

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

OIL AND GAS DOCKET NO. 09-0262521

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY LARIAT ENERGY CORPORATION (486655), AS TO THE MULLOY ESTATE (09439) LEASE, WELL NO. 3, 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 October 29, 2009, and that the respondent, Lariat Energy Corporation (486655), failed to appear or respond to the Notice of Opportunity for 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. Lariat Energy Corporation (486655), ("Respondent"), was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent Form P-5 (Organization Report) address, which was not received back. Randy Berry, Respondent's Secretary, was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent Form P-5 (Organization Report) address, which was signed and returned to the Commission.
2. The returned certified receipt containing the Original Complaint and the Notice of Opportunity for Hearing, was never received back from the Post Office or Respondent. The returned certified receipt (green card) that was attached to the Notice of Opportunity for Hearing, sent to the Secretary, Randy Berry, was signed and returned to the Commission on August 21, 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 August 11, 2008, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Jeffrey Fanning, President; and Randy Berry; Secretary.
4. Jeffrey Fanning, 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. Randy Berry, 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. 3 on the Mulloy Estate (09439) Lease ("subject well"/"subject lease") by filing Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on February 26, 2008.
8. Respondent's P-5 (Organization Report) became delinquent on September 9, 2009. Respondent had a \$50,000.00 Bond as its financial assurance at the time of its last P-5 renewal.
9. Well No. 3 ceased injection on or before March 31, 2007.
10. The Statewide 14(b)(2) plugging extension for Well No. 3 was denied on April 23, 2009 for an H-5 (Disposal/Injection Well Pressure Test) issue.
11. The subject well has not been properly plugged in accordance with, and is not otherwise in compliance with Statewide Rule 14.
12. Usable quality groundwater is likely to be 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 potential for pollution.
13. The estimated cost to the State of plugging the subject well is \$3,600.00.
14. Commission records indicate the Mulloy Estate (09439) Lease, Well No. 3 was permitted as a secondary recovery injection well on January 25, 1991 (Permit No. 12713). A Commission District inspection was conducted on March 17, 2009 for the Mulloy Estate (09439) Lease, Well No. 3. The well was equipped to inject produced fluids, and the tubing, casing and surface pressure was zero psi. Permit No. 12713 requires a pressure test to be performed annually. Commission records indicate the last Form H-5 was filed on a pressure test performed on October 23, 2006, and a subsequent annual Form H-5 has not been filed.
15. Injection wells must pass a pressure test at least once every 5 years to show that the well is not leaking, that waste is being confined to the permitted injection interval, and that useable quality water zones are properly isolated. Any injection of fluid down a wellbore could be a potential source of pollution. Without testing and supporting documentation, the Commission cannot determine if a well poses a threat to natural resources.

16. 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.
17. Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 09-0253792; Final Order Served: April 8, 2008.; and
Docket No. 09-0255529; Final Order Served: March 11, 2009.

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 14 and 46(j).
4. 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 tests to determine whether the well tubing, packer, or casing have sufficient mechanical integrity to meet performance standards.
5. Respondent is responsible for maintaining the subject lease and subject well 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, Jeffrey Fanning, 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, Randy Berry, 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. Lariat Energy Corporation (486655), shall plug or otherwise place the Mulloy Estate (09439) Lease, Well No. 3, Wilbarger County Regular Field, Wilbarger County, Texas in compliance with applicable Commission rules and regulations; and
2. Lariat Energy Corporation (486655), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FOUR THOUSAND DOLLARS (\$4,000.00)**.

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)

ME/sa