

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

OIL AND GAS DOCKET NO. 6E-0262541

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY B&B OIL, INC. (039791), AS TO THE W.H. SILER R/A -A- (07609) LEASE, WELL NOS. 21, 23, 39, 45, 49, 68, 70, 89, 95, 96, 100, 101, 102, 103, 104, 105, 116, 127W, 128, 130, 132, 142, 143, 144, 156, 159, 161, 162, 175, 176, 177, 181 AND 183, EAST TEXAS FIELD, RUSK COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on October 7, 2010 and that the respondent, B&B Oil, Inc. (039791), 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. B&B Oil, Inc. (039791), ("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 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 August 20, 2009. 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 September 15, 2008, Respondent 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 Nos. 21, 23, 39, 45, 49, 68, 70, 89, 95, 96, 100, 101, 102, 103, 104, 105, 116, 127W, 128, 130, 132, 142, 143, 144, 156, 159, 161, 162, 175, 176, 177, 181 and 183 on the W.H. Siler R/A -A- (07609) Lease ("subject wells"/"subject lease") by filing a P-4 Form (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on July 1, 2004.
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. All of the subject wells ceased production on or before May 31, 2009.
9. The Statewide Rule 14(b)(2) extensions for Well Nos. 21, 23, 39, 45, 49, 68, 70, 89, 95, 96, 100, 101, 102, 103, 104, 105, 116, 127W, 128, 130, 132, 142, 143, 144, 156, 159, 161, 162, 175, 176, 177, 181 and 183 on the W.H. Siler R/A -A- (07609) Lease were denied on August 11, 2005 for failure to file H-15's.
10. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
11. 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.
12. The estimated cost to the State of plugging Well Nos. 21, 23, 39, 45, 49, 68, 70, 89, 95, 96, 100, 101, 102, 103, 104, 105, 116, 127W, 128, 130, 132, 142, 143, 144, 156, 159, 161, 162, 175, 176, 177, 181 and 183 on the W.H. Siler R/A -A- (07609) Lease is \$980,100.00.
13. Commission District inspections were conducted on November 10, 2008, December 8, 2008, February 3, 2009, February 23, 2009, May 15, 2009 and May 18, 2009 for the W.H. Siler R/A -A- (07609) Lease. Well Nos. 21, 23, 45, 96, 101, 102, 104, 105, 116, 142, 162, 176 and 183 have casing and or tubing open to the atmosphere.
14. 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.
15. Commission records indicate no Form H-15's (Test on an Inactive Well More Than 25 Years Old) have been filed and approved for the W.H. Siler R/A/ -A- (07609) Lease, Well Nos. 21, 23, 39, 45, 49, 68, 70, 89, 95, 96, 100, 101, 102, 103, 104, 105, 116, 127W, 128, 130, 132, 142, 143, 144, 156, 159, 161, 162, 175, 176, 177, 181 and 183 .
16. Commission records further show that Well No. 21 was completed on or before April 30, 1980, an H-15 test was due in May of 2005. Extensions were given until February 4, 2006, and then the well was designated delinquent on February 4, 2006 when no test was submitted.

17. Well No. 23 was completed on January 8, 1979, an H-15 test was due in May of 2005. A fluid level test was submitted on March 22, 2006, but it was not approved. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no new test was submitted.
18. Well No. 39 was completed on or before April 30, 1980, an H-15 test was due in May 2005. A fluid level test was submitted on January 27, 2006, but it was not approved. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no new test was submitted.
19. Well No. 45 was completed on or before February 24, 1977, an H-15 test was due in May of 2005. A mechanical integrity test was submitted on January 19, 2006, but was not approved. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no new test was submitted.
20. Well No. 49 was completed on January 4, 1982, an H-15 test was due in May 2005. A fluid level test was submitted on September 30, 2009 and was approved. In June 2010 an H-15 test was due and the well was designated delinquent on July 2, 2010 when no new test was submitted.
21. Well No. 68 was completed on or before February 13, 1974, an H-15 test was due in May of 2005. A fluid level test was submitted on December 14, 2005, but it was not approved. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no new test was submitted.
22. Well No. 70 was completed on or before April 30, 1980, an H-15 test was in May 2005. A fluid level test was submitted on December 14, 2005, but it was not approved. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no new test was submitted.
23. Well No. 89 was completed on or before April 30, 1980, an H-15 test was due in May of 2005. Extensions were given until February 4, 2006, then the well was designated delinquent on February 4, 2006 when no test was submitted.
24. Well No. 95 was completed on or before April 30, 1980, an H-15 test was due in May of 2006. Extensions were given until November 28, 2006, then the well was designated delinquent on November 28, 2006 when no test was submitted.
25. Well No. 96 was completed on or before April 30, 1980, an H-15 test was due in May of 2005. A mechanical integrity test was submitted on January 19, 2006, but was not approved. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no new test was submitted.
26. Well No. 100 was completed on or before April 30, 1980, an H-15 test was due in May of 2005. A fluid level test was submitted in August of 2005, but it was not approved. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no new test was submitted.

27. Well No. 101 was completed on or before April 30, 1980, an H-15 test was due in May of 2007. A fluid level test was submitted on March 2, 2006, but it was not approved. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no new test was submitted.
28. Well No. 102 was completed on or before April 30, 1980, an H-15 test was due in May of 2005. A fluid level test was submitted on August 22, 2005, but it was not approved. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no new test was submitted.
29. Well No. 103 was completed on or before April 30, 1980, an H-15 test was due in May of 2005. Extensions were given until February 4, 2006, then the well was designated delinquent on February 4, 2006 when no test was submitted.
30. Well No. 104 was completed on November 20, 1948, an H-15 test was due in May of 2006, a fluid level test was submitted on December 15, 2005, but it was not approved. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008, when no new test was submitted.
31. Well No. 105 was completed on May 26, 1976, an H-15 test was due in May of 2005. A fluid level test was submitted on January 27, 2006, but it was not approved. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no new test was submitted.
32. Well No. 116 was completed on October 19, 1972, an H-15 test was due in May of 2006. Extensions were given until November 28, 2006. Then the well was designated delinquent on November 28, 2006 when no test was submitted.
33. Well No. 127W was completed on September 19, 1979, an H-15 test was due in May of 2006. Extensions were given until November 28, 2006, then the well was designated delinquent on November 28, 2006 when no test was submitted.
34. Well No. 128 was completed on or before April 30, 1980, an H-15 test was due in May of 2006. Extensions were given until November 28, 2006, then the well was designated delinquent on November 28, 2006 when no test was submitted.
35. Well No. 130 was completed on or before April 30, 1980, an H-15 test was due in May of 2007. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no test was submitted.
36. Well No. 132 was completed on or before April 30, 1980, an H-15 test was due in May of 2005. A fluid level test was submitted on August 22, 2005, but it was not approved. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no new test was submitted.
37. Well No. 142 was completed on November 21, 1972, an H-15 test was due in May of 2005. A fluid level test was submitted on January 27, 2006, but it was not approved. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no new test was submitted.

38. Well No. 143 was completed on November 20, 1972, an H-15 test was due in May of 2005. Extensions were given until February 4, 2006, then the well was designated delinquent on February 4, 2006, when no test was submitted.
39. Well No. 144 was completed on November 8, 1972, an H-15 test was due in May of 2007. A fluid level test was submitted on December 3, 2009 and was approved. In June 2010 an H-15 test was due and the well was designated delinquent on July 2, 2010, when no new test was submitted.
40. Well No. 156 was completed on April 27, 1976, an H-15 test was due in May of 2005. A fluid level test was submitted on August 22, 2005, but it was not approved. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no test was submitted.
41. Well No. 159 was completed on April 25, 1975, an H-15 test was due in May of 2006. A fluid level test was submitted on December 3, 2009 and was approved. In June 2010 an H-15 test was due and the well was designated delinquent on July 2, 2010, when no new test was submitted.
42. Well No. 161 was completed on February 28, 1975, an H-15 test was due in May of 2006. Extensions were given until November 28, 2006, then the well was designated delinquent on November 28, 2006 when no test was submitted.
43. Well No. 162 was completed on March 2, 1975, an H-15 test was due in May of 2005. Extensions were given until February 4, 2006, then the well was designated delinquent on February 4, 2006 when no test was submitted.
44. Well No. 175 was completed on or before April 30, 1980, an H-15 test was due in May of 2006. A fluid level test was submitted on September 2, 2005, but it was not approved. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no new test was submitted.
45. Well No. 176 was completed on January 2, 1982, an H-15 test was due in May of 2007. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no test was submitted.
46. Well No. 177 was completed on April 6, 1981, an H-15 test was due in May of 2006. Extensions were given until November 28, 2006, then the well was designated delinquent on November 28, 2006 when no test was submitted.
47. Well No. 181 was completed on April 15, 1982, an H-15 test was due in May of 2007. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no test was submitted.
48. Well No. 183 was completed on May 27, 1982, an H-15 test was due in May of 2007. Extensions were given until April 15, 2008, then the well was designated delinquent on April 15, 2008 when no test was submitted.
49. None of the subject wells in this complaint have been plugged.
50. 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 13(b)(1)(B), 14(b)(2) and 14(b)(3).
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide 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 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 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.
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 or otherwise place the W.H. Siler R/A -A- (07609) Lease, Well Nos. 21, 23, 39, 45, 49, 68, 70, 89, 95, 96, 100, 101, 102, 103, 104, 105, 116, 127W, 128, 130, 132, 142, 143, 144, 156, 159, 161, 162, 175, 176, 177, 181 and 183, East Texas Field, Rusk 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 **ONE HUNDRED FIFTY ONE THOUSAND FIVE HUNDRED DOLLARS (\$151,500.00)**.

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 30th day of November 2010.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated November 30, 2010)

JMD/sa