

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

**OIL AND GAS DOCKET NO. 03-0274018**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY ATASCA RESOURCES, INC. (035643), AS TO THE WIESS (22612) LEASE, WELL NOS. 1 AND 3, GOOD GUYS (WILCOX 9300) FIELD, TYLER 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 September 27, 2012, and that the respondent, Atasca Resources, Inc. (035643), 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. Atasca Resources, Inc. (035643), ("Respondent"), was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent Form P-5 (Organization Report) address, which was returned to the Commission.
2. The returned certified envelope containing the Original Complaint and the Notice of Opportunity for Hearing, was delivered to the last P-5 address on August 20, 2012, no other information is available. The returned certified envelope containing the Original Complaint and the Notice of Opportunity for Hearing, addressed to the President; Richard M. Bowman, was returned to the Commission marked "unclaimed" on September 17, 2012. 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 January 12, 2009, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Richard M. Bowman; President.

4. Richard M. Bowman, 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. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
6. Atasca Resources, Inc. (035643), Respondent, designated itself to the Commission as the operator of Well Nos. 1 and 3 on the Wiess (22612) Lease ("subject wells"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on August 1, 1998.
7. Atasca Resources, Inc. (035643), Respondent's P-5 (Organization Report) became delinquent on December 1, 2010. Respondent had a \$50,000 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
8. Production from Well Nos. 1 and 3 on the Wiess (22612) Lease ceased in April 2006.
9. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with Statewide Rule 14.
10. Usable quality groundwater 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 potential for pollution.
11. The estimated cost to the State of plugging Well No. 1 and 3 on the Wiess (22612) Lease is \$131,582.00.
12. Commission District inspections were conducted on March 10, 2011, October 4, 2011, October 31, 2011, November 21, 2011, November 30, 2011, August 21, 2012 and September 24, 2012 for the Wiess (22612) Lease. The sign or identification required to be posted at the lease entrance was missing. The signs or identification required to be posted at Well Nos. 1, 3 and the tank battery were illegible.
13. 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.

14. A Commission District inspection report conducted on March 10, 2011 for the Wiess (22612) Lease. Someone had opened the load line valve, spilling oil and water outside the fire wall, covering an area approximately 20' x 120' x 2-4". This same inspection report indicates the spill was cleaned up with State Funds. On October 4, 2011 an inspection was conducted indicating the valve on the saltwater tank was opened and saltwater and oil ran out, covering an area approximately 120' x 30-40' x 5". Follow up inspections conducted on October 31, 2011 to November 30, 2011 indicate some remediation was done inside the firewall and shows no clean up at the load line spill. The inspection report conducted on August 21, 2012 shows no active leaks and shows the contaminated soil at the #1 tank battery has not been cleaned up. The inspection conducted on September 24, 2012 shows the bottom master valve has a small leak and the oil saturated soil near the fire wall has not been cleaned up.
15. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.
16. 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.
17. Commission District inspection reports dated November 30, 2011 indicated two 55 gallon drums full of some type of liquid were on the Wiess (226120 Lease. The labels were illegible and one drum is rusty on top. Respondent has failed to identify and confirm that the unmarked drum does not contain hazardous oil and gas wastes. The inspector indicated the drums are still on location during the September 24, 2012 inspection.
18. The Respondent has not demonstrated good faith since it failed to timely plug or otherwise place the subject leases 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.
19. Respondent is the person responsible for cleaning up the discharges on the subject lease under TEX. NAT. RES. CODE ANN. §91.113(b), and the Commission may recover from Respondent all costs incurred in cleaning up the subject lease pursuant to TEX. NAT. RES. CODE ANN. §91.113(f).

20. The Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 02-0246075; Final Order served: December 19, 2006;  
Docket No. 03-0246964; Final Order Served: July 18, 2007;  
Docket No. 03-0249770; Final Order Served: February 6, 2007;  
Docket No. 03-0249803; Final Order Served: April 24, 2006;  
Docket No. 03-0254778; Final Order Served: June 9, 2008;  
Docket No. 03-0257796; Final Order Served: March 3, 2011;  
Docket No. 03-0260963; Final Order Served: September 14, 2009; and  
Docket No. 04-0257475; Final Order Served: September 29, 2009.

### **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 3, 8(d)(1), 14(b)(2) and 98(e)(1).
4. Respondent is 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.
5. 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.
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 98(e)(1), which requires the operator of a facility where waste is generated shall determine if such waste is hazardous.
7. 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.
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, Richard M. Bowman, 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. Atasca Resources, Inc. (035643), shall plug the Wiess (22612) Lease, Well Nos. 1 and 3, Good Guys (Wilcox 9300) Field, Tyler County, Texas in compliance with applicable Commission rules and regulations; and
2. Atasca Resources, Inc. (035643), shall pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty the total amount of **TWELVE THOUSAND NINE HUNDRED SIXTY DOLLARS (\$12,960.00)**.

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 26<sup>th</sup> day of March 2013.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated March 26, 2013)

MFE/sa