 Years Old) for the Lassiter Well in 2007.

6. Usable quality groundwater in the area may be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject well. Unplugged well bores constitute a cognizable threat to the public health and safety because of the probability of pollution.
7. The estimated cost to plug the subject well is \$16,100.00.
8. Commission inspections of the Lassiter Lease on December 9, 2005, March 8, 2006, June 8, 2006, July 18, 2006, August 9, 2006, September 19, 2006, November 9, 2006, January 12, 2007, February 22, 2007, May 9, 2007, and June 20, 2007, observed open tubing and open casing on the Lassiter well.
9. Open well bores are potential pollution hazards due to the possibility of surface run-off entering the well bore and the possibility of fluid flowing out of the well bore.

#### 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. Colo is the operator of the Lassiter Lease, Well No. 1, as defined by Statewide Rule 14 and §89.002 of the Texas Natural Resources Code.
4. Colo has the primary responsibility for complying with Rules 13 and 14, and Chapter 89 of the Texas Natural Resources Code as well as other applicable statutes and Commission rules relating to the Lassiter Lease, Well No. 1.
5. Well No. 1 on the Lassiter Lease was not in compliance with Statewide Rule 13 due to open valves and open casing from April 17, 2006 to the present.
6. Well No. 1 on the Lassiter Lease is not properly plugged or otherwise in compliance with Rule 14 or Chapters 85, 89 and 91 of the Texas Natural Resources Code.
7. Well No. 1 on the Lassiter Lease has been out of compliance with Rule 14 from September 26, 2006 to the present.
9. Cord Davis Johnson, as Colo's President, was 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 Rules committed by respondent.

10. Logan Edward Johnson, as Colo's Vice-President, was 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 Rules committed by respondent.
11. Lloyd Johnson, as Colo's Chief Executive Officer, was 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 Rules committed by respondent.
12. The violations of Commission Rules 13 and 14 committed by respondent are related to safety and the control of pollution.
13. As officers in a position of ownership or control of respondent at the time respondent violated Commission rules related to safety and the control of pollution, Cord Davis Johnson, Logan Edward Johnson, and Lloyd Johnson and any other organization in which they 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.
14. The documented violations committed by Colo are a hazard to the public health and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE ANN. §81.0531(c).

#### **RECOMMENDATION**

The examiner recommends that the above findings and conclusions be adopted and the attached order approved, requiring Colo Exploration Company, Inc., within 30 days of the entry of a Final Order in this matter to plug or otherwise bring Well No. 1 on the Lassiter (07356) Lease into compliance with Statewide Rules 13 and 14 and pay an administrative penalty of \$3,000.00.

Respectfully submitted,

Mark Helmueller  
Hearings Examiner