

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

OIL AND GAS DOCKET NO. 7B-0223204

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY FURRY OIL & GAS, INC. (291620), AS TO THE MABEE (17535) LEASE, WELL NOS. 1, 3, 6 AND 8, BROWN COUNTY REGULAR FIELD, AND THE MABEE (19525) LEASE, WELL NOS. 4, 5 AND 7, ZOE (FRY) FIELD, BROWN COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on April 6, 2000 and that the respondent, Furry Oil & Gas, Inc. (291620), 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. Furry Oil & Gas, Inc. (291620), ("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) address, which was returned to the Commission marked "unable to forward, return to sender."
2. The returned certified receipt containing the Original Complaint and the Notice of Opportunity for Hearing, was returned to the Commission marked "unable to forward, return to sender" on March 1, 2000. 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 1, 1997, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual: David Wayne Furry; President.
4. Respondent designated itself to the Commission as the operator of Well Nos. 1, 3, 6 and 8 on the Mabee (17535) Lease and Well Nos. 4, 5 and 7 on the Mabee (19525) Lease ("subject wells"/"subject leases") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance), effective on April 1, 1997 for all of the subject wells and subject leases.

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5. The subject wells have been dry or inactive for a period in excess of one year. Commission inspection and/or production reports indicate that all of the subject wells ceased production on or before May 31, 1998 for Well Nos. 1, 3, 6 and 8 on the Mabee (17535) Lease and February 28, 1998 for Well No. 4 on the Mabee (19525) Lease. Well Nos. 5 and 7 on the Mabee (19525) Lease were permitted injection wells and injection ceased on or before April 30, 1995.
6. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
7. Usable quality water 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 public health and safety because of the probability of pollution.
8. The estimated cost to the State of plugging the subject wells is \$17,500.00 for Well Nos. 1, 3, 6 and 8 on the Mabee (17535) Lease and \$7,500.00 for Well Nos. 4, 5 and 7 on the Mabee (19525) Lease.
9. Commission district office inspections were conducted on June 23, 1998 and August 4, 1998 for the Mabee (17535) Lease. There was an oil leak at Well No. 6 that has affected an area measuring approximately 15' x 30' x 6" deep. A follow-up inspection conducted on November 10, 1998 indicates that the affected area at Well No. 6 has been covered. Commission inspections were conducted on February 16, 1999, April 12, 1999, June 2, 1999, June 28, 1999, August 4, 1999, September 14, 1999, September 30, 1999 and October 19, 1999 indicating that the Respondent has not remediated the site.
10. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
11. The unpermitted discharges of oil and gas wastes or other substances or materials on the subject lease constitute a hazard to public health and safety because leaks and spills of oil and produced waters onto soils can migrate into surface water bodies causing contamination or can leach into the ground and percolate through soils into groundwater supplies.
12. Commission district office inspections were conducted on August 4, 1999, September 14, 1999 and October 10, 1999 for the Mabee (17535) Lease. Well Nos. 1, 3, 6 and 8 do not have wellhead assemblies and have casing open to the atmosphere.
13. 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.
14. The respondent did not demonstrate good faith since it failed to plug or otherwise place the subject wells and subject leases in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.

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15. The Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 7B-0213422; Rule 46; Final Order Served: January 29, 1999;

Docket No. 7B-0220168; Rules 8, 13 & 14; Final Order Served: March 5, 1999.

CONCLUSIONS OF LAW

1. Proper notice was issued by the Railroad Commission to respondent and 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 8(d)(1), 13(b)(1)(B) and 14(b)(2).
4. Respondent is responsible for maintaining the subject lease in compliance with Rule 8(d)(1), which prohibits the discharge of oil and gas wastes without a permit.
5. Respondent is responsible for maintaining the subject lease in compliance with Rule 13(b)(1)(B), which requires that surface control of all wells be maintained with wellhead assemblies.
6. Respondent is responsible for maintaining the subject wells and the subject leases in compliance with all applicable Statutes and Commission rules, specifically Statewide Rules 14, 58, and 79 and Chapters 89 and 91, 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(c) (Vernon 1993).

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

1. Furry Oil & Gas, Inc. (291620), shall plug and/or otherwise place in compliance the Mabee (17535) Lease, Well Nos. 1, 3, 6 and 8, Brown County Regular Field, and the Mabee (19525) Lease, Well No. 4, Zoe (Fry) Field, Brown County, Texas in compliance with applicable Commission rules and regulations; and
2. Furry Oil & Gas, Inc. (291620), shall plug the Mabee (19525) Lease, Well Nos. 5 and 7, Zoe (Fry) Field, Brown County, Texas in compliance with applicable Commission rules and regulations; and
3. Furry Oil & Gas, Inc. (291620), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWENTY SIX**

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THOUSAND FIVE HUNDRED DOLLARS (\$26,500.00).

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. 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 otherwise 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 6th day of June, 2000.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated June 6, 2000)

MH/sa