

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

**OIL AND GAS DOCKET NO. 04-0251695**

---

**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY WARNER-PAWEL (897350), AS TO THE BISHOP DUVAL LAND CO. (04336) LEASE, WELL NOS. 16, 20L AND 23, LOMA NOVIA (2<sup>ND</sup> SAND) FIELD, DUVAL COUNTY, TEXAS**

---

**FINAL ORDER**

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on November 29, 2007, and that the respondent, Warner-Pawel (897350), 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. Warner-Pawel (897350), ("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 signed and returned to the Commission.
2. The returned certified receipt (green card) that was attached to the Original Complaint and the Notice of Hearing mailed to Respondent's most recent P-5 address was signed and returned to the Commission on September 17, 2007. 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 December 17, 2007, Respondent, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Frank S. Warner, Joint Venturer; and Nancy E.R. Pawel, Joint Venturer.
4. Frank S. Warner, 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. Nancy E.R. Pawel, 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. 16, 20L and 23 on the Bishop Duval Land Co. Lease ("subject wells"/"subject lease") by filing a Form SW-1 (Producer's Certificate of Compliance and Authorization to Transport Oil or Gas from Lease) with the Commission on August 23, 1966.
8. According to Commission records the Respondent's Form P-5 (Organization Report) is active. Respondent has a \$50,000.00 Letter of Credit as its financial assurance.
9. The subject wells ceased production on or before January 31, 2006.
10. 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.
11. The total estimated cost to the State of plugging the subject wells is \$24,000.00.
12. Commission records indicate no Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the Bishop Duval Land Co. (04336) Lease, Well Nos. 16, 20L and 23. Commission records show that Well No. 16 on the subject lease, has an historic well date of December 10, 1959, that Well No. 20L has an historic well date of March 27, 1961, and that Well No. 23 has a W2-G1 on file with the Commission for the date of April 20, 1961. Commission records further show that Well Nos. 16, 20L and 23, on the subject lease, were last due for an H-15 test May 2003, May 2005 and May 2003, respectively. None of the three wells have been plugged.
13. The Statewide Rule 14(b)(2) extensions for Well Nos. 16, 20L and 23 on the Bishop Duval Land Co. (04336) Lease were denied August 6, 2003 for failure to file H-15 tests.
14. 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.

### **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 the operator of any well more than 25 years old that becomes inactive shall plug or test such well to determine whether the well poses 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 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.
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, Frank S. Warner, 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.
8. 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, Nancy E.R. Pawel, 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. Warner-Pawel (897350), shall plug the Bishop Duval Land Co. (04336) Lease, Well Nos. 16, 20L and 23, Loma Novia (2<sup>nd</sup> Sand) Field, Duval County, Texas in compliance with applicable Commission rules and regulations; and

2. Warner-Pawel (897350), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWELVE THOUSAND DOLLARS (\$12,000.00)** less **NINE THOUSAND DOLLARS (\$9,000.00)** already received.

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 11<sup>th</sup> day of March 2008.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated March 11, 2008)

MH/sa