

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

OIL AND GAS DOCKET NO. 09-0278471

**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY BARKER, CARL, JR.,
SOLE PROPRIETOR, B&B ENTERPRISES (039777), AS TO THE BARKER, A.C. (21821)
LEASE, WELL NO. 1, JACK COUNTY REGULAR FIELD, JACK COUNTY, TEXAS**

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on December 20, 2012, and that the respondent, Barker, Robert Carl., Jr., Sole Proprietor, B&B Enterprises (039777), 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. Barker, Robert Carl., Jr. Sole Proprietor, B&B Enterprises (039777), ("Respondent"), 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 envelope containing the Original Complaint and the Notice of Opportunity for Hearing, was signed and returned to the Commission on October 22 , 2012. The certified envelope has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On December 10, 2009, Respondent, filed an Organization Report (Form P-5) with the Commission reporting that its owner consisted of the following individual(s): Barker, Robert Carl., Jr.; Owner.

4. Barker, Robert Carl, Jr., 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.
5. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
6. Barker, Robert Carl, Jr., Sole Proprietor, B&B Enterprises (039777), Respondent, designated itself to the Commission as the operator of Well No. 1 on the Barker, A.C. (21821) Lease ("subject well"/"subject lease") by filing a Form W-2 (Completion Report) with the Commission on January 13, 1982.
7. Barker, Robert Carl, Jr., Sole Proprietor, B&B Enterprises (039777), Respondent's P-5 (Organization Report) became delinquent on January 1, 2010. Respondent had a \$25,000 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
8. The subject well ceased disposal in February 2006.
9. The Statewide 14b2 plugging extension for the Barker, A.C. (21821) Lease, Well No. 1 was denied on February 22, 2007 for an H-5 (Mechanical Integrity Test) issue.
10. The subject well has not been properly plugged in accordance with, and is not otherwise in compliance with Statewide Rule 14.
11. 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.
12. The estimated cost to the State of plugging the subject well is \$17,500.00.
13. Well No. 1 on the Barker, A.C. (21821) Lease is a permitted disposal well and is required to have a Mechanical Integrity Test (H-5) at least once every 5 years. Commission records show that Respondent last conducted a Mechanical Integrity Test on the well on September 30, 1999. The well was due for a subsequent Mechanical Integrity Test on July 30, 2007; however, the well has not been tested.
14. The Respondent has not demonstrated good faith since it failed to timely plug or otherwise place the subject lease and subject well 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 9(12) and 14(b)(2).
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 9(12), which requires that the mechanical integrity of a disposal well shall be evaluated by conducting pressure test to determine whether the well tubing, packer, or casing have sufficient mechanical integrity.
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©.
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, Barker, Robert Carl, Jr., 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. Barker, Robert Carl, Jr., Sole Proprietor, B&B Enterprises (039777), shall plug the Barker, A.C. (21821) Lease, Well No. 1, Jack County Regular Field, Jack County, Texas in compliance with applicable Commission rules and regulations; and
2. Barker, Robert Carl, Jr., Sole Proprietor, B&B Enterprises (039777), shall pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty the total 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 7th day of May 2013.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated May 7, 2013)

TJJ/sa