

ENFORCEMENT ACTION AGAINST KEN R. LOSURE DBA LOSURE PET. CO. (OPERATOR NO. 509250) FOR VIOLATIONS OF STATEWIDE RULES ON THE SALLIE PRITCHARD -B- (00928) LEASE, WELL NOS. 1 AND 2, AND THE PRITCHARD (01846) LEASE, WELL NOS. 2, 3, AND 4W, PANHANDLE HUTCHINSON COUNTY FIELD, HUTCHINSON COUNTY, TEXAS

APPEARANCES:

FOR MOVANT:

Susan German

MOVANT:

Enforcement Section
Railroad Commission of Texas

FOR RESPONDENT:

Marcus Dodson

RESPONDENT:

Ken R. Losure DBA Losure Pet. Co.

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

DATE OF ORIGINAL COMPLAINT:

August 22, 2006

DATE OF NOTICE OF HEARING:

January 22, 2007

DATE OF HEARING:

March 22, 2007

HEARD BY:

James M. Doherty, Hearings
Examiner

DATE PFD CIRCULATED:

April 30, 2007

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 Ken R. Losure DBA Losure Pet. Co. (“Losure”) should be required to plug or otherwise place into compliance with Statewide Rule 14(b)(2) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.14(b)(2)] the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2, and the Pritchard (01846) Lease, Well Nos. 2, 3, and 4W, Panhandle Hutchinson County Field, Hutchinson County, Texas;
2. Whether Losure violated Statewide Rule 14(b)(3) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.14(b)(3)] by failing timely to perform required H-15 tests on the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2, and the Pritchard (01846) Lease, Well Nos. 2 and 3;
3. Whether Losure violated Statewide Rule 46(j) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.46(j)] by failing timely to conduct a pressure test of the Pritchard (01846) Lease, Well No. 4W to determine whether the well tubing, packer, or casing have sufficient mechanical integrity to meet the performance standards of Statewide Rule 46;
4. Whether Losure 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 timely to plug the subject wells or otherwise place the wells into compliance with Statewide Rules 14(b)(2), 14(b)(3) and 46(j);
5. Whether, pursuant to Texas Natural Resources Code §81.0531, Losure should be assessed administrative penalties of not more than \$10,000 per day for each offense committed regarding the subject leases and wells; and
6. Whether any violations of Statewide Rules 14(b)(2), 14(b)(3), and 46(j) by Losure 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 March 22, 2007.¹ Susan German, Staff Attorney, appeared representing the Enforcement Section of the Office of General Counsel (“Enforcement”). Marcus Dodson appeared representing Losure and presented evidence. Enforcement’s certified hearing file was admitted into evidence.

¹ This docket was heard jointly with Oil & Gas Docket No. 10-0248156; Enforcement Action Against Ken R. Losure DBA Losure Pet. Co. (Operator No. 509250) for Violations of Statewide Rules on the Burnett Ranch (04024) Lease, Well No. 3, Panhandle Carson Field, Carson County, Texas. However, on April 12, 2007, Docket No. 10-0248156 was retrieved by the Enforcement Section from the Hearings Section in contemplation of a settlement and Agreed Order because after the close of the hearing, Losure plugged the well which is the subject of this docket.

APPLICABLE LAW

Statewide Rule 14(b)(2) requires that a well be plugged after 12 months of inactivity, unless a plugging extension has been obtained. A plugging extension will be approved for a well only if the well is in compliance with all Commission rules and the operator has a good faith claim of right to operate the well.

Statewide Rule 14(b)(3) provides that the operator of any well more than 25 years old that becomes inactive and subject to the provisions of Statewide Rule 14(b) shall plug the well or successfully conduct a fluid level or hydraulic pressure test establishing that the well does not pose a potential threat of harm to natural resources, including surface and subsurface water, oil and gas.

As here pertinent, Statewide Rule 46(j) requires that the mechanical integrity of injection wells be evaluated by pressure testing such wells at least once every five years.

DISCUSSION OF THE EVIDENCE

Matters Officially Noticed

The examiner has officially noticed the Commission's Master Inquiry and P-5 Financial Assurance Inquiry databases for Losure, which show that Losure is a sole proprietorship, of which Ken R. Losure is the owner, and has an active Form P-5 organization report and approved financial assurance in the form of a \$50,000 letter of credit.

Enforcement

Losure designated himself the operator of the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2 by filing a Form P-4 (Certificate of Compliance and Transportation Authority), which was approved and effective on April 1, 1977. Losure designated himself the operator of the Pritchard (01846) Lease, Well Nos. 2, 3 and 4W by filing a Form P-4, which was approved May 7, 1998, effective April 1, 1998.

District Office inspections of the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2 and the Pritchard (01846) Lease, Well Nos. 2, 3 and 4W on April 21, 2006, and March 13, 2007, disclosed that all of these wells were inactive. No production has been reported to the Commission for the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2 since June 30, 2005, and no production has been reported to the Commission for the Pritchard (01846) Lease, Well Nos. 2 and 3 since June 30, 1999. The Pritchard (01846) Lease, Well No. 4W is a permitted injection well, and no injection activity has been reported to the Commission for this well since March 31, 1995.

Statewide Rule 14(b)(2) plugging extensions were denied for all of the subject wells on August 26, 2005, in the case of the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2 and the Pritchard (01846) Lease, Well Nos. 2 and 3 because required H-15 tests were delinquent, and in the case of the Pritchard (01846) Lease, Well No. 4W because a required pressure test was delinquent. The Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2 and the Pritchard (01846) Lease, Well Nos. 2 and 3 were without a plugging extension from August 26, 2005, until at least September 26, 2006, when successful H-15 tests were performed on these wells and plugging extensions were thereafter approved. The Pritchard (01846) Lease, Well No. 4W has not had a plugging extension since August 26, 2005.

According to a certification from the Commission's Secretary dated March 21, 2007, no Plugging Record (Form W-3) or Cementing Affidavit (Form W-15) have been filed or approved for any of the subject wells.

The Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2 and the Pritchard (01846) Lease, Well Nos. 2 and 3 are more than 25 years old. The Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2 were due for a required H-15 test in May 2004, or thereafter, which was not performed.² These wells were not successfully tested until September 26, 2006. On the Pritchard (01846) Lease, Well No. 2 was due for a required H-15 test in May 2000 and Well No. 3 was due for such a test in May 2003, which tests were not performed. The Pritchard (01846) Lease, Well Nos. 2 and 3 were not successfully tested until September 26, 2006.

The Pritchard (01846) Lease, Well No. 4W is a permitted injection well that is required by Statewide Rule 46(j) to be pressure tested for mechanical integrity every five years. This well was last successfully pressure tested on March 23, 1990. The well failed a pressure test on February 27, 2007. The estimated cost to the State to plug the Pritchard (01846) Lease, Well No. 4W is \$8,800.

An affidavit of Keith Barton, P.E., Field Operations, stated that a well that is in violation of Statewide Rule 14 must be plugged 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.

According to the Barton affidavit, any inactive well that is greater than 25 years old must be plugged or tested to determine whether the well poses a potential threat of harm to natural resources, including surface and subsurface water, oil and gas. Casing leaks and/or fluid levels above the base

² As hereinafter discussed, the evidence is inconclusive as to the period of time out of compliance with Statewide Rule 14(b)(3) of the Sallie Pritchard -B- Lease, Well Nos. 1 and 2.

of usable quality water indicate a possible pollution hazard. Without the required test and supporting documentation (Form H-15), the Commission cannot determine whether the well poses a threat to natural resources.

Also according to the Barton affidavit, any injection of fluid down a wellbore could be a potential source of pollution. Under Statewide Rule 46(j), operators must pressure test each injection well at least once every five years to show the well is not leaking and that usable quality water zones are properly isolated from possible contamination.

In consideration of the fact that all the subject wells, with the exception of the Pritchard (01846) Lease, Well No. 4W, were brought into compliance with Statewide Rules 14(b)(2) and 14(b)(3) prior to the hearing, the Enforcement Section recommends that a penalty of \$6,000 be imposed against Losure, less \$2,000 already paid. The penalty recommended by Enforcement is calculated on the basis of one violation of Statewide Rule 46(j) at \$2,000 and four violations of Statewide Rule 14(b)(3) at \$1,000 each (for time out of compliance).

Losure

Losure did not contest Enforcement's allegations that the subject violations of Statewide Rules 14(b)(2), 14(b)(3), and 46(j) occurred or that Losure is the operator responsible for the violations. However, Losure takes the position that there are mitigating factors that should bear on the amount of the penalty imposed.

Ken R. Losure has been in ill health, and his step son, Marcus Dodson, moved back to Borger, Texas, about six months prior to the hearing to help Losure achieve compliance on Losure's properties which are subject to the Commission's jurisdiction. Losure's health problems have been a factor in his ability to maintain compliance with Commission rules.

Dodson stated that although the three well pluggers available in Borger have been extremely busy, Losure planned to plug the Burnett Ranch (04024) Lease, Well No. 3, involved in the related docket that was withdrawn by the Enforcement Section, shortly after the hearing. Enforcement's communication to the examiner withdrawing the related docket indicates that Losure plugged this well after the close of the hearing.

Losure also concurred that successful H-15 tests were performed on the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2 and the Pritchard (01846) Lease, Well Nos. 2 and 3 on September 26, 2006, and the wells now have plugging extensions. According to Dodson, timely testing of these wells was delayed not only due to his step father's health issues, but also because the wells are located on farm land where crops are grown, and gaining access to the wells without interference with farming operations has been a complicating factor.

The only involved well that has not been brought into compliance is the Pritchard (01846) Lease, Well No. 4W. Enforcement's certified hearing file shows that Losure attempted to pressure test this well, as required by Statewide Rule 46(j), on February 27, 2007, but the well failed. At the hearing, Dodson stated that Losure planned to plug this well after plugging of the Burnett Ranch (04024) Lease, Well No. 3 had been completed. A letter filed by Losure with the Enforcement Section on April 11, 2007, stated that Losure was securing bids for the plugging of the Pritchard (01846) Lease, Well No. 4W and that plugging would begin as soon as possible. This letter requested more time to accomplish this due to financial constraints.³

EXAMINER'S OPINION

The evidence establishes that Losure committed the violations alleged in Enforcement's complaint, but all of the alleged violations were corrected prior to the hearing, except for the violations concerning the Pritchard (01846) Lease, Well No. 4W. With respect to the Pritchard (01846) Lease, Well No. 4W, Losure attempted to comply with Statewide Rule 46(j) by pressure testing the well on February 27, 2007, but the well failed and has not yet been plugged.

In determining the amount of the penalty to be imposed against Losure, the Commission is required by Texas Natural Resources Code §81.0531 to consider the operator's previous violations, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the person charged.

Enforcement's complaint states that Losure has no history of final enforcement orders entered against him for violations of Commission rules. Failure to perform required H-15 tests and/or failure to plug inactive wells are serious violations because of the potential for pollution of usable quality water. However, the successful H-15 tests of the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2 and the Pritchard (01846) Lease, Well Nos. 2 and 3 on September 26, 2006, suggest that these wells did not present an actual threat of pollution during the time when H-15 tests were delinquent. Losure has demonstrated some measure of good faith by plugging the Burnett Ranch (04024) Lease, Well No. 3, involved in the companion docket [10-0248156] now withdrawn by Enforcement for disposition by Agreed Order, and by bringing into compliance with Statewide Rules 14(b)(2) and 14(b)(3) the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2 and the Pritchard (01846) Lease, Well Nos. 2 and 3 prior to the hearing.

In consideration of all of the factors of Texas Natural Resources Code §81.0531 bearing on the amount of administrative penalties that should be imposed, as well as the mitigating factors proved at the hearing by Losure, the examiner believes that the principal objective to be achieved by this enforcement action against Losure should be compliance of the Pritchard (01846) Lease, Well No. 4W. Accordingly, the examiner recommends that an administrative penalty be assessed against Losure in the amount of \$4,000.00, less \$2,000 already paid. The penalty recommended by

³ Enforcement's certified hearing file shows that the District Office has been attempting to obtain voluntary compliance with respect to the Pritchard (01846) Lease, Well No. 4W since at least November 28, 2005.

the examiner is calculated on the basis of \$1,000 per well for time out of compliance with Statewide Rule 14(b)(3) of the Pritchard (01846) Lease, Well Nos. 2 and 3 and \$2,000 for one violation of Statewide Rule 46(j) with respect to the Pritchard (01846) Lease, Well No. 4W. The \$2,000 penalty recommended for the Statewide Rule 46(j) violation is the standard penalty provided by the recommended standard penalty schedule for enforcement cases. The Statewide Rule 14(b)(2) violations have been corrected, and Enforcement has not requested a penalty for time out of compliance with this rule.

The examiner has decided not to recommend a penalty for time out of compliance with Statewide Rule 14(b)(3) of the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2, because Enforcement's evidence relating to the period of non-compliance is inconclusive. The pressure testing requirement of Statewide Rule 14(b)(3) for wells that are more than 25 years old attaches when such a well becomes subject to subsection (b) of Statewide Rule 14, that is, when the well has been inactive for 12 consecutive months. Production reports in Enforcement's certified hearing file show that production was reported for the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2 fairly continuously through June 2003, and then in June and December 2004 and June 2005, with no twelve consecutive months of no reported production until June 30, 2006. The wells were successfully tested only three months later on September 26, 2006. On its face, the production data in the certified hearing file appears to conflict with information in the Commission's H-15 Data Inquiry database showing that H-15 tests for these wells were delinquent after May 2004. The "Next Test Due" information in the H-15 Data Inquiry database is properly to be interpreted to mean that no further test is due until the date stated, and whether a test is actually required on that date depends also on whether the well is subject to Rule 14(b)(2) as of that date. Doubtless there is an explanation for the apparent conflict between the production records and H-15 Data Inquiry database information contained in the certified hearing file, but the explanation is not apparent from the evidence presented by Enforcement, and evidence of the actual time out of compliance of the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2 with H-15 test requirements is inconclusive.

The examiner recommends that Losure be ordered to plug the Pritchard (01846) Lease, Well No. 4W for the reasons that this injection well has been inactive for more than 12 years, the well cannot demonstrate mechanical integrity as evidenced by the failed pressure test on February 27, 2007, Losure apparently agrees that the well should be plugged, and no other operator has evidenced any interest in the well.

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

FINDINGS OF FACT

1. Ken R. Losure DBA Losure Pet. Co. (“Losure”) was given at least ten (10) days notice of this hearing by certified mail addressed to Losure’s most recent Form P-5 organization report address. Losure was represented at the hearing and presented evidence.
2. Losure is a sole proprietorship, of which Ken R. Losure is the owner. As owner, Ken R. Losure was a person in a position of ownership or control of Losure at the time the violations involved in this docket were committed.
3. The violations involved in this docket were violations of Commission rules related to safety and the prevention or control of pollution.
4. Losure’s Form P-5 organization report is active, and Losure has approved financial assurance on file with the Commission in the form of a \$50,000 letter of credit.
5. Losure designated himself the operator of the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2, Panhandle Hutchinson County Field, Hutchinson County, Texas, by filing a Form P-4 (Certificate of Compliance and Transportation Authority), which was approved and effective on April 1, 1977.
6. Losure designated himself the operator of the Pritchard (01846) Lease, Well Nos. 2, 3, and 4W, Panhandle Hutchinson County Field, Hutchinson County, Texas, by filing a Form P-4 (Certificate of Compliance and Transportation Authority), which was approved May 7, 1998, effective April 1, 1998.
7. During the period from at least August 26, 2005, until at least September 26, 2006, the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2, and the Pritchard (01846) Lease, Well Nos. 2 and 3 were inactive, did not have a Statewide Rule 14(b)(2) plugging extension, and had not been plugged.
 - a. On the occasion of District Office inspections of these wells on April 21, 2006, and March 13, 2007, these wells were inactive and unplugged.
 - b. No production on the Sallie Pritchard -B- (00928) Lease has been reported to the Commission since June 30, 2005.
 - c. No production on the Pritchard (01847) Lease has been reported to the Commission since June 30, 1999.
 - d. Statewide Rule 14(b)(2) plugging extensions for these wells were denied on August 26, 2005, based on the fact that H-15 tests (Test on an Inactive Well More than 25 Years Old) for the wells were delinquent.

- e. On September 26, 2006, successful H-15 tests were performed on these wells, and thereafter plugging extensions were approved for the wells which are effective until June 2007.
8. The Pritchard (01846) Lease, Well No. 4W is a permitted injection well. Since at least August 26, 2005, this well has been inactive, has not had a Statewide Rule 14(b)(2) plugging extension, and has not been plugged.
- a. On the occasion of District Office inspections of this well on April 21, 2006, and March 13, 2007, the well was inactive and unplugged.
 - b. No injection activity for this well has been reported to the Commission since March 31, 1995.
 - c. A Statewide Rule 14(b)(2) plugging extension for this well was denied on August 26, 2005, based on the fact that a required mechanical integrity test for the well was delinquent.
 - d. On February 27, 2007, a mechanical integrity test was performed on the well, but the well failed the test.
9. Losure failed timely to perform required H-15 tests (Test on an Inactive Well More than 25 Years Old) on the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2, and the Pritchard (01846) Lease, Well Nos. 2 and 3.
- a. These wells are more than 25 years old. Completion data in Commission records regarding these wells is incomplete, but 1974 W-10 (Oil Well Status Report) reports in Commission records show that the wells were producing in 1974 and were completed prior to that date.
 - b. The Commission's H-15 Data Inquiry database shows that the Sallie Pritchard -B- (00928) Lease, Well No. 1 was successfully tested on August 10, 2002, and Well No. 2 was successfully tested on July 10, 2003, but H-15 tests on these wells became delinquent after May 2004.
 - c. The Commission's H-15 Data Inquiry database shows that the Pritchard (01846) Lease, Well No. 3 was successfully tested on August 20, 1997, but a required H-15 test became delinquent after May 2003.
 - d. The Commission's H-15 Data Inquiry database shows that the Pritchard (01846) Lease, Well No. 2 was due for a H-15 test in May, 2000 that was not performed.
 - e. Successful H-15 tests were performed on the Sallie Pritchard -B- (00928) Lease,

Well Nos. 1 and 2, and the Pritchard (01846) Lease, Well Nos. 2 and 3 on September 26, 2006.

10. Losure failed timely to perform a required H-5 (Disposal/Injection Well Pressure Test Report) pressure test on the Pritchard (01846) Lease, Well No. 4W.
 - a. Statewide Rule 46(j) requires that injection wells be pressure tested for mechanical integrity every five years.
 - b. The Pritchard (01846) Lease, Well No. 4W was last successfully pressure tested on March 23, 1990.
 - c. The Pritchard (01846) Lease, Well No. 4W failed a pressure test on February 27, 2007, and has not been plugged.
11. The estimated cost to the State to plug the Pritchard (01846) Lease, Well No. 4W is \$8,800.
12. A well that is in violation of Statewide Rule 14 must be plugged 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.
13. Any inactive well that is greater than 25 years old must be plugged or tested to determine whether the well poses a potential threat of harm to natural resources, including surface and subsurface water, oil and gas. Casing leaks and/or fluid levels above the base of usable quality water indicate a possible pollution hazard. Without the required test and supporting documentation (Form H-15), the Commission cannot determine whether the well poses a threat to natural resources.
14. Any injection of fluid down a wellbore could be a potential source of pollution. Under Statewide Rule 46(j), operators must pressure test each injection well at least once every five years to show the well is not leaking and that usable quality water zones are properly isolated from possible contamination.
15. No prior final enforcement orders have been entered against Losure for violations of Commission rules.
16. Losure has demonstrated some measure of good faith.
 - a. Following the close of the hearing in this docket, Losure plugged the Burnett Ranch (04024) Lease, Well No. 3 involved in the companion docket [10-0248156] heard

jointly with this docket, now withdrawn by Enforcement for disposition by Agreed Order.

- b. Prior to the hearing in this docket, Losure brought into compliance with Statewide Rules 14(b)(2) and 14(b)(3) the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2, and the Pritchard (01846) Lease, Well Nos. 2 and 3.
- c. Prior to the hearing in this docket, Losure attempted to bring into compliance with Statewide Rule 46(j) the Pritchard (01846) Lease, Well No. 4W by pressure testing the well on February 27, 2007, but was unsuccessful because the well failed the test.
- d. Losure has stated its intent to plug the Pritchard (01846) Lease, Well No. 4W.
- e. Losure previously has paid the sum of \$2,000 to the Commission in connection with an attempt to settle this docket by Agreed Order.

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. Ken R. Losure DBA Losure Pet. Co. ("Losure") was and is the operator of the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2, and the Pritchard (01846) Lease, Well Nos. 2, 3, and 4W, Panhandle Hutchinson County Field, Hutchinson 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, Losure had the primary responsibility for complying with Statewide Rules 14(b)(2), 14(B)(3), and 46(j) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §§3.14(b)(2), 3.14(b)(3), and 3.46(j)], Chapters 89 and 91 of the Texas Natural Resources Code, and other applicable statutes and Commission rules respecting the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2, and the Pritchard (01846) Lease, Well Nos. 2, 3, and 4W, Panhandle Hutchinson County Field, Hutchinson County, Texas.
5. Losure violated Statewide Rule 14(b)(2) by failing timely to plug the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2, and the Pritchard (01846) Lease, Well Nos. 2, 3, and 4W, Panhandle Hutchinson County Field, Hutchinson County, Texas, or by failing otherwise to bring these wells into compliance with Statewide Rule 14(b)(2). The Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2 were out of compliance with Statewide Rule 14(b)(2) from at least July 1, 2006, until at least September 26, 2006. The Pritchard (01846) Lease, Well Nos. 2 and 3 were out of compliance with Statewide Rule 14(b)(2) from at least August 26, 2005, until at least September 26, 2006. The Pritchard (01846) Lease, Well No. 4W has

been out of compliance with Statewide Rule 14(b)(2) since at least August 26, 2005.

6. Losure violated Statewide Rule 14(b)(3) by failing timely to perform required H-15 tests (Test on an Inactive Well More than 25 Years Old) on the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2, and the Pritchard (01846) Lease, Well Nos. 2 and 3. The Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2 were out of compliance with Statewide Rule 14(b)(3) from an undisclosed date after May 2004, until September 26, 2006. The Pritchard (01846) Lease, Well Nos. 2 and 3 were out of compliance with Statewide Rule 14(b)(3) from May 2000 and May 2003, respectively, until September 26, 2006.
7. Losure violated Statewide Rule 46(j) by failing timely to perform a successful H-5 (Disposal/Injection Well Pressure Test Report) pressure test on the Pritchard (01846) Lease, Well No. 4W, or, in the alternative, plug the well. This well has been out of compliance with Statewide Rule 46(j) since March 1995.
8. The documented violations committed by Losure constitute acts deemed serious and a hazard to the public health and safety within the meaning of Texas Natural Resources Code §81.0531.
9. Losure has demonstrated some measure of good faith within the meaning of Texas Natural Resources Code §81.0531 by achieving compliance with Statewide Rules 14(b)(2) and 14(b)(3) with respect to the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2, and the Pritchard (01846) Lease, Well Nos. 2 and 3.
10. As owner of Losure at the time Losure violated Commission rules related to safety and the prevention or control of pollution, Ken R. Losure, 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 Ken R. Losure DBA Losure Pet. Co. be ordered to pay an administrative penalty of \$4,000, less \$2,000 already paid, to maintain the Sallie Pritchard -B- (00928) Lease, Well Nos. 1 and 2, and the Pritchard (01846) Lease, Well Nos. 2 and 3 in compliance with all Commission rules, and to plug the Pritchard (01846) Lease, Well No. 4W.

Respectfully submitted,

James M. Doherty
Hearings Examiner