

**OIL & GAS DOCKET NO. 08-0243759**

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**ENFORCEMENT ACTION AGAINST PINTAIL PRODUCTION CO., INC. (OPERATOR NO. 665709), FOR VIOLATIONS OF STATEWIDE RULES ON THE HIGHWAY UNIT LEASE, WELL NO. 1 (RRC NO. 098638), BIG SPRING (ATOKA) FIELD, HOWARD COUNTY, TEXAS**

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**APPEARANCES:**

**FOR MOVANT:**

Susan German  
Bill Drury

**MOVANT:**

Enforcement Section  
Railroad Commission of Texas

**FOR RESPONDENT:**

Harvey H. Mueller, II  
President

**RESPONDENT:**

Pintail Production Co., Inc.

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

<b>DATE OF ORIGINAL COMPLAINT:</b>	October 7, 2005
<b>DATE OF AMENDED COMPLAINT:</b>	April 13, 2006
<b>DATE OF NOTICE OF HEARING:</b>	September 15, 2006
<b>DATE OF HEARING:</b>	October 26, 2006
<b>HEARD BY:</b>	James M. Doherty, Hearings Examiner
<b>DATE PFD CIRCULATED:</b>	November 21, 2006

**STATEMENT OF THE CASE**

This proceeding was called by the Commission on the recommendation of the District Office to determine the following:

1. Whether the respondent Pintail Production Co., Inc. (“Pintail”) should be required to plug or otherwise place in compliance with Statewide Rule 14(b)(2) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.14(b)(2)] the Highway Unit Lease, Well No. 1 (RRC No. 098638), Big Spring (Atoka) Field, Howard County, Texas (“subject well”);
2. Whether Pintail violated Statewide Rule 13(b)(1)(B) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.13(b)(1)(B)] on the subject well by failing to use a wellhead assembly to maintain surface control;
3. Whether Pintail 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 plug the subject well or otherwise failing to place the well into compliance with Statewide Rules 13 and 14;
4. Whether, pursuant to Texas Natural Resources Code §81.0531, Pintail should be assessed administrative penalties of not more than \$10,000 per day for each offense committed regarding the subject lease and well; and
5. Whether any violations of Statewide Rules 13 and 14 by Pintail should be referred to the Office of the Attorney General for further civil action pursuant to Texas Natural Resources Code §81.0534.

A hearing was held on October 26, 2006. Susan German, Staff Attorney, appeared representing the Enforcement Section of the Office of General Counsel (“Enforcement”). Harvey H. Mueller, II, President, appeared to represent Pintail and presented evidence. Enforcement’s certified hearing file was admitted into evidence.

#### **APPLICABLE LAW**

Statewide Rule 13(b)(1)(B) provides that wellhead assemblies shall be used on wells to maintain surface control of the wells. Statewide Rule 14(b)(2) requires that a well be plugged after 12 months of inactivity, unless a plugging extension has been obtained.

#### **DISCUSSION OF THE EVIDENCE**

##### **Enforcement**

The most recent Form P-5 organization report filed by Pintail shows that it is a corporation and its officers are Harvey Herman Mueller, II, President and Vice President and Laquetta Gayle Murray, Secretary. Pintail’s Form P-5 is active, and Pintail has filed approved financial assurance of \$50,000 in the form of a letter of credit. Pintail designated itself the operator of the Highway Unit

Lease, Well No. 1 (RRC No. 098638) by filing a Form P-4 (Certificate of Compliance and Transportation Authority), which was approved May 30, 1989, effective May 1, 1989.

*Statewide Rule 13(b)(1)(B) Violation*

A District Office inspection on January 1, 2004, disclosed that the wellhead on the subject well was leaking oil at the tubing pack-off assembly, affecting an area measuring 2' x 5' around the wellhead. This contaminated area tested for chlorides at 2,430 ppm. A further District Office inspection on June 3, 2005, disclosed that the casing of the well had pressure, with water at the surface. A District Office inspection on July 14, 2005, showed that the subject well still had pressure, and the tubing pack-off assembly continued to leak. A District Office inspection on October 24, 2005, disclosed that the well had pressure on the bradenhead. A District Office inspection on February 28, 2006, disclosed that the well was slightly pressured up, with fluid at the surface. On the occasion of a District Office inspection on August 28, 2006, pressure on the well could not be monitored, but the production tubing annulus was full of fluid.

An affidavit of Keith Barton, P.E., Field Operations, stated that open wellbores prohibited by Statewide Rule 13(b)(1)(B) are pollution and safety hazards due to the possibility of surface run-off entering the wellbore and the possibility of well fluids flowing out of the wellbore.

*Statewide Rule 14(b)(2) Violation*

District Office inspections of the subject well on June 26, September 12, and October 23, 2002, August 4, 2003, January 6, June 3, July 14, and October 24, 2005, and August 28, 2006, disclosed the well was inactive and unplugged. As of the date of the inspection on June 26, 2002, and thereafter, the gas lift equipment had been removed, and the well had no flow line. No production has been reported to the Commission for this well since February 2002.

The last Statewide Rule 14(b)(2) plugging extension for the well was canceled on July 27, 2005, based on a Statewide Rule 8 violation on the subject lease. A certification by the Commission's Secretary stated that as of the date of the certification, October 24, 2006, no Plugging Record (Form W-3) or Cementing Affidavit (Form W-15) had been filed or approved for the subject well. The estimated cost to the State to plug the well is \$54,400.

An affidavit of Keith Barton, P.E., Field Operations stated that a well that is in violation of Statewide Rule 14 must be plugged to prevent pollution of usable quality surface or subsurface water. Any wellbore, cased or otherwise, is a potential conduit for flow from oil or saltwater zones to zones of usable quality water or to the surface. Holes or leaks may develop in cased wells, allowing oil or saltwater to communicate with usable quality water zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface.

*Attempts to Obtain Voluntary Compliance*

On five separate occasions between July 24, 2003, and July 14, 2005, the District Office sent Pintail notices or correspondence requesting that Pintail bring the subject well into compliance with Statewide Rule 14(b)(2). Pintail has been stating that it would plug the well since 2004. On February 2, 2004, Pintail sent a letter to the Commission stating that it had begun preparation of a Form W-3A (Notice of Intention to Plug and Abandon) and intended to plug the well as expeditiously as possible. On August 25, 2005, Pintail sent the Commission another letter stating that it had obtained a plugging contractor to plug the well, and the well should be plugged in about 90 days. On November 8, 2005, Pintail sent the Commission a letter stating that its plugging contractor was busy on a major plugging project but presumably could plug the subject well in January 2006. The well has not been plugged.

*Penalty Recommended by Enforcement*

Enforcement recommended that a penalty in the amount of \$3,000 be imposed against Pintail, calculated on the basis of one Statewide Rule 13(b)(1)(B) violation at \$1,000 and one Statewide Rule 14(b)(2) violation at \$2,000. However, Enforcement stated also that on May 16, 2006, Pintail had made a payment in the amount of \$2,250, which should be considered as an offset to the recommended penalty.

*Pintail*

Pintail did not dispute any of Enforcement's allegations or proof. Pintail asserted that it had been attempting, without success, to obtain a plugging contractor to plug the subject well. It made arrangements with Smith Pipe of Abilene to plug the well, and expected the well would be plugged by January 2006, but Smith Pipe has been busy with another major plugging project. According to Pintail, contacts with other plugging contractors have not been successful, due to a current shortage of available plugging equipment.

**EXAMINER'S OPINION**

Enforcement has proved that the alleged violations were committed by Pintail. The examiner agrees with the penalty recommended by Enforcement, which is consistent with the recommended standard penalty schedule for enforcement cases. The examiner agrees also that Pintail is entitled to a penalty offset in the amount of \$2,250 already paid.

The examiner recommends further that Pintail be ordered to plug the subject well. The well has been inactive for more than four years, appears to be pressured up, has been a source of pollution, and has fluid at the surface. Pintail appears to agree that the well needs to be plugged, and no other operator has expressed any interest in taking a transfer of the well.

Based on the record in this case, the examiner recommends adoption of the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

1. Pintail Production Co., Inc. ("Pintail") was given at least ten (10) days notice of this hearing by certified mail, addressed to Pintail's most recent Form P-5 organization report address. Pintail appeared at the hearing and presented evidence.
2. Pintail is a corporation, and its officers, as reported on its most recently approved Form P-5 organization report, are Harvey Herman Mueller, II, President and Vice President, and Laquetta Gayle Murray, Secretary.
3. As officers, Harvey Herman Mueller, II and Laquetta Gayle Murray were persons in a position of ownership or control of Pintail at the time the violations involved in this docket were committed.
4. The violations involved in this docket were violations of Commission rules related to safety and the prevention or control of pollution.
5. Pintail's Form P-5 organization report is active, and Pintail has approved financial assurance on file with the Commission in the amount of \$50,000 in the form of a letter of credit.
6. Pintail designated itself the operator of the Highway Unit Lease, Well No. 1 (RRC No. 098638), Big Spring (Atoka) Field, Howard County, Texas ("subject well") by filing a Form P-4 (Certificate of Compliance and Transportation Authority), which was approved on May 30, 1989, effective May 1, 1989.
7. On the occasion of District Office inspections of the subject well in 2004-2006, the well did not have a wellhead assembly sufficient to maintain surface control.
  - a. District Office inspections on January 1, 2004, and July 14, 2005, disclosed that the wellhead was leaking oil at the tubing pack-off assembly, affecting an area measuring 2' x 5' around the wellhead. The contaminated area tested for chlorides at 2,430 ppm.
  - b. District Office inspections in June, July, and October 2005, and February and August 2006, disclosed that the well was pressured up and/or had fluid at the surface.
8. The subject well has been inactive for more than one year, has not been plugged, and does not have a Statewide Rule 14(b)(2) plugging extension.

- a. On the occasion of nine District Office inspections between June 26, 2002, and August 28, 2006, the well was inactive. All gas lift equipment had been removed and the well had no flow line.
  - b. No production has been reported to the Commission for the well since February 2002.
  - c. The last Statewide Rule 14(b)(2) plugging extension for the well was canceled on July 27, 2005, based on a Statewide Rule 8 violation on the subject lease.
  - d. No Plugging Record (Form W-3) or Cementing Affidavit (Form W-15) has been filed or approved for the well.
9. On five occasions between July 24, 2003, and July 24, 2005, the District Office sent Pintail correspondence or notices requesting that Pintail bring the subject well into compliance with Statewide Rule 14(b)(2). Pintail did not respond by achieving voluntary compliance.
  10. The estimated cost to the State to plug the subject well is \$54,400.
  11. Open wellbores prohibited by Statewide Rule 13(b)(1)(B) are pollution and safety hazards due to the possibility of surface run-off entering the wellbore and the possibility of well fluids flowing out of the wellbore.
  12. A well that is in violation of Statewide Rule 14(b)(2) must be plugged to prevent pollution of usable quality surface or subsurface water. Any wellbore, cased or otherwise, is a potential conduit for flow from oil or saltwater zones to zones of usable quality water or to the surface. Holes or leaks may develop in cased wells, allowing oil or saltwater to communicate with usable quality water zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface.
  13. No prior final enforcement orders have been entered against Pintail for violations of Commission rules.
  14. Pintail has not demonstrated good faith because it did not respond to numerous requests of the District Office to bring the subject well into compliance with Statewide Rule 14(b)(2).

### **CONCLUSIONS OF LAW**

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

3. Pintail Production Co., Inc. (“Pintail”) was and is the operator of the Highway Unit Lease, Well No. 1 (RRC No. 098638), Big Spring (Atoka) Field, Howard County, Texas, as defined by Statewide Rules 14, 58, and 79 [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.14, 3.58, and 3.79] and Chapters 85 and 89 of the Texas Natural Resources Code.
4. As operator, Pintail had the primary responsibility for complying with Statewide Rules 13(b)(1)(B) and 14(b)(2) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §§3.13(b)(1)(B) and 3.14(b)(2)], Chapters 89 and 91 of the Texas Natural Resources Code, and other applicable statutes and Commission rules respecting the subject well.
5. Pintail violated Statewide Rule 13(b)(1)(B) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.13(b)(1)(B)] by failing to equip the subject well with a wellhead assembly sufficient to maintain surface control. The subject well has been out of compliance with Statewide Rule 13(b)(1)(B) since at least January 1, 2004.
6. Pintail violated Statewide Rule 14(b)(2) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.14(b)(2)] by failing to plug the subject well within one year after operations ceased and by failing otherwise to bring the well into compliance with Statewide Rule 14(b)(2). The subject well has been out of compliance with Statewide Rule 14(b)(2) since July 27, 2005.
7. The documented violations committed by Pintail constitute acts deemed serious and a hazard to the public health and safety within the meaning of Texas Natural Resources Code §81.0531.
8. Pintail did not demonstrate good faith within the meaning of Texas Natural Resources Code §81.0531.
9. As officers of Pintail at the time Pintail violated Commission rules related to safety and the prevention or control of pollution, Harvey Herman Mueller, II and Laquetta Gayle Murray, and any organization subject to the Commission’s jurisdiction in which they, or either of them, may hold a position of ownership or control, are subject to the restrictions of Texas Natural Resources Code §91.114(a)(2).

**RECOMMENDATION**

The examiner recommends that Pintail Production Co., Inc., be ordered to pay an administrative penalty of \$3,000, less \$2,250 already paid, and to plug the Highway Unit Lease, Well No. 1 (RRC No. 098638), Big Spring (Atoka) Field, Howard County, Texas.

Respectfully submitted,

James M. Doherty  
Hearings Examiner