

**OIL & GAS DOCKET NO. 09-0244995**

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**ENFORCEMENT ACTION AGAINST ROY FARRELL, JR. DBA FARRELL OIL COMPANY (OPERATOR NO. 263474) FOR VIOLATIONS OF STATEWIDE RULES ON THE WAGGONER -C- (06830) LEASE, WELL NOS. 9 & 11, GRAYBACK (ELLENBURGER) FIELD, AND WAGGONER -C- (17247) LEASE, WELL NO. 16, WILBARGER COUNTY REGULAR FIELD, WILBARGER COUNTY, TEXAS**

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**APPEARANCES:**

**FOR MOVANT:**

Susan German  
Bill Drury

**MOVANT:**

Enforcement Section  
Railroad Commission of Texas

**FOR RESPONDENT:**

Rex H. White, Jr.  
Roy Farrell, Jr.

**RESPONDENT**

Roy Farrell, Jr.  
DBA Farrell Oil Company

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

**DATE OF ORIGINAL COMPLAINT:**

February 14, 2006

**DATE OF NOTICE OF HEARING:**

July 21, 2006

**DATE OF HEARING:**

September 14, 2006

**HEARD BY:**

James M. Doherty, Hearings  
Examiner

**DATE RECORD CLOSED:**

October 16, 2006

**DATE PFD CIRCULATED:**

November 13, 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 Roy Farrell, Jr. DBA Farrell Oil Company ("Farrell") 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 Waggoner -C- (06830) Lease, Well Nos. 9 and 11, Grayback (Ellenburger) Field, and the Waggoner -C- (17247) Lease, Well No. 16, Wilbarger County Regular Field, Wilbarger County, Texas ("subject wells");

2. Whether Farrell has violated Statewide Rule 3 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.3] on the Waggoner -C- (06830) Lease and on the Waggoner -C- (17247) Lease by failing to post identification signs at the lease entrances and by failing to post identification signs with all required information at the tank batteries;
3. Whether Farrell has violated Statewide Rule 8 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.8] on the Waggoner -C- (06830) Lease by causing or allowing a workover pit at Well No. 9 to remain open;
4. Whether Farrell has violated Statewide Rule 13 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.13] on the Waggoner -C- (06830) Lease, Well Nos. 9 and 11 and the Waggoner -C- (17247) Lease, Well No. 16 by failing to use wellhead assemblies to maintain surface control;
5. Whether Farrell 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 wells or otherwise failing to place the subject leases and wells into compliance with Statewide Rules 3, 8, 13, and 14;
6. Whether, pursuant to Texas Natural Resources Code §81.0531, Farrell should be assessed administrative penalties of not more than \$10,000 per day for each offense committed regarding the subject leases and wells; and
7. Whether any violations of Statewide Rules 3, 8, 13, and 14 by Farrell 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 September 14, 2006. Susan German, Staff Attorney, appeared representing the Enforcement Section of the Office of General Counsel ("Enforcement"). Rex H. White, Jr., attorney, and Roy Farrell, Jr. appeared to represent Farrell and presented evidence. Enforcement's certified hearing file was admitted into evidence. The record of the hearing was held open until October 16, 2006, at Farrell's request, to permit Farrell an opportunity to late-file exhibits demonstrating, as pertinent to this docket, that: (1) Farrell had renewed his Form P-5 organization report and filed the required financial assurance; (2) Farrell had remediated the alleged Statewide Rule 8 violation on the Waggoner -C- (06830) Lease; and (3) Farrell had entered into plugging contracts for the plugging of the subject wells.

**APPLICABLE LAW**

Statewide Rule 3(1) requires that an identification sign be posted at lease entrances, showing the name of the property, the name of the operator, and the number of acres in the property. Statewide Rule 3(3) requires that an identification sign be posted at tank batteries, showing the name of the property, the name of the operator, the Commission lease number for the formation from which oil in the tank is produced, and where oil from more than one formation is commingled in the same tank, the number of the Commission permit that authorized the commingling of the oil.

Statewide Rule 8(d)(4)(G)(i)(III) requires a person who maintains or uses a completion or workover pit in conjunction with completing or working over a well to dewater the pit within 30 days and backfill and compact the pit within 120 days of completion of the well.

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**

**Matters Officially Noticed**

The examiner has officially noticed Commission organization report and financial assurance databases showing that the Form P-5 organization report of Farrell, which had been delinquent since July 1, 2002, was renewed on October 23, 2006, and that Farrell has on file with the Commission financial assurance in the amount of \$50,000 in the form of a letter of credit. The examiner has also officially noticed the Commission's On-Schedule Leases, Wells, Wellbores by Operator database establishing that Farrell is the operator of a total of seven wellbores. The examiner has further officially noticed the Commission's 14(b)(2) Well Inquiry by Application database respecting the three wells involved in this docket. The examiner has also officially noticed District Office posthearing inspection reports for the subject leases dated October 13, 2006.

**Enforcement**

The most recent Form P-5 shows that Farrell is a sole proprietorship, and Roy Farrell, Jr. is owner. Farrell designated himself operator of both of the subject leases by filing Forms P-4 (Certificate of Compliance and Transportation Authority), which were approved March 29, 1995, effective March 1, 1995.

On the occasion of five District Office inspections between September 7, 2005, and October 13, 2006, the identification signs required by Statewide Rule 3 to be posted at the lease entrances of both of the subject leases were missing, and the identification signs required to be posted at the

tank batteries on both leases did not include all required information, in that the signs did not include a commingling permit number.

Four District Office inspections between September 7, 2005, and August 22, 2006, disclosed that Farrell had caused or allowed a workover pit measuring 40' x 15' x 3', at Well No. 9 on the Waggoner -C- (06830) Lease, to remain open, although Well No. 9 was inactive, and no production had been reported to the Commission for the well since September 30, 1996.

The same District Office inspections disclosed that Well Nos. 9 and 11 on the Waggoner -C- (06830) Lease had casing open to the atmosphere, and Well No. 16 on the Waggoner -C- (17247) Lease had tubing and casing open to the atmosphere.

The same District Office inspections disclosed that all three of the subject wells were inactive. No production was reported to the Commission for the Waggoner -C- (06830) Lease, Well Nos. 9 and 11 after September 30, 1996, and no production was reported for the Waggoner -C- (17247) Lease, Well No. 16 after February 28, 1997. No Plugging Record (Form W-3) or Cementing Affidavit (Form W-15) has been filed or approved for these wells. The estimated cost to the State to plug the Waggoner -C- (06830) Lease, Well Nos. 9 and 11 is \$20,000. The estimated cost to the State to plug the Waggoner -C- (17247) Lease, Well No. 16 is \$4,000.

On September 8, 2005, September 20, 2005, and September 27, 2005, and October 9, 2005, the District Office sent Farrell notices or correspondence advising Farrell of the alleged violations on the subject leases and requesting voluntary compliance.

An affidavit of Ramon Fernandez, Jr., P.E., Field Operations, states that in the event of a pollution or safety violation or other emergency, incorrect, illegible or missing signs may cause delays in containing and remediating the violation or emergency, which is serious and may threaten the public health and safety. The same affidavit states that wells must be plugged as required by Statewide Rule 14 in order to prevent pollution of usable quality surface or subsurface waters. 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 zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface.

The Fernandez affidavit also states that open completion/workover pits are considered a potential hazard because they could become convenient sites for illegal dumping of waste and also because they become containers for surface run-off that increases the potential for seepage to subsurface waters. Pits used for completion/workover operations are likely to contain oil, saltwater and other contaminants. The affidavit further states that open wellbores prohibited by Statewide Rule 13(b)(1)(B) are pollution/safety hazards due to the possibility of surface run-off entering the wellbore and the possibility of well fluids flowing out of the wellbore.

Enforcement recommends that a total penalty of \$11,000 be imposed against Farrell for the alleged violations, calculated on the basis of four violations of Statewide Rule 3 at \$250 each, one violation of Statewide Rule 8(d)(4)(G)(i)(III) at \$1,000, three violations of Statewide Rule 13(b)(1)(B) at \$1,000 each, and three violations of Statewide Rule 14(b)(2) at \$2,000 each.

**Farrell**

Farrell conceded that he is the designated operator of the subject leases and wells, and did not contest Enforcement's allegation that the involved violations were committed by Farrell. However, Farrell believes there are mitigating circumstances, and stated his intent to bring the leases and wells into compliance.

Roy Farrell, Jr., agreed to take a transfer of the subject leases and wells from his father in 1995, after his father became terminally ill. The wells were producing sporadically at the time, and Farrell made an attempt to produce them after the transfer. However, due to low oil prices at the time, the wells could not be produced economically. Farrell made the decision to shut in the wells, with the intention of plugging them.

With low oil prices starting in about 1988 and continuing thereafter, Farrell became financially distressed. A drilling program in the year 2000 was unsuccessful, when a dry hole was drilled. In 2001, two daughters of Roy Farrell, Jr., became seriously ill due to environmental problems in the area where the Farrells resided, and treatment cost Farrell \$130,000 in excess of his insurance coverage. A third daughter required an 18-month rehab program for an unrelated problem. At about the same time, Farrell suffered vandalism of one of his leases that resulted in the loss of oil from valves which had been opened, causing Farrell further financial difficulty. Due to these various difficulties, Farrell had neither the time or the money to plug the subject wells. Farrell did not have the financial standing to obtain bonding as an oil and gas operator in 2002, when his organization report became delinquent.

In 2002, Roy Farrell, Jr., started a new business, other than as an oil and gas operator, and this business has done well. In April 2006, Farrell sold an oil and gas lease for \$126,000, and this has provided sufficient money to obtain a letter of credit to renew Farrell's organization report and financial assurance and plug the subject wells. As of the date of the hearing, Farrell had obtained approval from Herring Bank in Vernon, Texas, to issue a \$50,000 letter of credit and anticipated filing for renewal of his Form P-5 organization report and financial assurance during the week following the hearing. In addition, on June 29, 2006, Farrell filed Forms W-3A (Notice of Intention to Plug and Abandon) with the District Office for each of the subject wells. These approved Forms W-3A included an anticipated plugging date for the Waggoner -C- (06830) Lease, Well No. 9 and the Waggoner -C- (17247) Lease, Well No. 16 of September 30, 2006, and an anticipated plugging date for the Waggoner -C- (06830) Lease, Well No. 11 of October 30, 2006. At the hearing, counsel for Farrell stated that Farrell also intended to remediate the open workover pit problem on the Waggoner -C- (06830) Lease.

Subsequent to the hearing, on October 13, 2006, Farrell filed a letter from his counsel and a copy of a previous letter with handwritten notations indicating that he had accomplished, as pertinent to this docket, the following: (1) made arrangements to file an application to renew his Form P-5 and file financial assurance during the week of October 16, 2006; (2) completed site remediation on the Waggoner -C- (06830) Lease; (3) entered into a “contract” for the plugging of the subject wells; and (4) posted signs on the subject leases on October 2, 2006, as required by Statewide Rule 3.<sup>1</sup>

Roy Farrell, Jr. testified that he had set aside enough money to renew Farrell’s organization report and to plug the subject wells, but he was not able to do this much and also pay an administrative penalty. Farrell recognized that the penalties recommended by Enforcement are consistent with the recommended standard penalty schedule for enforcement cases, but argues that these are guidelines only, and the Commission should exercise its discretion to reduce the recommended penalties in the particular circumstances of this case.

#### **EXAMINER’S OPINION**

Enforcement’s evidence plainly establishes that the alleged violations were committed by Farrell, and this evidence is not disputed or rebutted by any of Farrell’s evidence. The only disputed issues concern the amount of the administrative penalty, if any, that should be imposed and what needs to be ordered in the way of compliance.

In determining an appropriate administrative penalty, Texas Natural Resources Code §81.0531 requires that the Commission consider the respondent’s history of previous violations, the seriousness of the violations, any hazard to the health or safety of the public, and the demonstrated good faith of the respondent.

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<sup>1</sup> Farrell’s Form P-5 renewal was approved by the Commission on October 23, 2006, and his Form P-5 is currently active. Farrell has filed approved financial assurance with the Commission in the amount of \$50,000 in the form of a letter of credit. A District Office Inspection Report for the Waggoner -C- (06830) Lease dated October 13, 2006, stated that the previously open workover pit at Well No. 9 has been backfilled, and the lease is in compliance with Statewide Rule 8. This Inspection Report did not indicate that Well Nos. 9 and 11 continue to have casing open to the atmosphere. The Inspection Report stated that valves on Well Nos. 9 and 11 are closed, and the lease is in compliance with Statewide Rule 13. The Inspection Report also stated that the lease continued to be in violation of Statewide Rule 3, in that no sign is posted at the lease entrance, and the sign at the tank battery is incomplete because it does not contain the number of a commingling permit. A District Office inspection report dated October 13, 2006, for the Waggoner -C- (17247) Lease stated that the alleged Statewide Rule 3 violations on this lease continue, in that no sign is posted at the lease entrance and the sign at the tank battery is incomplete because it does not contain the number of a commingling permit. However, whereas Well No. 16 on this lease previously was reported to have tubing and casing open to the atmosphere, the October 13, 2006, Inspection Report stated that the lease was in compliance with Statewide Rule 13 and the tubing valve on Well No. 16 was closed. Farrell also late-filed exhibits consisting of a “one well” estimate from a well plugger to plug the subject wells by February 2007 and an estimate from a cementer stating interest in performing a “cement job” for Farrell (apparently relating to the subject wells) “after the first of the year.” Statewide Rule 14(b)(2) plugging extensions for the subject wells have been denied.

There is no evidence of any prior final enforcement orders entered against Farrell for violations of Commission rules. There is also no proof that the violations committed by Farrell caused any actual harm to any member of the public. There is evidence on both sides of the issue of whether Farrell has demonstrated good faith. On the one hand, Farrell did not resolve any of the involved violations prior to the hearing, although he was requested to do so by the District Office in September and October 2005. Farrell's testimony concerning his financial circumstances does not make his case particularly unique in the enforcement case context, but may provide a partial explanation for Farrell's delay in achieving compliance. On the other hand, at the hearing, Farrell accepted responsibility for the involved violations and pledged to achieve compliance. The evidence shows that shortly following the hearing, Farrell backfilled the open workover pit on the Waggoner -C- (06830) Lease and cured the Statewide Rule 13(b)(1)(B) (open wellbores) violations on both of the subject leases. In addition, Farrell contacted a well plugger and cementer to schedule the plugging of the subject wells, and, more importantly, renewed his Form P-5 and filed financial assurance in the amount of \$50,000, which is twice the amount that Farrell was required by law to file<sup>2</sup>, to ensure that the wells will be plugged without the use of State funds.

On balance, the examiner believes that the evidence weighs in Farrell's favor on the good faith issue. The penalties recommended by Enforcement are consistent with the recommended standard penalty schedule for enforcement cases, but the penalty schedule provides that: (1) the schedule is provided solely as a guideline; (2) the amount of any proposed penalty is to be determined on an individual case-by-case basis for each violation by the hearings examiner after consideration of all evidence submitted at the hearing; and (3) the final amount of the penalty imposed is determined by the action of a majority of the Commissioners. In the circumstances of this case, the examiner does not believe that the full amount of the penalty recommended by Enforcement is warranted.

Enforcement recommends a penalty of \$250 dollars each for four violations of the Statewide Rule 3 identification sign requirement. Two of these violations consist of failure of Farrell to include a surface commingling permit number on signs posted at storage tanks. Although the commingling permit number requirement of Statewide Rule 3 has an obvious relationship to protection of correlative rights, there is no evidence that this requirement pertains to safety or the prevention or control of pollution<sup>3</sup> or that failure to post a surface commingling number presents a hazard to the health or safety of the public. No well on either of the subject leases has produced since 1997, and there is no evidence that oil actually was being commingled in the storage tanks at the time of the District Office inspections. The examiner recommends a penalty of \$250 for the two violations of Statewide Rule 3 consisting of failure to post identification signs at the entrances of the subject leases. The examiner further recommends that no penalty be imposed for the identification sign violations at the storage tanks.

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<sup>2</sup> The examiner has officially noticed the Commission's On-Schedule Leases, Wells, Wellbores by Operator database showing that Farrell is the operator of 7 wellbores. The Statewide Rule 78(g)(1) "blanket bond" requirement for an operator of 7 wellbores is \$25,000.

<sup>3</sup> Texas Natural Resources Code §81.0531 authorizes administrative penalties for violations of rules which pertain to safety or the prevention or control of pollution.

Enforcement recommends a penalty of \$1,000 for one violation of Statewide Rule 8(d)(4)(G)(i)(III) in that Farrell allowed a workover pit at Well No. 9 on the Waggoner -C- (06830) Lease to remain open. The evidence shows the lease was out of compliance in this regard from September 7, 2005, through August 22, 2006. Although this violation created the potential for pollution, there is no evidence that actual harm resulted, and Farrell backfilled the pit prior to the District Office inspection on October 13, 2006. The examiner recommends a penalty of \$750 for this violation.

Enforcement recommends a penalty of \$1,000 each for three violations of Statewide Rule 13(b)(1)(B) because Farrell caused or allowed casing of Well Nos. 9 and 11 on the Waggoner -C- (06830) Lease and casing and tubing of Well No. 16 on the Waggoner -C- (17247) Lease to remain open to the atmosphere. The evidence shows that these wells were out of compliance in this regard from September 7, 2005, through August 22, 2006. These violations also created the potential for pollution, but the evidence does not show that any actual harm resulted. The District Office inspections of the leases on October 13, 2006, showed that the wells were in compliance with Statewide Rule 13. The examiner recommends a penalty of \$750 each for these violations.

Enforcement recommends a penalty of \$2,000 each for three violations of Statewide Rule 14(b)(2). Well Nos. 9 and 11 on the Waggoner -C- (06830) Lease have been inactive since September 30, 1996, and Well No. 16 on the Waggoner -C- (17247) Lease has been inactive since February 28, 1997. Farrell's Form P-5 was delinquent from July 1, 2002, until October 23, 2006, and, as a consequence, the wells could not be granted a plugging extension during this period. When Farrell's Form P-5 was renewed and his financial assurance filing was approved on October 23, 2006, plugging extensions for the subject wells were denied. Farrell has pledged to plug the subject wells when the services of a plugging contractor are first available in February 2007, and Farrell has posted \$50,000 of financial assurance to ensure that expenditure of State funds to plug the wells is not necessary. Again, these inactive and unplugged wellbores presented a threat of pollution, but there is no evidence that actual harm resulted. The examiner recommends a penalty of \$1,000 each for these violations, and recommends further that Farrell be ordered to plug these wells.

The total penalty recommended by Enforcement is \$11,000. The examiner recommends a total penalty of \$6,500.

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. Roy Farrell, Jr. DBA Farrell Oil Company ("Farrell") was given at least ten (10) days notice of this hearing by certified mail, addressed to Farrell's most recent Form P-5 organization report address. Farrell appeared at the hearing and presented evidence.
2. Farrell is a sole proprietorship, and Roy Farrell, Jr. is the owner.
3. As owner, Roy Farrell, Jr. was a person in a position of ownership or control of Farrell at the time the violations involved in this docket were committed.



4. The violations involved in this docket, except the violations relating to failure of Farrell to include a commingling permit number on identification signs at tank batteries, were violations of Commission rules related to safety and the prevention or control of pollution.
5. Farrell's Form P-5 organization report was delinquent between July 1, 2002, and October 23, 2006. On October 23, 2006, the Commission approved a Form P-5 renewal, and Farrell's Form P-5 is now active. Farrell has filed approved financial assurance in the amount of \$50,000 in the form of a letter of credit.
6. Farrell designated himself to the Commission as the operator of the Waggoner -C- (06830) Lease, Well Nos. 9 and 11, and the Waggoner -C- (17247) Lease, Well No. 16 ("subject leases" and "subject wells") by filing Forms P-4 (Certificate of Compliance and Transportation Authority), which were approved March 29, 1995, effective March 1, 1995.
7. On the occasion of District Office inspections on September 7, 2005, September 19, 2005, March 22, 2006, and August 22, 2006 (hereinafter referred to as "the District Office inspections"), the identification signs required by Statewide Rule 3 to be posted at the lease entrances of the subject leases were missing, and the identification signs required to be posted at the tank batteries on the subject leases did not include all required information in that the signs did not include a commingling permit number. A further District Office inspection on October 13, 2006, disclosed that these violations had not been corrected.
8. The District Office inspections disclosed that Farrell had caused or allowed a workover pit measuring 40' x 15' x 3', at Well No 9 on the Waggoner -C- (06830) Lease, to remain open. Well No. 9 was inactive, and no production had been reported to the Commission for the well since September 30, 1996. A further District Office inspection on October 13, 2006, disclosed that the workover pit had been backfilled, and the lease was in compliance with Statewide Rule 8.
9. The District Office inspections disclosed that Well Nos. 9 and 11 on the Waggoner -C- (06830) Lease had casing open to the atmosphere, and Well No. 16 on the Waggoner -C- (17247) Lease had tubing and casing open to the atmosphere. Further District Office inspections of these two leases on October 13, 2006, disclosed that valves on the subject wells were closed and that the leases were in compliance with Statewide Rule 13.
10. The subject wells have been inactive for more than one year, have not been plugged, and do not have Statewide Rule 14(b)(2) plugging extensions.
  - a. The District Office inspections disclosed that the subject wells were inactive.
  - b. No production has been reported to the Commission for the Waggoner -C- (06830) Lease, Well Nos. 9 and 11 since September 30, 1996, and no production has been reported for the Waggoner -C- (17247) Lease, Well No. 16 since February 28, 1997.

- c. No Plugging Record (Form W-3) or Cementing Affidavit (Form W-15) has been filed or approved for the subject wells.
11. Effective upon the renewal of Farrell's Form P-5 organization report and approval of financial assurance on October 23, 2006, Statewide Rule 14(b)(2) plugging extensions for the subject wells were denied.
12. The estimated cost to the State to plug the Waggoner -C- (06830) Lease, Well Nos. 9 and 11 is \$20,000.
13. The estimated cost to the State to plug the Waggoner -C- (17247) Lease, Well No. 16 is \$4,000.
14. On September 8, 2005, September 20, 2005, September 27, 2005, and October 9, 2005, the District Office sent Farrell notices or correspondence advising Farrell of the involved violations on the subject leases and wells and requested voluntary compliance. As of District Office inspections on October 13, 2003, the involved Statewide Rule 8 and 13 violations had been corrected by Farrell. Also as of October 13, 2006, Farrell had obtained estimates from a well plugger and cementer for the plugging of the subject wells when plugging equipment is available in February 2007. In addition, as of October 23, 2006, Farrell had filed approved financial assurance to ensure that use of State funds to plug the subject wells would not be necessary.
15. In the event of a pollution or safety violation or other emergency, incorrect, illegible, or missing identification signs may cause delays in containing or remediating the violation or emergency.
16. Inactive wells must be plugged as required by Statewide Rule 14 in order to prevent pollution of usable quality surface and subsurface waters. 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 zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface.
17. Open completion or workover pits are considered a potential hazard because they could become convenient sites for illegal dumping of waste and also because they become containers for surface run-off that increases the potential for seepage to subsurface waters. Pits used for completion/workover operations are likely to contain oil, saltwater and other contaminants.
18. 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.
19. No prior final enforcement orders have been entered against Farrell for violations of Commission rules.

20. Farrell has demonstrated some good faith.
  - a. At the hearing in this docket, Farrell accepted responsibility for bringing the subject leases and wells into compliance with Commission rules and pledged to do so.
  - b. On or before October 13, 2006, Farrell corrected the involved Statewide Rule 8 and 13 violations.
  - b. Following the hearing in this docket, Farrell renewed his Form P-5 organization report and filed approved financial assurance in the amount of \$50,000, which is twice the amount required of Farrell pursuant to Statewide Rule 78(g)(1).

**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. Roy Farrell, Jr. DBA Farrell Oil Company ("Farrell") was and is the operator of the Waggoner -C- (06830) Lease, Well Nos. 9 and 11, Grayback (Ellenburger) Field, and the Waggoner -C- (17247) Lease, Well No. 16, Wilbarger County Regular Field, Wilbarger 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, Farrell had the primary responsibility for complying with Statewide Rules 3, 8, 13, and 14 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §§3.3, 3.8, 3.13, and 3.14], Chapters 89 and 91 of the Texas Natural Resources Code, and other applicable statutes and Commission rules respecting the subject leases and wells.
5. Farrell violated Statewide Rule 3 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.3] on the subject leases by failing to post identification signs at the lease entrances and by failing to provide all of the required information on identification signs posted at the tank batteries. The subject leases were out of compliance with Statewide Rule 3 at least during the period from September 7, 2005, to October 13, 2006.
6. Farrell violated Statewide Rule 8(d)(4)(G)(i)(III) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.8(d)(4)(G)(i)(III)] by maintaining or using a workover pit at Well No. 9 on the Waggoner -C- (06830) Lease and failing to backfill and compact the pit within 120 days of completion of the well. The Waggoner -C- (06830) Lease was out of compliance with Statewide Rule 8(d)(4)(G)(i)(III) at least during the period from September 7, 2005, to August 22, 2006.
7. Farrell violated Statewide Rule 13(b)(1)(B) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.13(b)(1)(B)] by causing or allowing casing of Well Nos. 9 and 11 on the Waggoner -C- (06830) Lease and casing and tubing of Well No. 16 on the Waggoner -C- (17247) Lease to remain open to the atmosphere, thus failing to use wellhead assemblies to maintain surface

control of the wells. The subject wells were out of compliance with Statewide Rule 13(b)(1)(B) at least during the period from September 7, 2005, to August 22, 2006.

8. Farrell 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 wells within one year after operations ceased. The Waggoner -C- (06830) Lease, Well Nos. 9 and 11 have been out of compliance with Statewide Rule 14(b)(2) since September 30, 1997, and the Waggoner -C- (17247) Lease, Well No. 16 has been out of compliance with Statewide Rule 14(b)(2) since February 28, 1998.
9. The documented violations committed by Farrell constitute acts deemed serious and a hazard to the public health within the meaning of Texas Natural Resources Code §81.0531.
10. Farrell demonstrated good faith within the meaning of Texas Natural Resources Code §81.0531.
11. As owner of Farrell Oil Company at the time Farrell violated Commission rules related to safety and the prevention or control of pollution, Roy Farrell, Jr., and any organization subject to the Commission's jurisdiction in which he 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 Roy Farrell, Jr. DBA Farrell Oil Company be ordered to pay an administrative penalty of \$6,500, and to plug the Waggoner -C- (06830) Lease, Well Nos. 9 and 11 and the Waggoner -C- (17247) Lease, Well No. 16.

Respectfully submitted,

James M. Doherty  
Hearings Examiner