

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

OIL AND GAS DOCKET NO. 08-0264952

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY GARNER'S WELL SERVICE, LLC (295027), AS TO THE LOCKHART & BROWN "14" (26987) LEASE, WELL NOS. 1, 2 AND 3, NIX, SOUTH FIELD, ANDREWS COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on July 28, 2011 and that the respondent, Garner's Well Service, LLC (295027), 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. Garner's Well Service, LLC (295027), ("Respondent") was given a Notice of Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 Organization Report.
2. The certified receipt containing the Original Complaint and the Notice of Hearing was mailed to Respondent's most recent P-5 address, which was received and signed for on May 18, 2011. The conformation and electronic verification has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On February 20, 2008, Respondent, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Douglas G. Devin, Managing Member.
4. Douglas G. Devin, 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. 1, 2 and 3 on the Lockhart & Brown "14" (26987) Lease ("subject wells"/"subject lease") by filing a P-4 Form (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on February 1, 2008.

7. Commission records indicate that Respondent's Form P-5 (Organization Report) became delinquent on February 1, 2011. Respondent had \$25,000.00 cash as its financial assurance at the time of its last P-5 renewal.
8. Well Nos. 1 and 3 ceased production on or before February 2008.
9. Well No. 2 is a permitted injection well. A Commission District inspection conducted on October 9, 2008 indicates there was 500 pounds per square inch of pressure on the backside of the well, the inspector could not obtain a pressure reading on the surface casing due to bad threads on the valve. A Commission District inspection dated December 29, 2008 for Well No. 2, reported high pressure on the bradenhead and backside, the well having been shut in for over a year. Commission records reflect the last reported injection into this well occurred in February 2006. A Commission District inspection conducted on March 9, 2009 for Well No. 2, reported the surface casing valve had been left open, therefore no pressure at time of the inspection. The backside remained pressure. A Commission District inspection conducted on August 13, 2009 reported all valves on Well No. 2 were left open and therefore no pressures were found on the backside or the surface. A Commission District inspection conducted on December 8, 2009 reported Well No. 2 had valves open on the surface casing and the production casing (backside), tubing pressure approximately 30 pounds per square inch. Thus, notwithstanding a reported, unwitnessed H-5 Test reported done December 4, 2008, the District Office requested a mandatory witness H-5 test be done in correspondence dated January 27, 2009, September 11, 2009 and December 9, 2009, due to the conditions described above. Respondent has failed to conduct the test.
10. The Statewide 14(b)(2) extension for the Well Nos. 1 and 3 were denied on August 1, 2007 for failure to file H-15's.
11. The Statewide 14(b)(2) extension for Well No. 2 was denied on May 24, 2007 for an H-5 issue.
12. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
13. The total estimated cost to the State for plugging the subject wells is \$69,900.00.
14. Usable quality groundwater in the area could have been 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.
15. Commission District inspection reports were made on October 9, 2008, December 29, 2008, March 7, 2009, August 13, 2009, November 17, 2009 and December 8, 2009 for the Lockhart & Brown "14" (26987) Lease. Well Nos. 1 and 2 have tubing or casing open to the atmosphere.
16. 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.

17. According to Commission records the subject wells are no longer open to the atmosphere.
18. Commission records indicate no Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the Lockhart & Brown "14" (26987) Lease, Well Nos. 1 and 3. Commission records further show that the Lockhart & Brown "14" (26987) Lease Well Nos. 1 and 3 were completed on October 30, 1981 and February 6, 1982, respectively, and H-15 tests were due in 2010. The wells have not been plugged.
19. According to Commission records, an approved H-15 test was conducted for Well No. 1 on March 14, 2011 and for Well No. 3 on January 28, 2011.
20. Commission District inspections outlined above reported pressure on the bradenhead for the surface and production casing on Well No. 2. The required testing method was not performed by the Respondent and the Respondent did not perform the requested H-5 test. According to the inspection conducted on April 4, 2011, the valves on both sides of the casing are in the closed position and have no pressure. The District notes the valves are down in the cellar and not up to surface where they can be opened safely by the inspector. The District writes further, looks like repairs were made and none are leaking now.
21. A MIT was witnessed and conducted on February 15, 2011, which was successful and resolved the issue with the bradenhead.
22. A Commission District inspection was conducted on October 9, 2008, for the Lockhart & Brown "14" (26987) Lease indicating that there was pressure on the bradenhead at Well No. 2. A follow up District inspection conducted on December 29, 2008 found pressure on the bradenhead and backside after a reported un-witnessed test reported on December 4, 2008, done November 25, 2008. A repeat, must witness test was requested to establish the mechanical integrity of the well. This has not been done.
23. An approved H-5 test was conducted on Well No. 2 on February 15, 2011.
24. The Respondent did not demonstrate 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 responsible for maintaining the subject lease in compliance with Statewide Rules 13(b)(1)(B), 14(b)(2), 14(b)(3), 17 and 46(j).
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 that the operator of any well more than 25 years old that becomes inactive shall plug the well or successfully conduct a fluid level of 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 in compliance with Statewide Rule 17, which requires that any well showing pressure on the bradenhead, or leaking gas, oil, or geothermal resources between the surface and the production or oil string shall be tested.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 46(j), which requires that the mechanical integrity of an injection well shall be evaluated by conducting pressure test to determine whether the well, tubing, packer or casing have sufficient mechanical integrity.
8. 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.
9. 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.
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, Douglas G. Devin, 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. Garner's Well Service, LLC (295027), shall plug or otherwise place the Lockhart & Brown "14" (26987) Lease, Well Nos. 1, 2 and 3, Nix, South Field, Andrews County, Texas in compliance with applicable commission rules and regulations; and
2. Garner's Well Service, LLC (295027), shall pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SIX THOUSAND DOLLARS (\$6,000.00)**.

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. 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 22nd day of November 2011.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated November 22, 2011)

MFE/sa