

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

OIL AND GAS DOCKET NO. 6E-0264155

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY OILTEC, L.P. (621049), AS TO THE CASTLEBERRY (07659) LEASE, WELL NOS. 1R AND 2, EAST TEXAS FIELD, GREGG COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on March 4, 2010 and that the respondent, Oiltec, L.P. (621049), 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. Oiltec, L.P. (621049), ("Respondent") was given Notice of Opportunity for 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 Opportunity for Hearing mailed to Respondent's most recent P-5 address, was signed and returned to the Commission on January 27, 2010. 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 May 5, 2008, Respondent filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Sean Hopper, Manager; and HCF Management, LLC, Manager.
4. Sean Hopper, 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. HCF Management, L.L.C., 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.
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. 1R and 2 on the Castleberry (07659) Lease ("subject wells"/"subject lease") by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on January 30, 2008.
8. Respondent's Form P-5 (Organization Report) became delinquent on June 1, 2009. Respondent had \$25,000.00 cash as its financial assurance at the time of its last P-5 renewal.
9. The subject wells ceased production on or before June 30, 2001.
10. The Statewide Rule 14(b)(2) plugging extension for Well No. 1R was denied on May 29, 2009 for an inactive P-5 status.
11. The Statewide Rule 14(b)(2) plugging extension for Well No. 2 was denied on May 29, 2009 for an inactive P-5 status.
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 the subject wells is \$56,400.00.
15. Commission District inspections were conducted on September 17, 2009 and October 14, 2009 for the Castleberry (07659) Lease. The signs or identification required to be posted at the lease entrance, the well sites and the tank displayed incorrect information.
16. 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.
17. Commission District inspections were conducted on September 17, 2009 and October 14, 2009 for the Castleberry (07659) Lease. Well No. 1R is not equipped with the required wellhead control device and the casing is open to the atmosphere.

18. 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.
19. No Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the Castleberry (07659) Lease, Well Nos. 1R and 2. The Castleberry (07659) Lease, Well No. 1R was completed on April 21, 1967, an H-15 test was due in June 2009, and the well has not been plugged. Well No. 2 indicates a January 1984 built date, but lacks completion dates and data. The Commission computer program for monitoring wellbore data was put into operation on or around January 12, 1984. All wells on the proration schedule at that time were listed with a January 1984 built date and subsequently staff initiated entering completion information for all wells for which such data was available. For wells which such data was unavailable, the January 1984 built date remains. Therefore, all wells with a January 1984 built date are at least 25 years old and require an H-15 test. Although a historic well date is not listed for Well No. 2, an H-15 test is due since such well is at least 25 years old.
20. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject lease 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.

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, 13(b)(1), 14(b)(2) and 14(b)(3).
4. Respondent is responsible for maintaining the subject leases 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 13(b)(1), which requires that surface control of all wells be maintained with wellhead assemblies.
6. 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.
7. Respondent is responsible for maintaining the subject lease and subject well 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(c).
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, Sean Hopper, 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.
10. 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, HCF Management, L.L.C., and any other organization in which it 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. Oiltec, L.P. (621049), shall plug the Castleberry (07659) Lease, Well Nos. 1R and 2, East Texas Field, Gregg County, Texas in compliance with applicable Commission rules and regulations;
2. Oiltec, L.P. (621049), 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 10th day of August 2010.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated August 10, 2010)

JMD/sa