

February 15, 2011

OIL AND GAS DOCKET NO. 7B-0254432

ENFORCEMENT ACTION AGAINST VORTT EXPLORATION COMPANY, INC. (OPERATOR NO. 887500) FOR VIOLATIONS OF STATEWIDE RULES ON THE GOREE-HICKS UNIT LEASE, WELL NO. 1, (RRC NO. 089735), SOUTH MINERAL WELLS (STRAWN UP) FIELD, PALO PINTO COUNTY; AND L.A. WOOLRIDGE LEASE, WELL NO. 1, (RRC NO. 096954), SOUTH MINERAL WELLS (STRAWN UP) FIELD, PALO PINTO COUNTY, TEXAS.

APPEARANCES:

FOR THE RAILROAD COMMISSION OF TEXAS:

Christopher Hotchkiss Attorney, Enforcement Section

FOR RESPONDENT:

Georgia Vandervoort, President Vortt Exploration Company, Inc.

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

COMPLAINT FILED:	November 15, 2007
NOTICE OF HEARING:	June 18, 2009
DATE CASE HEARD:	July 16, 2009
HEARING CLOSED:	July 16, 2009
PFD PREPARED BY:	Marshall Enquist, Hearings Examiner
PFD CIRCULATION DATE:	February 15, 2011
CURRENT STATUS:	Contested

STATEMENT OF THE CASE

This is an Enforcement action against Vortt Exploration Company, Inc. for violations of Statewide Rules 3(3) and 14(b)(2) on the L.A Woolridge Lease, Well No. 1, (RRC No. 096954), South Mineral Wells (Strawn Up) Field, Palo Pinto County, and violations of Statewide Rules 14(b)(2) and 8(d)(4)(G)(i)(III) on the Goree-Hicks Unit Lease, Well No. 1, South Mineral Wells (Strawn Up) Field, Palo Pinto County, Texas.

A hearing in this docket was held July 16, 2009. Notice of Hearing was sent to respondent by first class and certified mail at the most recent organization address reported to the Commission

on Commission Form P-5 (Organization Report). Notice was also served on the registered agent for Respondent, by first class and certified mail, at Georgia Vandervoort, Vortt Exploration Company, Inc., 301 Commerce Street, Suite 3030, Fort Worth, Texas 76102. Georgia Vandervoort, President and agent of Vortt Exploration Company appeared and presented evidence. Chris Hotchkiss, Staff Attorney, appeared at the hearing representing the Railroad Commission of Texas, Office of General Counsel, Enforcement Section (“Enforcement”).

AUTHORITY

Statewide Rule 3(3)[Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.3] requires the posting of a sign and identification in English, which displays clearly legible and correct information, with letters and numbers at least one inch in height, at each tank battery, satellite tank or approved crude oil measuring facility where tanks are not utilized which must show the name of the property as carried on the records of the Commission, the name of the operator, the number of acres in the property, the Commission lease number for the formation from which oil or gas is produced and if applicable, the number of the Commission permit that authorizes commingling of oil. Statewide Rule 8(d)(4)(G)(i)(III) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.8] 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 the completion of the well. Statewide Rule 14(b)(2)[Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.14] requires the commencement of plugging operations on each dry or inactive well within one year after drilling or operations cease, unless the operator is eligible for and obtains an extension of the plugging deadline.

MATTERS OFFICIALLY NOTICED

The examiner has taken Official Notice of the P-5 status of Vortt Exploration Company, Inc. (Operator No. 887500). The examiner has also taken Official Notice of the plugging status of the Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735) and the L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) as reflected in Commission records. The examiner has also taken Official Notice of Commission mainframe records including the Form G-1 (Gas Well Back Pressure Test, Completion or Recompletion Report and Log) for the Goree-Hicks Unit lease, Well No. 1 (RRC ID# 089735). In addition, the examiner has admitted into the record of the hearing a District Office inspection report made on January 24, 2011 on the Goree-Hicks Unit Lease.

ENFORCEMENT’S EVIDENCE

Vortt Exploration Company, Inc. (hereinafter “Vortt” or “Respondent”) designated itself the operator of the Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735) by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective January 7, 1997, approved January 29, 1997. Vortt designated itself the operator of the L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective January 7, 1997, approved January 29, 1997.
Statewide Rule 3(3)

Commission District Office inspection reports made on March 14, 2007, May 30, 2007 and July 24, 2007 for the L.A. Woolridge Lease show that the sign or identification required by Statewide Rule 3(3) to be posted at the tank was missing.

By failing to maintain legible signs, Vortt has violated Statewide Rule 3. Vortt's violation of Statewide Rule 3 is serious and threatens the public health and safety. In the event of a pollution or safety violation, the lack of legible signs and identification displaying correct information may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency. Such confusion would cause delays in containing and remediating the violation or emergency.

Statewide Rule 8(d)(4)(G)(i)(III)

Commission District Office inspection reports made on March 14, 2007, May 30, 2007 and July 24, 2007 for the Goree-Hicks Unit Lease indicated that Vortt left an open workover pit, approximately 25 feet by 8 feet, filled with water measuring 50 ppm of chlorides on the lease. The last lease inspection, made on July 24, 2007, showed that the water-filled pit had 18 inches of freeboard.

By using and maintaining an open workover pit and failing to dewater the pit within 30 days and backfill and compact the pit within 120 days of completion of the well, Vortt violated Statewide Rule 8(d)(4)(G)(i)(III). Vortt's violations of Statewide Rule 8(d)(4)(G)(i)(III) is serious and a hazard to the public health and safety because the continued maintenance of pits required to be emptied and backfilled may result in unpermitted discharges which may contaminate surface or subsurface waters, causing pollution.

Statewide Rule 14(b)(2)

Commission District Office inspection reports made on March 14, 2007, May 30, 2007 and July 24, 2007 and reports filed by the Respondent with the Commission showing zero production since December 21, 2004 showed that the Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735) has been inactive for a period greater than one year. Production from the Goree-Hicks Unit Lease, Well No. 1, ceased on or before November 30, 2004.

Commission District Office inspection reports made on March 14, 2007, May 30, 2007 and July 24, 2007 and reports filed by the Respondent with the Commission showing zero production since December 31, 2003 showed that the L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) has been inactive for a period greater than one year. Production from the L.A. Woolridge Lease, Well No. 1 ceased on or before November 30, 2003.

No workovers, re-entries or subsequent operations have taken place on either of the two wells in this complaint within the last 12 months; none of the subject wells has been plugged; and the plugging extensions for the subject wells as allowed by Statewide Rule 14 were cancelled. The Statewide Rule 14(b)(2) extension for the Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735), was cancelled January 27, 2007 based on Vortt's failure to file with the Commission a Form H-15

(Test on an Inactive Well More Than 25 Years Old). The Statewide Rule 14(b)(2) extension for the L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) was cancelled August 27, 2007 based on Vortt's failure to erect and maintain proper signage at the tank battery for the L.A. Woolridge Lease, Well No. 1.

By failing to timely plug the subject wells or to obtain an extension of the plugging deadline, Vortt has violated Statewide Rule 14(b)(2). Vortt's violations of Statewide Rule 14(b)(2) are serious and affect the public health and safety. Unplugged wellbores are likely to cause pollution of usable quality ground water and surface water by serving as a conduit for the migration of oil, gas, saltwater and other substances from one stratum or formation to another or to the surface or from the surface downward.

The total estimated cost to the State to plug the Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735) is \$7,700.00. The total estimated cost to the State to plug the L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) is \$11,100.00.

Enforcement's Prayer

Enforcement notes that Vortt has a history of previous violations of Commission rules. Docket 7B-0249772 resulted in a Final Agreed Order and was signed by the Commission on March 6, 2007. Dockets 09-0251219 and 09-0251296 resulted in Final Orders against Vortt, and were signed by the Commission on March 11, 2008.

Enforcement requests that Vortt be assessed an administrative penalty of \$7,750 (consisting of one Rule 3 violation at \$250; one Rule 8(d)(4)(G)(i)(III) violation at \$500, two Statewide Rule 14(b)(2) violations at \$2,000 each and three prior docket enhancements at \$1,000 each) and ordered to place the subject leases and wells into compliance with all Commission Statewide Rules.

Enforcement notes that Vortt entered into an Agreed Order concerning the two leases that are the subject of this docket and paid a settlement amount of \$3,375 in July, 2008. However, Vortt did not achieve compliance and the Agreed Order terminated. Enforcement requests that the penalty amount of \$7,750 be reduced by the \$3,375 already paid.

VORTT'S EVIDENCE

Vortt claims it has no access to the land involved in the L.A. Woolridge Lease and has had problems with the landowners and lessees of the surface. As to the alleged sign violation on the L.A. Woolridge Lease, Vortt asserts that fencing contractors took the signs down at the gate, well and tank battery and lost them. Vortt also entered into evidence Commission Forms W-3A (Notice of Intention to Plug and Abandon) for both the Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735) and the L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954). Vortt also stated that it had contracted with Marda, Inc. to plug both wells, which would occur as soon as Marda, Inc. completed other work to which it had committed.

EXAMINERS' OPINION

District office inspection reports made on March 14, 2007, May 30, 2007 and July 24, 2007 on the L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) show that Vortt had the required signs posted at the gate and at the well, but no sign posted at the tank battery. After each inspection, the District Office sent Vortt a letter, on April 16, 2007, June 19, 2007 and September 13, 2007, noting the absence of a sign at the tank battery and requesting that the violation be resolved. Vortt did not replace the sign at that time. At hearing, Vortt introduced into evidence an invoice dated November 6, 2008, indicating a sign had been made for the Woolridge lease. If the signs posted at the gate and the well had not been removed at the time of the three inspections, there is little reason to believe that the lack of a sign at the tank battery was due to anything other than Vortt's own indifference. The Examiner concludes that Vortt was in violation of Statewide Rule 3(3) on the L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) from at least March 14, 2007 through at least November 6, 2008, a period of a little more than a year and a half.

Commission District Office inspection reports made on March 14, 2007, May 30, 2007 and July 24, 2007 for the Goree-Hicks Unit Lease indicated that Vortt left an open workover pit, approximately 25 feet by 8 feet, filled with water measuring 50 ppm of chlorides on the lease. The Certified File contains a July 24, 2007 photo of the pit on the Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735). It is obvious from the vegetation and the slope of the bank into the water that this is not a recent pit. The Completion Report for the Goree-Hicks Unit lease, Well No. 1 (RRC ID# 089735) indicates the well was spud July 31, 1980 and completed August 11, 1980. Statewide Rule 8(d)(4)(G)(i)(III) requires that a workover pit be dewatered within 30 days of use and backfilled within 120 days. It is not known whether the pit in question was created when the well was drilled in 1980 or was the result of a later workover, but the photographic evidence demonstrates that this pit has been left open far in excess of 120 days. The pit was noted during a District Office inspection made on March 14, 2007. By letter dated April 16, 2007, Vortt was notified of the violations on the lease, including the pit violation. At least to the date of the hearing, July 16, 2009, Vortt had not corrected the violation. The pit was in violation of Statewide Rule 8(d)(4)(G)(I)(III) from at least March 14, 2007 through July 16, 2009, a period of two years and four months.

The examiner notes that a District Office inspection report dated January 24, 2011 indicates the workover pit used for plugging and abandonment has been backfilled and compacted. No other pit on the lease is mentioned in the inspection report, which indicates that Vortt, at some point after the hearing and prior to January 24, 2011, backfilled the workover pit complained of in Enforcement's pleadings. The January 24, 2011 inspection report also indicates that there is no equipment remaining on the Goree-Hicks Unit lease.

The examiner has taken Official Notice of the plugging status of the Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735) and the L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) and finds that both were plugged soon after the July 16, 2009 hearing. The Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735) was plugged on July 29, 2009 and the L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) was plugged August 7, 2009. At hearing, Vortt asserted that the wells would soon be plugged and this assertion was carried out.

The Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735) ceased production on or before November 30, 2004 and its Statewide Rule 14(b)(2) extension was cancelled on January 27, 2007 based on Vortt's failure to timely file a Commission Form H-15 (Test on an Inactive Well More Than 25 Years Old). The well was in violation of Statewide Rule 14(b)(2) from January 27, 2007 until it was plugged on July 29, 2009, a period of roughly two and a half years.

The L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) ceased production on or before November 30, 2003 and its Statewide Rule 14(b)(2) extension was cancelled August 27, 2007 based on Vortt's failure to maintain proper signage at the tank battery of the L.A. Woolridge Lease, Well No. 1. The well was in violation of Statewide Rule 14(b)(2) from August 27, 2007 until it was plugged on August 7, 2009, a period just under two years.

Enforcement noted that Vortt has a prior history of violations. Docket 7B-0249772 resulted in a Final Agreed Order and was signed by the Commission on March 6, 2007. Dockets 09-0251219 and 09-0251926 resulted in Final Orders against Vortt, and were signed by the Commission on March 11, 2008.

Although Vortt at last plugged the two wells that are the subject of this docket and the pit violation appears to have been corrected, the examiner recommends Enforcement's requested penalty amount be applied for time out of compliance, that penalty being \$7,750 less \$3,375 already paid, resulting in a remaining penalty amount of \$4,375.

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. Vortt Exploration Company, Inc. ("Vortt" or "Respondent") (Operator No. 887500) was given at least 10 days notice of this proceeding by certified mail, addressed to its most recent Form P-5 (Organization Report) address. Vortt appeared at the hearing through Georgia Vandervoort, President and registered agent.
2. Vortt designated itself the operator of the Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735) by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective January 7, 1997, approved January 29, 1997. Vortt designated itself the operator of the L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective January 7, 1997, approved January 29, 1997.
3. Commission District Office inspection reports made on March 14, 2007, May 30, 2007 and July 24, 2007 for the L.A. Woolridge Lease show that the sign or identification required by Statewide Rule 3(3) to be posted at the tank was missing.
4. Vortt's violation of Statewide Rule 3(3) is serious and threatens the public health and safety.

In the event of a pollution or safety violation, the lack of legible signs and identification displaying correct information may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency. Such confusion would cause delays in containing and remediating the violation or emergency.

5. On November 6, 2008, Vortt had a sign made for the L.A. Woolridge Lease.
6. Vortt was in violation of Statewide Rule 3(3) on the L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) from at least March 14, 2007 through at least November 6, 2008, a period of a little more than a year and a half.
7. Commission District Office inspection reports made on March 14, 2007, May 30, 2007 and July 24, 2007 for the Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735) indicated that Vortt left an open workover pit, approximately 25 feet by 8 feet, filled with water measuring 50 ppm of chlorides on the lease. The photographic evidence indicates this is an old pit, well in excess of 120 days old.
8. At least to the date of the hearing, July 16, 2009, Vortt had not corrected the pit violation on the Goree-Hicks Unit Lease. Vortt was in violation of Statewide Rule 8(d)(4)(G)(i)(III) from at least March 14, 2007 through July 16, 2009, a period of two years and four months.
9. A District Office inspection report made on January 24, 2011 indicates there are no remaining pit violations on the Goree-Hicks Unit Lease.
10. Commission District Office inspection reports made on March 14, 2007, May 30, 2007 and July 24, 2007 and reports filed by the Respondent with the Commission showing zero production since December 21, 2004 showed that the Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735) has been inactive for a period greater than one year. Production from the Goree-Hicks Unit Lease, Well No. 1, ceased on or before November 30, 2004.
11. The Statewide Rule 14(b)(2) extension for the Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735), was cancelled January 27, 2007 based on Vortt's failure to file with the Commission a Form H-15 (Test on an Inactive Well More Than 25 Years Old).
12. The Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735) was plugged on July 29, 2009.
13. The Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735) was in violation of Statewide Rule 14(b)(2) from January 27, 2007 until it was plugged on July 29, 2009, a period of roughly two and a half years.
14. Commission District Office inspection reports made on March 14, 2007, May 30, 2007 and July 24, 2007 and reports filed by the Respondent with the Commission showing zero production since December 31, 2003 showed that the L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) has been inactive for a period greater than one year.

15. The Statewide Rule 14(b)(2) extension for the L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) was cancelled August 27, 2007 based on Vortt's failure to erect and maintain proper signage at the tank battery for the L.A. Woolridge Lease, Well No. 1.
16. The L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) was plugged August 7, 2009.
17. The L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) was in violation of Statewide Rule 14(b)(2) from August 27, 2007 until it was plugged on August 7, 2009, a period just under two years.
18. Vortt has a prior history of violations. Docket 7B-0249772 resulted in a Final Agreed Order and was signed by the Commission on March 6, 2007. Dockets 09-0251219 and 09-0251926 resulted in Final Orders against Vortt, and were signed by the Commission on March 11, 2008.
19. Vortt's violations of Commission Statewide Rules 3(3), 8(d)(4)(G)(i)(III) and 14(b)(2) are serious and relate to the public health and safety. The violations also relate to the prevention and control of pollution.
20. Georgia H. Vandervoort, President; Henry Carl Vandervoort, III, Vice President; and Fawn Danielle Vandervoort, Vice President, were officers in a position of ownership or control of Vortt Exploration Company, Inc. at the time the violation of Commission Statewide Rule 8 was committed.

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. Vortt Exploration Company, Inc. ("Vortt") (Operator No. 887500) was the operator of the L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) and had the primary responsibility for complying with Commission rules.
4. Vortt Exploration Company, Inc. ("Vortt") (Operator No. 887500) Vortt was in violation of Statewide Rule 3(3) on the L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) from at least March 14, 2007 through at least November 6, 2008, a period of a little more than a year and a half.
5. Vortt Exploration Company, Inc. ("Vortt") (Operator No. 887500) was the operator of the Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735) and had the primary responsibility for complying with Commission rules.
6. Vortt Exploration Company, Inc. ("Vortt") (Operator No. 887500) was in violation of Statewide Rule 8(d)(4)(G)(i)(III) on the Goree-Hicks Unit Lease, Well No. 1 (RRC ID#

089735) from at least March 14, 2007 through July 16, 2009, a period of two years and four months.

7. Vortt Exploration Company, Inc. (“Vortt”) (Operator No. 887500) was in violation of Statewide Rule 14(b)(2) on the Goree-Hicks Unit Lease, Well No. 1 (RRC ID# 089735) from January 27, 2007 until the well was plugged on July 29, 2009, a period of roughly two and a half years.
8. Vortt Exploration Company, Inc. (“Vortt”) (Operator No. 887500) was in violation of Statewide Rule 14(b)(2) on the L.A. Woolridge Lease, Well No. 1 (RRC ID# 096954) from August 27, 2007 until the well was plugged on August 7, 2009, a period just under two years.
9. The documented violations committed by Respondent were a hazard to the public health and demonstrated a lack of good faith pursuant to Texas Natural Resources Code §81.0531(c).
10. As officers in a position of ownership or control of Vortt Exploration Company, Inc. at the time the violations were committed, Georgia H. Vandervoort, Henry Carl Vandervoort and Fawn Danielle Vandervoort, and any organization in which one or any of them may hold a position of ownership or control shall be subject to the restrictions of Texas Natural Resources Code §91.114(a)(2) for a period of no more than seven years from the date the order entered in this matter becomes final, or sooner, if the conditions that constituted the violations herein are corrected or are being corrected in accordance with a schedule to which the Commission and the organization have agreed; and all administrative, civil and criminal penalties and all cleanup and plugging costs incurred by the State relating to those conditions are paid or are being paid in accordance with a schedule to which the Commission and organization have agreed.

RECOMMENDATION

The examiner recommends that the above findings of fact and conclusions of law be adopted by the Commission and that Vortt be assessed an administrative penalty of \$7,750 (consisting of one Rule 3 violation at \$250; one Rule 8(d)(4)(G)(i)(III) violation at \$500, two Statewide Rule 14(b)(2) violations at \$2,000 each and three prior docket enhancements at \$1,000 each). Vortt entered into an Agreed Order concerning the two leases that are the subject of this docket and paid a settlement amount of \$3,375 in July, 2008, however, Vortt did not achieve compliance and the Agreed Order terminated. The examiner recommends that Vortt Exploration Company, Inc. be ordered to pay an administrative penalty of \$7,750 less \$3,375 already paid for a remaining penalty of \$4,375.00.

Respectfully submitted,

Marshall Enquist
Hearings Examiner