

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

OIL AND GAS DOCKET NO. 7C-0233735

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY BOMAR OPERATING CO., LC (081512), AS TO THE MCMILLAN, REVA (07530) LEASE, WELL NOS. 5, 7 AND 224, AND THE BROOKS, LILLIAN BROOKS, ET AL (07895) LEASE, WELL NO. 101, MIM NW (SAN ANGELO) FIELD, IRION COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on October 2, 2003, and that the respondent, Bomar Operating Co., LC (081512), 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. Bomar Operating Co., LC (081512), ("Respondent") was given Notice of Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 Organization Report, which was returned to the Commission marked "undeliverable as addressed."
2. The returned certified receipt containing the First Amended Original Complaint and the Notice of Hearing was returned to the Commission marked "undeliverable as addressed" on July 7, 2003. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. Respondent designated itself to the Commission as the operator of Well Nos. 5, 7 and 224 on the McMillan, Reva (07530) Lease and Well No. 101 on the Brooks, Lillian Brooks, Et Al (07895) Lease ("subject wells"/"subject leases") by filing Form P-4's (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on December 1, 1999.
4. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on July 1, 2002. Respondent paid a fee of \$100.00 as its Financial Assurance at the time of its last Form P-5 renewal.

5. Well Nos. 7 and 224 on the McMillan, Reva (07530) Lease ceased production on or before January 31, 2001. Well No. 5 on the McMillan, Reva (07530) Lease has no record of any injection into the well. Well No. 101 on the Brooks, Lillian Brooks, Et Al (07895) Lease ceased production on or before January 31, 2001.
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 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.
8. The estimated cost to the State of plugging Well Nos. 5, 7 and 224 on the McMillan, Reva (07530) Lease is \$36,000.00 and \$13,100.00 for Well No. 101 on the Brooks, Lillian Brooks, Et Al (07895) Lease.
9. A Commission district office inspection was conducted on August 14, 2001 for the McMillan, Reva (07530) Lease. An unauthorized discharge at the wellhead of Well No. 224 covered an area approximately four hundred square feet with dimensions of 20' by 20' that had been covered in gravel. The same inspection indicated that there had been a discharge or spillage at the tank battery that covered an area of approximately 400 square feet with dimensions of 50' by 8' that had been covered in gravel.
10. A Commission district office inspection was conducted on April 10, 2002 for the McMillan, Reva (07530) Lease. A pile of contaminated soil was present by the wellhead at Well No. 7 and covered an area of 4' by 3'.
11. A Commission district office inspection was conducted on August 22, 2001 for the Brooks, Lillian Brooks, Et Al (07895) Lease. An unauthorized discharge measuring 10' by 10' was present at the wellhead of Well No. 101. A Commission district office inspection conducted on April 10, 2002 indicated that the 10' by 10' area at the wellhead remained and had not been remediated.
12. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
13. The unpermitted discharge of oil and gas wastes or other substances or materials on the subject lease constitutes 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, leaching into the ground, and percolation through soils into groundwater supplies.
14. A Commission district office inspection was conducted on September 16, 2002 for the Brooks, Lillian Brooks, Et Al (07895) Lease. The bradenhead for Well No. 101 is open to the atmosphere.
15. Maintenance of surface control by wellhead assemblies is necessary to prevent the

discharge of oil and gas wastes on the subject lease. Failure to maintain wellhead assemblies constitutes a hazard to public health and safety because discharges of oil and gas wastes onto the surface may migrate into surface or subsurface waters.

16. Well No. 7 (API No. 2353293), on the McMillan, Reva (07530) Lease was originally plugged on February 27, 1991.
17. Respondent obtained a re-entry permit (495768), and re-entered Well No. 7 on the McMillan, Reva (07530) Lease.
18. The signature of the purported cementer on the Form W-15 was forged.
 - A. The respondent filed a Commission Form W-15 in the San Angelo District Office by April 3, 2001.
 - B. The W-15 indicates that Austin Jean, with BJ Service, signed the W-15 on August 20, 2000.
 - C. A statement from the Chris Burns, for BJ Service, stated that the company did not perform any services on the McMillan, Reva (07530) Lease during the year 2000. The statement further indicates that Austin Jean never signed the Form W-15.
 - D. Rodney E. Bomar executed the W-15 for the Respondent.
19. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject leases and subject wells in compliance with Commission rules 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 8(d)(1), 13(b)(1)(B), 14(b)(2) and Tex. Nat. Res. Code §91.143.
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 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.

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 2001).

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

1. Bomar Operating Co., LC (081512), shall plug or otherwise place the McMillan, Reva (07530) Lease, Well Nos. 5, 7 and 224, and the Brooks, Lillian Brooks, Et Al (07895) Lease, Well No. 101, Mim NW (San Angelo) Field, Irion County, Texas in compliance with applicable Commission rules and regulations; and
2. Bomar Operating Co., LC (081512), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **ELEVEN THOUSAND TWO HUNDRED DOLLARS (\$11,200.00)**.

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 22nd day of December 2003.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated December 22, 2003)

SP/sa