

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

**OIL AND GAS DOCKET NO. 09-0267805**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY TERAX ENERGY, INC. (843101), ON THE MITCHELL (30653) LEASE, WELL NO. 2H, THE MITCHELL LEASE, WELL NO. 4H (220819), AND THE MITCHELL, JOE LEASE, WELL NO. 1H (221295), NEWARK, EAST (BARNETT SHALE) FIELD, ERATH COUNTY, TEXAS**

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**FINAL ORDER**

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on October 13, 2011 and that the respondent, Terax Energy, Inc. (843101), 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. Terax Energy, Inc. (843101), ("Respondent") was given a Notice of Opportunity for Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 Organization Report.
2. The returned certified receipt attached to the Original Complaint and the Notice of Opportunity for Hearing was mailed to Respondent's most recent P-5 address, was returned marked "return to sender" on June 16, 2011. The certified 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 19, 2008, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Lawrence J. Finn, President; and Sam M. Governale, Vice-President.
4. Lawrence J. Finn, 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. Sam M. Governale, 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.
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. 2H on the Mitchell (30653) Lease, Well No. 4H (220819) on the Mitchell Lease and Well No. 1H (221295) on the Mitchell, Joe ("subject wells"/"subject leases") by filing a P-4 Form (Producer's Transportation Authority and Certificate of Authority) effective May 10, 2006 for Well No. 2H on the Mitchell (30653) Lease, a Dummy P-4 which has a start date of July 2006 for Well No. 4H (220819) on the Mitchell Lease and a P-4 Form (Producer's Transportation Authority and Certificate of Compliance) approved on November 14, 2006 for Well No. 1H (221295) on the Mitchell, Joe Lease.
8. Commission records indicate that Respondent's Form P-5 (Organization Report) became delinquent on October 1, 2009. Respondent had a \$25,000.00 Bond as its financial assurance at the time of its last P-5 renewal.
9. Production from Well No. 2H on the Mitchell (30653) Lease ceased prior to May 2006.
10. Production from Well No. 4H (220819) on the Mitchell Lease ceased prior to July 2006.
11. Production from Well No. 1H (221295) on the Mitchell, Joe Lease ceased prior to March 2006.
12. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with Statewide Rule 14.
13. The Statewide Rule 14b2 extensions for Well No. 2H on the Mitchell (30653) Lease, Well No. 4H (220819) on the Mitchell Lease and Well No. 1H (221295) on the Mitchell, Joe Lease were denied on October 1, 2008 for an inactive P-5 status.
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. The estimated cost to the State of plugging the subject wells is \$11,200.00 for Well No. 2H on the Mitchell (30653) Lease, \$11,200.00 for Well No. 4H (220819) on the Mitchell Lease and \$11,200.00 for Well No. 1H (221295) on the Mitchell, Joe Lease.
16. Commission District inspections were conducted on July 29, 2010 and September 13, 2010 for the Mitchell (30653) Lease, Well No. 2H. The sign or identification required to be posted at the lease entrance was missing.
17. Commission District inspections were conducted on July 29, 2010 and September 13, 2010 for the Mitchell Lease, Well No. 4H (220819). The signs or identification required to be posted at the lease entrance was missing and the information required at the tank was not displayed.
18. Commission District inspections were conducted on July 29, 2010 and September 12, 2010 for the Mitchell, Joe Lease, Well No. 1H (221295). The sign or identification required to be posted at the tank was not displayed.
19. Failure to properly identify a well 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.

20. Commission District inspections were conducted on July 29, 2010 and September 13, 2010 for the Mitchell Lease. There was approximately a 40' x 10' - 12' x 4" area of hydrocarbon soaked soil inside the firewall.
21. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.
22. The unpermitted discharges of oil and gas wastes or other substances or materials on the subject lease constitute 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 or can leach into the ground and percolate through soils into groundwater supplies.
23. Commission District inspections were conducted on July 29, 2010 and September 13, 2010 for the Mitchell (30653) Lease. Respondent failed to backfill, dewater and compact a reserve pit, which is described as a 100' x 100' x 12', half black plastic line reserve pit with fluids on the west side, unsafe to collect sample, moss growing in the fluids, with a barb wire fence around the pit.
24. Commission District inspections were conducted on July 29, 2010 and September 13, 2010 for the Mitchell Lease, Well No. 4H (220819). Respondent failed to backfill, dewater and compact a reserve pit, which is described as approximately 100' x 100' x 8', a black plastic line reserve pit with fluids, unsafe to collect sample, with moss growing.
25. Commission District inspections were conducted on July 29, 2010 and September 12, 2010 for the Mitchell, Joe Lease, Well No. 1H (221295). Respondent failed to backfill, dewater and compact a reserve pit, which is described as approximately 100' x 100' x 8', partially black plastic line reserve pit with fluids, safe to obtain sample, with green vegetation and moss growing.
26. 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.
27. The Respondent did not demonstrate good faith since it failed to plug or otherwise place the subject leases 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 3, 8(d)(1), 8(d)(4)(G)(i)(I) and 14(b)(2).

4. Respondent is responsible for maintaining the subject leases 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 leases in compliance with Statewide Rule 8(d)(1), which prohibits the discharge of oil and gas wastes without a permit.
6. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 8(d)(4)(G)(i)(I), which requires reserve pits and mud circulation pits to be dewatered, backfilled and compacted within one year of cessation of drilling operations.
7. 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.
8. 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.
9. 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, Lawrence J. Finn, 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.
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, Sam M. Governale, 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. Terax Energy, Inc. (843101), shall plug the Mitchell (30653) Lease, Well No. 2H, the Mitchell Lease, Well No. 4H (220819) and the Mitchell, Joe Lease, Well No. 1H (221295), Newark, East (Barnett Shale) Field, Erath County, Texas in compliance with applicable Commission rules and regulations;
2. Terax Energy, Inc. (843101), shall pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **THIRTEEN THOUSAND DOLLARS (\$13,000.00)**.

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 13<sup>th</sup> day of March 2012.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated March 13, 2012)

MC/sa