

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
OIL AND GAS SECTION**

OIL AND GAS DOCKET NO. 04-0221329

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY JEFF EINARDT, SOLE PROPRIETOR, POOR BOY OILFIELD SERVICE (671390), AS TO THE WARDNER, G.P. TRUSTEE (4013) LEASE, WELL NO. 5, EL TANQUE (1550) FIELD, THE WARDNER, G.P. TRUSTEE -C- (04089) LEASE, WELL NO. 1, GREGG WOOD (1450 SAND) FIELD, AND THE WARDNER (09463) LEASE, WELL NOS. 1A, 2A AND 3A, EL TANQUE FIELD, STARR COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on June 14, 1999, and that the respondent, Jeff Einardt, Sole Proprietor, Poor Boy Oilfield Service (671390), failed to appear or respond to the notice. Pursuant to § 1.49 of the Commission's General Rules of Practice and Procedure [Tex. 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. Jeff Einardt, Sole Proprietor, Poor Boy Oilfield Service (671390), ("respondent") was given Notice of Opportunity for Hearing by certified mail, addressed to the forwarding address received from the Postal Service for the Form P-5 (Organization Report) address, which was signed and returned to the Commission.
2. The returned certified receipt (green card) that was attached to the First Amended Original Complaint and the Notice of Opportunity for Hearing, was signed and returned to the Commission on May 27, 1999 and has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. Respondent designated itself to the Commission as the operator of Well No. 5 on the Wardner, G.P. Trustee (04013) Lease, Well No. 1 on the Wardner, G.P. Trustee -C- (4089) Lease and Well Nos. 1A, 2A and 3A on the Wardner, (09463) Lease ("subject wells"/"subject leases") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission, effective on July 1, 1997 for all of the subject leases and wells.
4. The subject wells have been dry or inactive for a period in excess of one year. Commission inspection and/or production reports indicate that the subject wells ceased production on or before July 1996 for the Wardner, G.P. Trustee (04013) Lease, May 1996 for the Wardner, G.P. Trustee -C- (04089) Lease and April 1997 for the Wardner (09463) Lease.
5. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
6. Usable quality water in the area is likely to be contaminated by migrations or discharges of saltwater

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and other oil and gas wastes from the subject wells. Unplugged wellbores constitute a cognizable threat to public health and safety because of the probability of pollution.

7. The estimated cost to plugging the subject wells is 3,500.00 for Well No. 5 on the Wardner, G.P. Trustee (04013) Lease, \$3,800.00 for the Wardner, G.P. Trustee -C- (04089) Lease and \$10,500.00 for the Wardner (09463) Lease.
8. A Commission district office inspection was conducted on January 21, 1999 for the Wardner, G.P. Trustee (04013) Lease. Well No. 5 does not have wellhead assembly and has casing open to the atmosphere.
9. A Commission district office inspection was conducted on January 20, 1999 for the Wardner, G.P. Trustee -C- (04089) Lease. Well No. 1 does not have wellhead assembly and has casing open to the atmosphere.
10. A Commission district office inspection was conducted on January 19, 1999 for the Wardner (09463) Lease. Well Nos. 2A and 3A do not have wellhead assemblies and have casing open to the atmosphere.
11. Maintenance of surface control by wellhead assemblies is necessary to prevent the discharge of oil and gas wastes on the subject lease constituting a hazard to public health and safety because the discharges of oil and gas wastes onto land surface can migrate into surface or subsurface waters.
12. The respondent has not demonstrated good faith since it failed to plug or otherwise place the subject wells and subject leases in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
13. The Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 04-0217863; Rule 14; Final Order Signed: January 15, 1999.

CONCLUSIONS OF LAW

1. Proper notice was issued by the Railroad Commission to respondent and 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 13(b)(1)(B) and 14(b)(2).
4. Respondent is responsible for maintaining the subject lease in compliance with Rule 13(b)(1)(B), which requires that surface control of all wells be maintained with wellhead assemblies.
5. Respondent is responsible for maintaining the subject wells and leases in compliance with all applicable Statutes and Commission rules, specifically Statewide Rules 14, 58, and 79 and Chapters 89 and 91, Texas Natural Resources Code.

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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) (Vernon 1993).

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

1. Jeff Einardt, Sole Proprietor, Poor Boy Oilfield Service (671390), shall plug and or otherwise place the Wardner, G.P. Trustee (04013) Lease, Well No. 5, El Tanque (1550) Field, the Wardner, G.P. Trustee -C- (04089) Lease, Well No. 1, Gregg Wood (1450 Sand) Field, and the Wardner (09463) Lease, Well Nos. 1A, 2A and 3A, El Tanque Field, Starr County, Texas
2. Jeff Einardt, Sole Proprietor, Poor Boy Oilfield Service (671390), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **EIGHT THOUSAND DOLLARS (\$8,000.00)**.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 20 days after it is actually mailed to the parties by the Commission; provided that if a motion for rehearing is filed by any party at interest within such 20-day period, this order shall not become final and effective until such motion is overruled, or if rehearing 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 order is served on the parties.

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 10th day of August, 1999.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated August 10, 1999)

MFE/sa