

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

OIL AND GAS DOCKET NO. 03-0258534

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY BRAVE HEART RESOURCES, INC. (089801), AS TO THE BENDER-RIVER (02404) LEASE, WELL NOS. 22, 32 AND 41, HUMBLE FIELD, HARRIS COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on April 30, 2009, and that the respondent, Brave Heart Resources, Inc. (089801), failed to appear or respond to the Notice of 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. Brave Heart Resources, Inc. (089801), ("Respondent") was given Notice of Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 Organization Report, which was returned to the Commission marked "return to sender, unable to forward."
2. The returned certified receipt containing the Original Complaint and the Notice of Hearing mailed to Respondent's most recent P-5 address was returned to the Commission marked "return to sender, unable to forward" on April 14, 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 April 22, 2008, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Richard Sharp; President.

4. Richard Sharp, was a person 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. Richard Sharp was a person 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.
6. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
7. Respondent designated itself to the Commission as the operator of Well Nos. 22, 32 and 41 on the Bender - River (02404) Lease ("subject wells"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on October 1, 2006.
8. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on November 1, 2008. Respondent had \$50,000.00 cash as its financial assurance at the time of its last P-5 renewal.
9. Well Nos. 22, 32, and 41 on the Bender-River (02404) Lease ceased production on or before February 28, 2007.
10. The Statewide Rule 14(b)(2) plugging extension for Well No. 22 on the Bender-River (02404) Lease, was denied on August 1, 2007, for failure to file an H-15.
11. The Statewide Rule 14(b)(2) plugging extension for Well No. 32 on the Bender-River (02404) Lease, was denied on August 5, 2005, for failure to file an H-15.
12. The Statewide Rule 14(b)(2) plugging extension for Well No. 41 on the Bender-River (02404) Lease, was denied on August 1, 2007, for failure to file an H-15.
13. 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 wells. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
14. The total estimated cost to the State of plugging the subject wells is \$31,500.00.
15. No Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the Bender-River (02404) Lease, Well No. 22. Commission records further show that Bender-River (02404) Lease, Well No. 22 was completed prior to May of 1964, that an H-15 test was due in May of 2007, and that the well has not been plugged.
16. No Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the Bender-River (02404) Lease, Well No. 32. Commission records further show that Bender-River (02404) Lease, Well No. 32 was completed on May 20, 1964, that an H-15 test was due in May of 2005, and that the well has not been plugged.

17. No Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the Bender-River (02404) Lease, Well No. 41. Commission records further show that Bender-River (02404) Lease, Well No. 41 was completed on May 25, 1967, that an H-15 test was due in May of 2007, and that the well has not been plugged.
18. The Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 03-0252341; Final Order Served: August 14, 2007;
Docket No. 03-0253317; Final Order Served: January 28, 2008;
Docket No. 03-0252342; Final Order Served: February 12, 2008; and
Docket No. 03-0253810; Final Order Served: May 29, 2008.
19. The Respondent did not demonstrate 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.

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 14(b)(2) and 14(b)(3).
4. 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 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.
5. Respondent is responsible for maintaining the subject lease and subject well 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.
6. 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).
7. 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, Richard Sharp, and any other organization in which he 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. Brave Heart Resources, Inc. (089801), shall plug or otherwise place the Bender-River (02404) Lease, Well Nos. 22, 32 and 41, Humble Field, Harris County, Texas in compliance with applicable Commission rules and regulations; and
2. Brave Heart Resources, Inc. (089801), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SIXTEEN THOUSAND DOLLARS (\$16,000.00)**.

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 18th day of June 2009.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated June 18, 2009)

JD/sa