

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

OIL AND GAS DOCKET NO. 05-0242705

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY DUKE GAS CORPORATION (230765), AS TO THE BARRON LEASE, WELL NOS. 1 (064572) AND 2 (125466), COIT (NACATOCH) FIELD, LIMESTONE COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on June 1, 2006, and that the respondent, Duke Gas Corporation (230765), failed to appear or respond to the notice. 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. Duke Gas Corporation (230765), ("Respondent") was given Notice of Hearing by certified mail, addressed to the President's most recent P-5 address on the Form P-5 Organization Report, which was returned to the Commission marked "unclaimed."
2. The returned certified receipt containing the Original Complaint and the Notice of Hearing sent to Jesse Reiter, President; was returned to the Commission marked "unclaimed" on May 18, 2006. 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 June 20, 2000, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Jesse Reiter; President.
4. Jesse Reiter, was a person in a position of ownership or control of respondent, as defined by Texas Natural Resource 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 Nos. 1 (064572) and 2 (125466) on the Barron Lease ("subject wells"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on July 18, 1996.

7. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on July 1, 2001. Respondent paid a \$100.00 fee as its Financial Assurance at the time of its last Form P-5 renewal.
8. Well No. 1 (064572) ceased production on or before September 25, 2000 and Well No. 2 (125466) ceased production on or before December 30, 2003.
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 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 estimated cost to the State of plugging the subject wells is \$4,700.00.
12. Respondent filed Commission P-2 Forms (Producer's Monthly Report of Gas Wells) with the Commission as required under Statewide Rule 58(b) for the Barron Lease, Well No. 1 (064572), with knowledge that the information reported was false.
 - A. From October 2000 and going through February 2005 respondent filed P-2s reporting production of 5mcf/month in each month.
 - B. Well No. 1 is the only well located on the Barron Lease, Well No. 1 (064572). Each P-2 Form was certified by Respondent to have been prepared by it or under its supervision and direction and to contain true, correct and complete information.
 - C. Commission district office inspections were conducted on September 25, 2000, December 30, 2003, March 9, 2004, July 15, 2004, September 13, 2004, January 26, 2005 and March 14, 2005 on the Barron Lease, Well No. 1 (064572). The inspections revealed that Well No. 1 (064572), was inactive and sealed in by Commission personnel on September 25, 2000.
13. Respondent filed Commission P-2 Forms (Producer's Monthly Report of Gas Wells) with the Commission as required under Statewide Rule 58(b) for the Barron Lease, Well No. 2 (125466), with knowledge that the information reported was false.
 - A. From August 2004 and going through February 2005 respondent filed P-2s reporting production of 5mcf/month in each month.
 - B. Well No. 1 is the only well located on the Barron Lease, Well No. 2 (125466). Each P-2 Form was certified by Respondent to have been prepared by it or under its supervision and direction and to contain true, correct and complete information.

- C. Commission district office inspections were conducted on September 25, 2000, December 30, 2003, March 9, 2004, July 15, 2004, September 13, 2004, January 26, 2005 and March 14, 2005 on the Barron Lease, Well No. 2 (125466). The inspections revealed that Well No. 2 (125466), was inactive and sealed in by Commission personnel on July 15, 2004.
14. The respondent has not demonstrated good faith since it failed to plug or otherwise place the 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 Statewide Rule 14.
4. Respondent is in violation of Tex. Nat. Res. Code §91.143 for falsely filing Commission P-2 Forms with the Commission as required under Statewide Rule 58(b) for the Barron Lease, Well No. 1 (064572) when the well was inactive and sealed by Commission personnel from October 2000 and going through February 2005.
5. Respondent is in violation of Tex. Nat. Res. Code §91.143 for falsely filing Commission P-2 Forms with the Commission as required under Statewide Rule 58(b) for the Barron Lease, Well No. 2 (125466) when the well was inactive and sealed by Commission personnel from August 2004 and going through February 2005.
6. 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, Jesse Reiter, 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 sooner, if 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.
7. Respondent is responsible for maintaining the subject leases in compliance with all applicable Commission rules and for properly plugging the subject wells 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(c) (Vernon 2001).

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

1. Duke Gas Corporation (230765), shall plug Well No. 1 (064572), Barron Lease, Coit (Nacatoch) Field, Limestone County, Texas in compliance with applicable Commission rules and regulations; and
2. Duke Gas Corporation (230765), shall place the Barron Lease, Well No. 2 (125466), Coit (Nacatoch) Field, Limestone County, Texas in compliance with applicable Commission rules and regulations; and
3. Duke Gas Corporation (230765), shall pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SIX THOUSAND DOLLARS (\$6,000.00)**.

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 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 October 2006.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated October 10, 2006)

MH/sa