

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

OIL AND GAS DOCKET NO. 09-0243932

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY KURT D. ELLIOTT D/B/A KURAN RESOURCES (478805), AS TO THE WAGGONER -W- (06542) LEASE, WELL NOS. 3 AND 5, WILBARGER COUNTY REGULAR FIELD, WILBARGER COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on June 21, 2007, and that the respondent, Kurt D. Elliott d/b/a Kuran Resources (478805), 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. Kurt D. Elliott d/b/a Kuran Resources (478805), ("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) that was attached to the Original Complaint and the Notice of Hearing mailed to Respondent's most recent P-5 address was signed and returned to the Commission on May 7, 2007. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. Kurt D. Elliott, as sole proprietor, 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.
4. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
5. Respondent designated itself to the Commission as the operator of Well Nos. 3 and 5 on the Waggoner -W- (06542) Lease ("subject wells"/"subject lease") by filing a Form P-4 (Producers Transportation of Authority and Certificate of Compliance) with the Commission effective on March 1, 2003.

6. According to Commission records the Respondent's Form P-5 (Organization Report) is active. Respondent has a \$50,000.00 Letter of Credit as its financial assurance.
7. Well Nos. 3 and 5 on the Waggoner -W- (06542) Lease ceased production on or before May 31, 1999.
8. Well No. 5 on the Waggoner -W- (06542) Lease has not been plugged and does not have a Statewide Rule 14(b)(2) plugging extension.
9. 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 well. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
10. Well No. 3 on the Waggoner -W- (06542) Lease was partially plugged in August 2006. A district inspection report on November 2, 2006, indicated that casing had not been cut off at the surface as required by Commission rules.
11. Commission district office inspections were conducted on April 12, 2005, April 21, 2005, May 16, 2005, June 27, 2005, December 14, 2005, March 24, 2006, June 26, 2006 and November 2, 2006 for the Waggoner -W- (06542) Lease. According to the Commission's plats, GPS information and district office inspections there is no visible well bore for Well No. 5; although, the well is on the Commission's proration schedule. A search of Commission records failed to reveal any plug information for the well, and the District Office requested that the operator excavate the area with a backhoe. A followup inspection dated April 24, 2007 indicated that the Respondent had excavated the area and found a well bore. The operator had placed a joint of 10" casing in the well bore and filled soil in around the casing, leaving the casing extending approximately 7' above ground. The April 24, 2007, inspection also disclosed an open pit beside the well, measuring approximately 20' x 40' x 2' . As of April 27, 2007 and May 22, 2007, no changes had been made at the well site.
12. The estimated cost to the State as of 2005 for plugging Well No. 5 on the Waggoner -W- (06542) Lease was \$4,000.00.
13. A Commission district office inspection was conducted on December 14, 2005 for the Waggoner -W- (06542) Lease. The sign or identification required to be posted at Well No. 3 did not display correct information.
14. Failure to properly identify a lease, well or tank battery by the posting of the sign required by Statewide Rule 3 has the potential for causing confusion and delay in remedying a violation or emergency and poses a threat to the public health and safety.

15. A Commission district office inspection report was conducted on December 14, 2005 for the Waggoner -W- (06542) Lease. Respondent had caused or allowed a 10' x 15' x 3' workover pit at Well No. 3, a 15' x 8' x 3' open pit at Well No. 1, a 15' x 10' x 3' open pit at Well No. 6, a 10' x 10' x 2' and a 15' x 10' x 3' open pit at Well No. 7, to remain open, although the wells were all shut in after July 2001, and Well Nos. 1, 6 and 7 were plugged in July 2005.
16. Unfilled pits constitute a hazard to public health and safety because of the potential for illegal dumping in the pits and the potential for surface run-off to collect in the pit and seep into subsurface waters.
17. A Commission district office inspection was conducted on December 14, 2005 for the Waggoner -W- (06542) Lease. Well No. 3 had casing open to the atmosphere.
18. 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 the public health and safety because the discharges of oil and gas wastes onto land surface can migrate into surface or subsurface waters.
19. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the Waggoner -W- (06542) Lease, Well Nos. 3 and 5 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 3, 8(d)(4)(G)(i)(III) and 14(b)(2).
4. Respondent is responsible for maintaining the Waggoner -W- (06542) Lease in compliance with Statewide Rule 3, which requires that each property that produces oil, gas or geothermal resources and each oil, gas or geothermal resource well and tank, or other approved crude oil measuring facility shall post signs or identification.
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(4)(G)(i)(III), which requires workover pits to be dewatered, filled and compacted within 120 days from completion of workover operations.
6. Respondent is responsible for maintaining the subject lease and 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(c).
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, Kurt D. Elliott, 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. Kurt D. Elliott d/b/a Kuran Resources (478805), shall plug Well No. 5 on the Waggoner -W- (06542) Lease, Wilbarger County Regular Field, Wilbarger County, Texas in compliance with applicable Commission rules and regulations;
2. Kurt D. Elliott d/b/a Kuran Resources (478805), shall complete the plugging of Well No. 3 on the Waggoner -W- (06542) Lease, Wilbarger County Regular Field, Wilbarger County, Texas, by cutting off the casing 3' below the ground surface, as required by Statewide Rule 14(d)(8);
3. Kurt D. Elliott d/b/a Kuran Resources (478805), shall place the Waggoner -W- (06542) Lease into compliance with Statewide Rule 8; and
4. Kurt D. Elliott d/b/a Kuran Resources (478805), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWO THOUSAND DOLLARS (\$2,000.00)**.

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 14th day of August 2007.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated August 14, 2007)

JD/sa