

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
HEARINGS SECTION**

OIL AND GAS DOCKET NO. 01-0261384

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY J.K. HEICHEL D/B/A MORE TEXAS OIL (584487), AS TO THE REEH (01871) LEASE, WELL NOS. 3 AND 5, RINEHART (AUSTIN CHALK) FIELD, BEXAR COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on April 1, 2010, and that the respondent, J.K. Heichel d/b/a More Texas Oil (584487), failed to appear or respond to the Notice of Opportunity for Hearing. Pursuant to § 1.49 of the Commission's General Rules of Practice and Procedure [Tex. R. R. Comm'n, 16 TEX. ADMIN. CODE § 1.49] and after being duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. J.K. Heichel d/b/a More Texas Oil (584487), ("Respondent") was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 Organization Report, which was signed and returned to the Commission.
2. The returned certified receipt (green card) attached to Original Complaint and the Notice of Opportunity for Hearing mailed to Respondents, most recent P-5 address, was signed and returned to the Commission on September 21, 2009. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On February 27, 2009, Respondent, a Sole Proprietorship, filed an Organization Report (Form P-5) with the Commission reporting that the owner of the Sole Proprietorship was J.K. Heichel.
4. J.K. Heichel, as sole proprietor, was in a position of ownership or control of respondent, as defined by Texas Natural Resources Code Section 91.114, during the time period of the violations of Commission rules committed by respondent.

5. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
6. Respondent designated itself to the Commission as the operator of Well Nos. 3 and 5 on the Reeh (01871) Lease ("subject wells"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission that became effective on April 1, 1996.
7. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on March 1, 2010. Respondent had a \$50,000.00 Bond as its financial assurance at the time of its last P-5 renewal.
8. Production from Well Nos. 3 and 5 on the Reeh (01871) Lease ceased on or before December 31, 2008.
9. The 14(b)(2) plugging extension for Well No. 3 on the Reeh (01871) Lease was denied on September 3, 2008, for failure to file an H-15.
10. The 14(b)(2) plugging extension for Well No. 5 on the Reeh (01871) Lease was denied on September 3, 2008, for failure to file an H-15.
11. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
12. Usable quality groundwater in the area is likely to be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject well. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
13. The estimated cost to the State of plugging Well Nos. 3 and 5 on the Reeh (01871) Lease is \$7,000.00.
14. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject well in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.

15. A Commission District inspection was conducted on October 10, 2008 for the Reeh (01871) Lease. There was a leak from the gunbarrel, which caused approximately 10 gallons of produced saltwater to flow within the firewall to an area 3' x 8'. A Commission District inspection conducted on October 27, 2008 indicated that the produced water had spread to an area of 2' x 20' , and encompassed up to 15 gallons of fluid. A Commission inspection conducted on November 6, 2008 indicated that the produced fluid had spread to an area of 2' x 50', and increased to a barrel of fluid. The field fluid at that time tested at 3600 ppm for chlorides. Additionally, there was heavy oil saturation at the base of the gun barrel tank in an area of 3' x 3'. A follow up inspection conducted on December 1, 2008 indicated that the gun barrel had finally broken through, and there was approximately 10 gallons of freestanding crude oil. The inspection indicated that a service crew was present on the lease, starting the remediation process. A Commission District inspection conducted on December 2, 2008 indicated that the soil that was contaminated the day prior has not been properly remediated, but simply covered up. A Commission District inspection conducted on December 9, 2008 indicated that the produced salt water spill was still present, and accounted for an area of approximately 3' x 20'. The oil saturated area around the gun barrel was still present and had increased slightly in size to 6' x 4'. The inspection report indicated that Respondent attempted to plug the leak in the gun barrel by pouring mixed cement at the base of the gun barrel. A Commission District inspection conducted on February 10, 2009 shows no changes. A Commission District inspection conducted on February 23, 2009 indicated that contamination from the gun barrel leak still existed. Additionally, Well No. 5 had recently been worked over, which caused superficial contamination around the wellhead in an area approximately 1' x 5'. Further, one of the 210 barrel tanks has started to leak a steady stream of produced water from the 2" line coming off the back side. This leak has caused a freestanding pool of liquid in an area of approximately 6' x 4'. A Commission District inspection conducted on February 24, 2009 indicated that a service crew was on location, and had replaced the leaking 2" line, and had remediated the soil that was contaminated. However, the contamination still existed at the triplex pump, gun barrel, and Well No. 5. A Commission District inspection conducted on February 27, 2009 indicated that the 1" line to Well No. 5 had finally been disconnected, and that a small pit had oil drained to it. A Commission District inspection conducted on May 7, 2009 indicated that there was a spill inside the firewall, approximately 60' x 20', with live oil and salt water.
16. No permit has been issued to the Respondent for discharge of oil and gas wastes on or from the subject lease.
17. The unpermitted discharges of oil and gas wastes or other substances or materials on the subject lease constitute a hazard to public health and safety because leaks and spills of oil and produced waters onto soils can migrate into surface water bodies causing contamination or can leach into the ground and percolate through soils into groundwater supplies.

18. Commission District inspections were conducted on August 22, 2008, October 10, 2008, October 27, 2008, November 6, 2008, December 2, 2008, December 9, 2008, December 10, 2008, February 10, 2009, February 23, 2009 and February 24, 2009 for the Reeh (01871) Lease. Respondent was using Well No. 5 to dispose of oil and gas wastes without first obtaining a permit. The inspection report dated August 22, 2008 indicated that water from the total fluids tank, via a 2" PVC line, was tied into the suction of an triplex injection pump located at the tank battery. The discharge of the pump is tied into a 1" line going directly to Well No. 5. The valves were open at the well, and at the pump. There are detailed photographs in the docket file. The inspection report dated October 10, 2008 indicated no changes, and that Well No. 5 was still rigged for injection. The inspection report dated October 27, 2008 and November 6, 2008 indicated that the 2" line from the total fluids had been severed. The inspection for November 6, 2008 also indicated that the 1" line from the triplex pump to Well No. 5 had a check valve, only allowing fluids to go downhole. However, the inspection dated December 2, 2008 indicated that the 2" line from the total fluid tank was still severed, but had couples installed, making quick connections and disconnections possible. The inspection dated December 9, 2008 indicated that Well No. 5 was still rigged for injection, and that the line that had couplers installed had fresh fluid within the line. The inspection dated February 10, 2009 indicated that Well No. 5 was still rigged for injection, but that the RRC on the pump was intact, and that the belt for the pump flywheel was missing. The inspections dated February 23 and 24, 2009 showed no major changes. The inspection dated February 27, 2009 indicated that Well No. 5 had been disconnected from the 1" line coming from the triplex pump. Finally, the inspection dated May 7, 2009 indicated that Well No. 5 was shut in.
19. Commission records indicate no Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the Reeh (01871) Lease, Well Nos. 3 and 5. Commission records further show that the Reeh (01871) Lease, Well No. 3 was completed on March 8, 1968, and that an H-15 test was due in August of 2008. Commission records also show that the Reeh (01871) Lease, Well No. 5 was completed on December 8, 1980, and that an H-15 test was due in August of 2008. Neither well has been plugged.
20. Commission records show that both Well No. 3 and 5 were deemed inactive by the Respondent in May of 2004. Commission records further show that for both Well Nos. 3 and 5, the Forms H-15 became delinquent on September 3, 2008. However, on October 2, 2008, Commission personnel granted Respondent a project extension, expiring on December 2, 2008, presumably allowing Respondent to either work over or test the wells. Respondent instead filed a W-10 for each of the wells. Well No. 3 tested on November 4, 2008 and Well No. 5 tested on November 1, 2008, which said that the respective wells produced a barrel for the month. The only previous W-10 was for Well No. 5, which was in August of 2007, which stated Well No. 5 was a non-producing well. Even though the W-10's were submitted and stated that the wells were producing wells, the wells did not make the requisite 10 barrels per well per month to qualify to be an "active" well, and remained as shut-in and inactive, which would require a timely and successful Form H-15 if over 25 years old. Therefore, when the project extension expired on December 2, 2008, the H-15 tests for both wells again became delinquent.
21. Commission records reflect that on August 29, 2008, the Commission gave Respondent notice by certified mail of the alleged facts or conduct of the Respondent in the operation, or production of oil or gas from the Reeh (01871) Lease, that appeared to violate the oil and gas conservation laws of this state, or rules or orders the Commission adopted under those

laws, to warrant the cancellation of the certificate of compliance. Said notice gave Respondent an opportunity to show compliance with all requirements of law for retention of the certificate of compliance. Similar certified letters were also sent on October 16, 2008, and on February 11, 2009.

22. Commission records reflect that Respondent did not timely show compliance with all requirements of law for retention of the certificate of compliance and, as a result, the certificate of compliance for the Reeh (01871) Lease, was cancelled, and Respondent given notice of such cancellation by letter dated November 12, 2008.
23. Monthly production reports (Form PR) filed by Respondent for the months of December 2008 through June 2009 for the Reeh (01871) Lease, indicate that Respondent was actively producing on Well No. 3 after the certificate of compliance had been cancelled and before a new certificate of compliance had been issued. Production figures for the months in question are as follows: December 2008 - 5 barrels; January 2009 - 42 barrels; February 2009 - 48 barrels; March 2009 - 17 barrels; April 2009 - 14 barrels; May 2009 - 12 barrels; June 2009 - 14 barrels. The lease currently does not have a certificate of compliance.
24. The Respondent has not demonstrated good faith since it failed to timely plug or otherwise place the subject lease and subject wells in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
25. Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 01-0242227; Agreed Final Order Served: August 8, 2006; and
Docket No. 01-0251366; Agreed Final Order Served: December 18, 2007.

CONCLUSIONS OF LAW

1. Proper notice was issued by the Railroad Commission to respondent and to all other appropriate persons legally entitled to notice.
2. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties in this hearing have been performed or have occurred.
3. Respondent is in violation of Commission Statewide Rules 8(d)(1), 9(1), 14(b)(2), 14(b)(3), 73(i) and Tex. Nat. Res. Code Ann. §85.166.
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(1), which prohibits the discharge of oil and gas wastes without a permit.
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 9(1), which requires that every applicant who proposes to dispose of saltwater or other oil and gas waste into a formation not productive of oil, gas or geothermal resources must obtain a permit from the Commission.
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide

Rule 14(b)(3), which requires that the operator of any well more than 25 years old that becomes inactive shall plug the well or successfully conduct a fluid level of 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.

7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 73(i), which provides that upon cancellation of the certificate of compliance for a well, the operator of such well shall not produce oil, gas, or geothermal resources from that well until a new certificate of compliance with respect to the well has been issued by the Commission.
8. Respondent is responsible for maintaining the subject lease and subject wells in compliance with all applicable Commission rules according to Statewide Rules 14, 58, and 79 and Chapters 89 and 91 of the Texas Natural Resources Code.
9. The documented violations committed by the respondent constitute acts deemed serious, a hazard to the public health, and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE ANN. §81.0531(c).
10. As a person in a position of ownership or control of respondent at the time respondent violated Commission rules related to safety and the control of pollution, J.K. Heichel, and any other organization in which she may hold a position of ownership or control, shall be subject to the restrictions of Texas Natural Resource Code Section 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 until 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 the organization have agreed, whichever is earlier.

IT IS ORDERED THAT within 30 days from the day immediately following the date this order becomes final:

1. J.K. Heichel d/b/a More Texas Oil (584487), shall plug or otherwise place the Reeh (01871) Lease, Well Nos. 3 and 5, Rinehart (Austin Chalk) Field, Bexar County, Texas in compliance with applicable Commission rules and regulations; and
1. J.K. Heichel d/b/a More Texas Oil (584487), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWENTY ONE THOUSAND FOUR HUNDRED DOLLARS (\$21,400.00)**.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to TEX. GOV'T CODE § 2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the parties are notified of the order.

All requested findings of fact and conclusions of law which are not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

Noncompliance with the provisions of this order is subject to enforcement by the Attorney General and subject to civil penalties of up to \$10,000.00 per day per violation.

Done this 22nd day of June 2010.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated June 22, 2010)

MFE/sa