

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

OIL AND GAS DOCKET NO. 04-0264766

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY B&B OIL, INC. (039791), AS TO THE DE LA GARZA, RAUL LEASE, WELL NO. 1 (009789), CAROLINA-TEX (2400) FIELD, AND THE ATLANTIC REFINING CO. LEASE, WELL NO. 3 (094498), CAROLINA-TEX (900) FIELD, WEBB COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on March 3, 2011 and that the respondent, B&B Oil, Inc. (039791) , 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. B&B Oil, Inc. (039791), ("Respondent") was given 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 Opportunity for Hearing was mailed to Respondent's most recent P-5 address, was delivered on January 22, 2011. The returned certified receipt attached to the Original Complaint and the Notice of Opportunity for Hearing mailed to the Respondent's President, Joseph F. Wallen, was delivered on January 22, 2011. The confirmation of delivery has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On September 16, 2010, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Joseph F. Wallen; President.

4. Joseph F. Wallen, 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 (009789) on the De La Garza, Raul Lease and Well No. 3 (094498) on the Atlantic Refining Co. Lease ("subject wells"/"subject leases") by filing P-4 Forms (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on November 1, 2008 for both of the subject leases and wells.
7. Commission records indicate that Respondent's Form P-5 (Organization Report) is active. Respondent has a \$250,000.00 Letter of Credit as its financial assurance.
8. Well No. 1 (009789) on the De La Garza, Raul Lease ceased production in August 2004.
9. Well No. 3 (094498) on the Atlantic Refining Co. Lease ceased production in August 2003.
10. The Statewide Rule 14(b)(2) extensions for Well No. 1 (009789) on the De La Garza, Raul Lease was denied on July 24, 2006 for failure to file an H-15 (Test On An Inactive Well More Than 25 Years Old).
11. The Statewide Rule 14(b)(2) extension for Well No. 3 (094498) on the Atlantic Refining Co Lease was denied on August 1, 2007 for failure to file an H-15 (Test On An Inactive Well More Than 25 Years Old).
12. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
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 estimated cost to the State of plugging Well No.1 (009789) on the De La Garza, Raul Lease is \$13,700.00.
15. The estimated cost to the State of plugging Well No. 3 (094498) on the Atlantic Refining Co. Lease is \$250,000.00.

16. Commission District inspections were conducted on July 21, 2009 and February 20, 2011 for the De La Garza, Raul Lease, Well No. 1 (009789) and the Atlantic Refining Co. Lease, Well No. 3 (094498). The signs or identification required to be posted at the Wells displayed incorrect information.
17. 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.
18. Commission records indicate no Form H-15 (test On An Inactive Well More Than 25 Years Old) has been filed and approved for the De La Garza, Raul Lease, Well No. 1 (009789). Commission records further show the De La Gaza, Raul Lease, Well No. 1 (009789) was completed on August 2, 1959 and an H-15 test was due in May 2007. The well has not been plugged.
19. Commission records indicate no Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the Atlantic Refining Co. Lease, Well No. 3 (094498). Commission records further show that Atlantic Refining Co. Lease, Well No. 3 (094498) was completed on June 10, 1981 and an H-15 test was due in May 2007. The well has not been plugged.
20. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject leases and wells in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
21. Respondent has a prior history of commission rule violations including the following docket(s):

Docket No. 7B-0257673; Agreed Order Served: December 8, 2009;
Docket No. 6E-0262541; Final Order Served: December 22, 2010.

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 , 14(b)(2) and 14(b)(3).

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 have signs posted at all times.
5. 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 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.
6. Respondent is responsible for maintaining the subject leases 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.
7. 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.
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, Joseph F. Wallen 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. B&B Oil, Inc. (039791), shall plug the De La Gaza, Raul Lease, Well No. 1 (009789), Carolina-Tex (2400) Field, and the Atlantic Refining Co. Lease, Well No. 3 (094498), Carolina-Tex (900) Field, Webb County, Texas in compliance with applicable Commission rules and regulations;
2. B&B Oil, Inc. (039791), shall pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TEN THOUSAND FIVE HUNDRED DOLLARS (\$10,500.00)**.

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. 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 24th day of May 2011.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated May 24, 2011)

MFE/sa