

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

OIL AND GAS DOCKET NO. 7C-0261835

**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY PENERGY (651174),
AS TO THE VAUGHN -C- (02054) LEASE, WELL NO. 4L, AND THE VAUGHN -E- (02075)
LEASE, WELL NO. 1, VAUGHN FIELD, CROCKETT COUNTY, TEXAS**

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on October 29, 2009, and that the respondent, Penergy (651174), failed to appear or respond to the Notice of 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. Penergy (651174), ("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 signed and returned to the Commission.
2. The returned certified receipt (green card) attached to Original Complaint and the Notice of Hearing mailed to Respondents, most recent P-5 address, was signed and returned to the Commission on July 10, 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 July 14, 2008, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Ricky Wayne Patterson ; President and Ladon Patterson; Secretary.
4. Ricky Wayne Patterson, was a person 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. Ladon Patterson, was a person 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 No. 4L on the Vaughn -C- (02054) Lease and Well No. 1 on the Vaughn -E- (02075) Lease ("subject wells"/"subject leases") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission that became effective on September 1, 2004 for both of the subject leases and wells.
8. According to Commission records the Respondent's Form P-5 (Organization Report) is active. Respondent has a \$250,000.00 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
9. Commission District inspections were conducted on March 31, 2009 and April 4, 2009 for the Vaughn -C- (02054) Lease. Well No. 4L has no wellhead assembly to maintain surface control of the well. The casing was found to be open to the atmosphere.
10. Commission District inspections made on October 23, 2007, December 5, 2007, January 30, 2008, April 23, 2008, July 18, 2008, November 6, 2008, January 5, 2009, March 31, 2009 and April 9, 2009 for the Vaughn -E- (02075) Lease. Well No. 1 is buried with no wellhead assembly to maintain surface control of the well.
11. 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.
12. Commission District inspections were conducted on December 5, 2007, January 30, 2008, April 23, 2008, July 18, 2009, November 6, 2008, January 5, 2009 and February 2, 2009 for the Vaughn -C- Lease (02054) showed that Well No. 4L was buried. Commission District inspection photographs taken on July 18, 2009 and February 2, 2009 show physical evidence Well No. 4L was buried at the time. A review of Commission records indicate Respondent submitted a Commission Form H-15 (Test on an Inactive Well More Than 25 Years Old), received September 1, 2008. The Form H-15, signed by Respondent, states a fluid level test was performed on Well No. 4L on June 19, 2008 and a sonic survey determined the top of fluid in the wellbore was 1010 feet. The Form H-15 test was approved by the Commission on September 2, 2009. Commission District inspection reports and photographs indicate Well No. 4L was buried at the time Respondent reportedly performed the fluid level test. A District inspection performed on April 9, 2009, indicated an H-15 test was performed, solid was tagged at 23 feet with a tape; therefore, the H-15 failed.

13. Commission District inspection reports were conducted on October 23, 2007, December 5, 2007, January 30, 2008, April 23, 2008, July 18, 2008, November 6, 2008, January 5, 2009, March 31, 2009 and April 9, 2009 for the Vaughn -E- (02075) Lease showed that Well No. 1 is buried. A review of Commission records indicate Respondent submitted a Commission Form H-15 (Test on an Inactive Well More Than 25 Years Old), which was received August 25, 2008. The Form H-15, signed by Respondent, states a fluid level test was performed on Well No. 1 on May 22, 2008 and a sonic survey determined the top of fluid on the wellbore was 1020 feet. The Form H-15 test was approved by the Commission on August 26, 2008. Commission District inspection reports indicate Well No. 1 was buried at the time Respondent reportedly performed the fluid level test.
14. By submitting a Commission Form H-15 on the Vaughn -C- Lease (02054), Well No. 4L and the Vaughn -E- (02075) Lease, Well No. 1, stating that a fluid level test had been performed on the subject wells while such wells were buried, Respondent knowingly submitted forms to the Commission containing information which was false or untrue in material fact, thereby violating TEX. NAT. RES. CODE ANN. §91.143(a)(1).
15. A follow up inspection performed on June 23, 2009 indicates that a line was run into Well No. 4L and again tagged solid at 23 feet.
16. Commission District inspections reports dated August 3 through August 6, 2009 show that plugging operations commenced on the Vaughn -C- Lease (02054), Well No. 4L. An incomplete Form W3 was filed with the Commission District Office stating the well was plugged on August 7, 2009. A complete Form W3 has not been filed or approved by the Commission District Office.
17. Commission District inspection reports dated August 11, through August 31, 2009 show that plugging operations commenced on the Vaughn -E- Lease (2075), Well No. 1. An incomplete Form W3 was filed with the Commission District Office stating the well was plugged on August 11, 2009. A complete Form W3 has not been filed or approved by the Commission District Office.
18. 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.
19. The Respondent has not demonstrated good faith since it failed to timely plug or otherwise place the subject leases and 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.
20. Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 08-0240691; Agreed Order Served: December 22, 2004;
Docket No. 7C-0252771; Agreed Order Served: November 20, 2007; and
Docket No. 08-0244590; Final Order Served: March 28, 2006.

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) and Tex. Nat. Res. Code Ann. §91.143(a)(1).
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 leases 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.
6. 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).
7. 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, Ricky Wayne Patterson, 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.
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, Ladon Patterson, 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. Penergy (651174), shall place the Vaughn -C- (02054) Lease, Well No. 4L, and the Vaughn -E- (02075) Lease, Well No. 1, Vaughn Field, Crockett County, Texas in compliance with applicable Commission rules and regulations; and
2. Penergy (651174), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SEVEN THOUSAND DOLLARS (\$7,000.00)**.

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 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 9th day of February 2010.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated February 9, 2010)

MFE/sa