

RAILROAD COMMISSION OF TEXAS  
OFFICE OF GENERAL COUNSEL  
HEARINGS SECTION

**OIL AND GAS DOCKET NO. 03-0261069**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY ACE FIELD SERVICE, INC. (003526), AS TO THE FRED-DAVID (10921) LEASE, WELL NO. 1, S. ALTA LOMA (BIG GAS SD) FIELD, GALVESTON COUNTY, TEXAS**

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**FINAL ORDER**

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on October 29, 2009 and that the respondent, Ace Field Service, Inc. (003526), 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. Ace Field Service, Inc. (003526), ("Respondent") was given a Notice of Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 Organization Report.
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 "unclaimed" on September 10, 2010. The certified envelope has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On June 27, 2008, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Anping Yang; President.
4. Anping Yang, 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 No. 1 on the Fred-David (10921) Lease ("subject well"/"subject lease") by filing a P-4 Form (Producer's Transportation Authority and Certificate of Authority) effective on October 6, 2008.
7. Commission records indicate that Respondent's Form P-5 (Organization Report) is active. Respondent has a \$50,000.00 Bond as its financial assurance.

8. Production from Well No. 1 on the Fred-David (10921) Lease ceased prior to January 1, 1993.
9. The subject well has not been properly plugged in accordance with, and is not otherwise in compliance with, Statewide Rule 14.
10. The Statewide Rule 14b2 extension for Well No. 1 on the Fred-David (10921) Lease was denied on July 20, 2005 for an H-15 problem.
11. Usable quality groundwater in the area could have been 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.
12. The estimated cost to the State of plugging Well No. 1 on the Fred-David (10921) Lease is \$77,706.00.
13. Commission records indicate no Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the Fred-David (10921) Lease, Well No. 1. Commission records further show that the Fred-David (10921) Lease, Well No. 1 was completed on May 8, 1975, that an H-15 test was due in May of 2000, and that the well has not been plugged. Commission records further show that a test was performed on May 1, 2001, but that the test was labeled "not approved." There have been no subsequent tests submitted to the Commission.
14. Commission District inspections were conducted on December 18, 2008 and January 16, 2009 for the Fred-David (10921) Lease. The signs or identification required to be posted at the lease entrance and at the tank were missing.
15. Failure to properly identify a well by the posting of the sign required by Statewide Rule 3 has the potential for causing confusion and delay in remedying a violation or emergency and poses a threat to the public health and safety.
16. On October 29, 2009, after months of discussions with Respondent regarding compliance, Enforcement Attorney Christopher Hotchkiss appeared before Marshall Enquist, Hearings Examiner, for a Noticed Hearing in the above referenced action. The Respondent failed to appear. As stated in the hearing, Mr. Hotchkiss had been in contact with the Respondent as recently as October 26, 2009. Following the Hearing Mr. Hotchkiss informed Respondent that he had 30 days to bring the lease into compliance or the file would be returned to the Hearings Section for inclusion in a Master Default Final Order.
17. On November 20, 2009 Enforcement received a fax from Respondent regarding the testing of the well and the district office had informed Respondent that a different method of testing would need to be done.
18. On June 22, 2011, Enforcement having not heard from Respondent since November 20, 2009, sent Respondent a letter regarding the status of the lease and compliance. During the period of November 20, 2009 and June 22, 2011, Respondent failed to bring the violations into compliance.
19. On July 29, 2011 Enforcement received a Work Plan Update from Respondent. Following this Work Plan Update Enforcement attempted to effect compliance of the alleged violations and settlement.

20. On September 14, 2011 the Commission received funds in the amount of \$4,500.00 for the penalties on this docket, this represents the full penalty amount requested at hearing. Respondent was to bring the lease into compliance.
21. On December 5, 2011 Enforcement sent Respondent a letter stating that compliance was required within 30 days.
22. On December 6, 2011 District Office personnel conducted an inspection of the lease. While the sign violations had been corrected, the H-15 violation remained and a number of other violations were sited, including Statewide Rules 21, 8 and 17.
23. On December 16, 2012 Enforcement received an email from Respondent of a copy of a P-4 to transfer the lease to another operator. To date, Enforcement has not received the requested and required Good Faith Claim documentation for the prospective operator. Additionally, Commission records show that the original P-4 was never submitted for processing.
24. A check of the Railroad Commission mainframe on July 27, 2012, show the P-5 status for Respondent as Active-Ext. the certificate of compliance for the subject lease is currently canceled, the H-15 for the well shows severed, not approved.
25. This docket had gone unpursued since Mr. Hotchkiss left Enforcement, due to Enforcement being short staffed. The docket was assigned to Kristi Reeve in May 2011 for pursuit. As of today, July 27, 2012, Respondent has failed to bring the violations into compliance and Respondent has failed to contact Enforcement since December of 2011. Given the fact that Respondent has failed to correct the violations within the last three years after repeated attempts by Enforcement, Enforcement requests that this item be included as a Final Order on the on the Master Default and presented to the Commission for approval. Please note that the penalty has been paid in full and the only remaining Enforcement request is compliance.
26. The Respondent did not demonstrate good faith since it failed to plug or otherwise place the subject lease and well 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 was responsible for maintaining the subject lease in compliance with Statewide Rule 3.
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rules 14(b)(2) and 14(b)(3).

5. Respondent was responsible for maintaining the subject lease in compliance with Statewide Rule 3, which requires that each property that produces oil, gas or geothermal resources and each oil, gas or geothermal resource well and tank, or other approved crude oil measuring facility shall post signs or identification.
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 or hydraulic pressure test establishing that the well does not pose a threat of harm to natural resources, including surface and subsurface water, oil and gas.
7. 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.
8. 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.
9. 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, Anping Yang, 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. Ace Field Service, Inc. (003526), shall place the Fred-David (10921) Lease, Well No. 1, S. Alta Loma (Big Gas Sd) Field, Galveston County, Texas in compliance with applicable Commission rules and regulations.

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. GOVT. 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 21<sup>st</sup> day of August 2012.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order  
dated August 21, 2012)

MFE/sa