

February 18, 2003

OIL AND GAS DOCKET NO. 8A-0230475

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**ENFORCEMENT ACTION AGAINST EUGENE C. WEAVER DBA SAFARI PRODUCTION CO. FOR VIOLATIONS OF STATEWIDE RULES ON THE NORTH CORRIGAN (64238) LEASE, WELL NOS. 1 AND 2, AKERS (FUSSELMAN) FIELD, TERRY COUNTY, TEXAS.**

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**APPEARANCES:**

**FOR MOVANT:**

Scott Holter

**FOR RESPONDENT:**

Lloyd Muennink  
Mike Weaver

**MOVANT:**

Railroad Commission of Texas

**PARTY:**

Safari Production Co.  
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**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

<b>FIRST AMENDED COMPLAINT FILED:</b>	July 9, 2002
<b>HEARING HELD:</b>	September 23, 2002
<b>NOTICE OF REOPENED HEARING:</b>	November 5, 2002
<b>REOPENED HEARING HELD:</b>	December 9, 2002
<b>PFD PREPARED BY:</b>	Mark Helmueller, Hearings Examiner
<b>PFD CIRCULATION DATE:</b>	February 18, 2003
<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 should be required to plug or otherwise place in compliance with

Statewide Rules 3 and 14, the North Corrigan (64238) Lease, Well Nos. 1 and 2, Akers (Fusselman) Field, Terry 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 Rules 3 and 14;
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 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.

Scott Holter, Staff Attorney, appeared at the hearing representing the Railroad Commission of Texas, Enforcement Section. Lloyd Muennink appeared on behalf of respondent, Eugene C. Weafer doing business as Safari Production Co. (hereinafter "Safari"). Mike Weaver, a former employee of Safari who now owns a separate company, Safari Production Co., Inc., testified on behalf of Safari. The Enforcement Section's hearing file was admitted into evidence. Enforcement recommended that Safari be ordered to file the proper plugging report for Well No. 1, properly plug Well No. 2 and be ordered to pay a administrative penalty of \$3,250 broken down as follows: \$2,000 for a single violation of Statewide Rule 14(b)(2); \$1,000 for a single violation of Statewide Rule 14(b)(1) and \$250.00 for a single violation of Statewide Rule 3(a)(2). The examiner agrees with the recommendation.

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

Enforcement presented Commission records showing that the most recent approved Commission Form P-5 (Organization Report) for Safari was filed March 30, 2000. Safari paid a fee of \$750 as financial assurance at the time of its last renewal. Eugene C. Weafer is listed as the President. Safari's Organization Report is currently delinquent.

Commission records indicate that Safari was recognized as the operator of the North Corrigan (64238) Lease, Well Nos. 1 and 2, Akers (Fusselman) Field, Terry County, Texas (hereinafter "subject lease" and/or "subject wells") upon the approval of the Commission Form P-4 (Producer's Transportation Authority and Certificate of Compliance) submitted by Safari on April 26, 2000. The Form P-4 was approved by the Commission on the same date.

Enforcement also submitted Commission inspection reports made on February 5, 2001, March 29, 2001, August 3, 2001, October 8, 2001, January 8, 2002, March 15, 2002, May 23, 2002 and November 12, 2002 to show that the sign at Well No. 2 improperly identifies the prior operator. Accordingly, Enforcement contends that Safari is in violation of Statewide Rule 3(a)(2), and that an administrative penalty of \$250 should be assessed.

Enforcement also submitted a Commission inspection report made on June 5, 2000 which indicated that Safari had plugged Well No. 1 on the subject lease. However, review of Commission records indicates that Safari never filed a Commission Form W-3 (Plugging Report). Correspondence was forwarded to Safari on May 22, 2001, July 9, 2001, and September 10, 2001 which advised Safari that a plugging report had not been filed in violation of Statewide Rule 14(b)(1). Safari acknowledged receipt of this correspondence. There is still no record of Safari filing a plugging report for Well No. 1. Enforcement therefore contends that Safari has violated Statewide Rule 14(b)(1), and that an administrative penalty of \$1,000 should be assessed.

Additionally, Enforcement submitted Commission inspection reports made on March 29, 2001, June 14, 2001, August 3, 2001, October 8, 2001, January 8, 2002, March 15, 2002, May 23, 2002 and November 12, 2002 which report that Well No. 2 on the subject lease is abandoned and not equipped for production. Additionally, Commission records indicate that the last reported production from the subject lease occurred in September 1996. Safari filed a Commission Form W-1X (Application for Future Re-Entry of Inactive Well Bore and 14(b)(2) Extension Permit) was filed by Safari and approved by the Commission on April 26, 2000, the same date the Commission recognized Safari as the operator of the subject lease. The plugging extension expired on April 26, 2001. The estimated cost to plug Well No. 2 is \$16,500. Based on these Commission records, Enforcement contends that Well No. 2 is in violation of Statewide Rule 14(b)(2), and that an administrative penalty of \$2,000 should be assessed.

Safari's representative, Mr. Weaver acknowledged that Safari was responsible for the wells and the violations of Commission rules. Weaver offered no excuse for Safari's failing to correct the sign at the well site. Weaver also admitted that Safari had not filed a Form W-3, but claimed that Safari was unable to properly file the required form because the contractor it hired to plug Well No. 1 was responsible for filing the form and is now out of business. Weaver claimed that Safari would file the plugging report within 30 days for Well No. 1. Finally, Weaver claimed at the hearing that Safari would plug Well No. 2 within 60 days.

Safari claimed that no administrative penalties should be assessed because the proper plugging of Well No. 2 would moot both the Rule 3 and Rule 14(b)(2) violations, and because it was impossible for Safari to file a plugging report. No Commission Form W-3A (Notice of Intention to Plug and Abandon), Form W-3 or any other documentation demonstrating any action to properly plug Well No. 2 was submitted after the hearing.

#### **APPLICABLE AUTHORITY**

Statewide Rule 3(a) requires the posting of signs at each well site which show: the name of the property; the name of the operator; and the well number.

Statewide Rule 14(b)(1) requires that the operator file a plugging report on Commission

Form W-3 within 30 days after plugging operations are completed.

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 the person who assumed responsibility for the physical operation and control of a well as shown by an approved Form P-4 designating that person as operator.

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

It is uncontested in this docket that the subject lease and subject wells are in violation of Statewide Rules 3 and 14. Accordingly, the only issue required for determination is Safari's request that it should not be required to pay any administrative penalty.

The examiner does not believe that the excuses cited by Safari justify the elimination of any administrative penalty, particularly where Safari failed to take the promised action necessary to plug the last remaining well on the subject lease. Safari has been the operator of the subject lease since April 20, 2000. It has had a continuing responsibility for the posting of proper signs and failed to take even the minimal action of changing the name on the existing sign. Safari's promise to eventually plug Well No. 2 does not excuse its continuing abrogation of its responsibility. An administrative penalty of \$250 is therefore appropriate for the violation of Statewide Rule 3(a)(2).

With respect to the violation of Statewide Rule 14(b)(1), Weaver acknowledged that Safari received correspondence 18 months ago advising that the plugging report for Well No. 1 was not filed. The information necessary to complete the appropriate form is available in Commission records, through the approved Commission Form W-3A and the inspection reports. Additionally, the necessary information may also be available in the plugging contract, invoices and reports. Safari again failed to take the required action and failed to obtain the required documentation from the available sources. Accordingly, it should not be excused from filing the form, or from paying an administrative penalty of \$1,000 for its violation of Statewide Rule 14(b)(1).

Finally, there is no evidence that Safari took any steps to plug Well No. 2 as promised by Safari's representative at the hearing. Absent such evidence, it is inappropriate to excuse Safari from the imposition of an administrative penalty of \$2,000 for the time period that Well No. 2 has been out of compliance with Rule 14(b)(2).

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, Eugene C. Weaver, doing business as Safari Production Co. ("Safari") was given at least 10 days notice of this proceeding by certified mail, addressed to the most

recent Form P-5 (Organization Report) address. Safari appeared at the hearing through its attorney and designated representative and presented evidence.

2. The most recent approved Form P-5 for Safari was filed March 30, 2000. Safari paid a fee of \$750 as financial assurance at the time of its last renewal. Eugene C. Weafer is listed as the Owner. Safari's Organization Report is currently delinquent.
3. Safari was recognized as the operator of the North Corrigan (64238) Lease, Well Nos. 1 and 2, Akers (Fusselman) Field, Terry County, Texas ("subject lease" and/or "subject well") upon the approval of the Commission Form P-4 (Producer's Transportation Authority and Certificate of Compliance) submitted by Safari on April 26, 2000. The Form P-4 was approved by the Commission on the same date.
4. The subject lease does not have a sign at the well site which identifies Safari as the operator. Commission inspection reports made on February 5, 2001, March 29, 2001, August 3, 2001, October 8, 2001, January 8, 2002, March 15, 2002, May 23, 2002 and November 12, 2002 show that the sign at Well No. 2 identifies the prior operator.
5. Well No. 1 on the subject lease was plugged on June 5, 2000.
6. Review of Commission records indicates that Safari never filed Commission Form W-3 (Plugging Report) for Well No. 1.
  - (a) Correspondence was forwarded to Safari on May 22, 2001, July 9, 2001, and September 10, 2001 which advised Safari that a plugging report had not been filed for Well No. 1.
  - (b) There is still no record of Safari filing a plugging report for Well No. 1.
7. Well No. 2 on the subject lease is currently inactive and has been inactive for more than 12 months.
  - (a) Commission inspection reports made on March 29, 2001, June 14, 2001, August 3, 2001, October 8, 2001, January 8, 2002, March 15, 2002, May 23, 2002 and November 12, 2002 report that Well No. 2 on the subject lease is abandoned and not equipped for production.
  - (b) Commission records show that the last reported production from Well No. 2 was in September 1996.
8. The last plugging extension Safari obtained for Well No. 2 expired on April 26, 2001.
9. The estimated cost to plug Well No. 2 on the subject lease is \$16,500.

10. Failure to properly identify a well by the posting of the sign required by Statewide Rule 3 has the potential for causing confusion and delay in remedying a violation or emergency and poses a threat to the public health and safety.
11. Failure to file a plugging record for a well as required by Statewide Rule 14(b)(1) prevents the Commission from determining whether the plugging procedures used will prevent the pollution of surface waters or usable quality subsurface waters.
12. Usable quality groundwater in the area may be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject wells. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
13. Safari has not demonstrated good faith since it failed to bring the subject lease in compliance after being notified of the violations by the District office.

#### 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. Safari is the operator of the North Corrigan (64238) Lease, Well Nos. 1 and 2, Akers (Fusselman) Field, Terry County, Texas as defined by Commission Statewide Rule 14 and §89.002 of the Texas Natural Resources Code.
4. Safari has the primary responsibility for complying with Commission Statewide Rules 3 and 14, and Chapter 89 of the Texas Natural Resources Code as well as other applicable statutes and Commission rules relating to the North Corrigan (64238) Lease, Well Nos. 1 and 2, Akers (Fusselman) Field, Terry County, Texas.
5. The North Corrigan (64238) Lease, is not in compliance with Commission Statewide Rule 3(a)(2) or Chapters 85, 89 and 91 of the Texas Natural Resources Code.
6. The North Corrigan (64238) Lease, has been out of compliance with Commission Statewide Rule 3(a)(2) from April 26, 2000 to the present.
7. The North Corrigan (64238) Lease, Well No. 1, is not in compliance with Commission Statewide Rule 14(b)(1) or Chapters 85, 89 and 91 of the Texas Natural Resources Code.
8. The North Corrigan (64238) Lease, Well No. 1, has been out of compliance with Commission Statewide Rule 14(b)(1) from July 6, 2000 to the present.
9. The North Corrigan (64238) Lease, Well No. 2, Akers (Fusselman) Field, Terry County,

Texas, is not properly plugged or otherwise in compliance with Commission Statewide Rule 14(b)(2) or Chapters 85, 89 and 91 of the Texas Natural Resources Code.

10. Well No. 2 on the North Corrigan (64238) Lease has been out of compliance with Commission Statewide Rule 14(b)(2) from April 26, 2001 to the present.
11. The documented violations committed by Safari 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 Eugene C. Weafer, doing business as, Safari Production Co. to:

- 1) File a plugging report in compliance with Statewide Rule 14(b)(1) for Well No. 1 on the North Corrigan (64238) Lease;
- 2) Plug Well No. 2 on the North Corrigan (64238) Lease in compliance with Commission Statewide Rule 14(b)(2); and
- 3) Pay an administrative penalty of THREE THOUSAND TWO HUNDRED AND FIFTY DOLLARS (\$3,250).

Respectfully submitted,

Mark J. Helmueller  
Hearings Examiner