

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

OIL AND GAS DOCKET NO. 7B-0246849

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY NICHOLS, BUCK, SOLE PROPRIETOR, NICK OIL (610480), AS TO THE BAPTIST FOUNDATION OF TEXAS (16133) LEASE, WELL NOS. 1, 1A, 2, 5, 6, 7, 8, 9 AND 11, AND THE MACGREGOR 'B' (17158) LEASE, WELL NOS. 2, 2A AND 7, MOREL (BLUFF CREEK) FIELD, JONES COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on April 5, 2007, and that the respondent, Nichols, Buck, Sole Proprietor, Nick Oil (610480), 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. Nichols, Buck, Sole Proprietor, Nick Oil (610480), ("Respondent") was given Notice of Opportunity for 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 Opportunity for Hearing mailed to Respondent's most recent P-5 address was signed and returned to the Commission on September 18, 2006. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. Buck Nichols, 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. 1, 1A, 2, 5, 6, 7, 8, 9 and 11 on the Baptist Foundation Lease and Well Nos. 2, 2A and 7 on the MacGregor "B" (17158) Lease ("subject wells"/"subject leases") by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on December 13, 2001 for the both of the subject leases and subject wells.
6. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on February 1, 2007. Respondent had \$50,000.00 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
7. Well Nos. 1, 1A, 2, 5, 6, 7, and 8 on the Baptist Foundation of Texas (16133) Lease ceased production in or before January 2002. Well Nos. 2, 2A and 7 on the MacGregor "B" (17158) Lease ceased production in or before January 2002.
8. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
9. Usable quality groundwater in the area is likely to be 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.
10. The estimated cost to the State of plugging Well Nos. 1, 1A, 2, 5, 6, 7, and 8 on the Baptist Foundation of Texas (16133) Lease is \$32,200.00. The estimated cost to the State of plugging Well Nos. 2, 2A and 7 on the MacGregor "B" (17158) Lease is \$13,800.00.
11. A Commission district office inspection was conducted on November 22, 2005 for the Baptist Foundation of Texas (16133) Lease indicating the following areas of pollution: (1) produced water was actively leaking from Well No. 1 and affecting a 3' x 3' x 1" deep area; (2) produced water and oil were actively leaking from Well No. 5 and affecting a 2' x 2' area; and (3) oil was actively leaking from Well No. 11 with standing fluids affecting an 18' x 18' area. Follow-up inspection reports made on December 12, 2005, February 14, 2006, March 29, 2006, April 6, 2006 and June 6, 2006 show the pollution remains and the affected areas have not been cleaned.
12. A Commission district office inspection report conducted on November 23, 2005 for the MacGregor "B" (17158) Lease indicated an approximate 55' x 45' area around the tank battery saturated with oil and approximately 120' x 7' - 50' area at Well No. 5 affected by oil. A subsequent inspection report made on December 12, 2005 shows that in addition to the aforementioned affected areas, a new area, measuring approximately 8' x 9', was found to be affected with produced water at the tank battery. Follow-up inspections made on February 15, 2006, March 29, 2006 and April 6, 2006 show that the 120' x 7' -50' area at Well No. 5 had increased to 120' x 50' and that the 8' x 9' area at the tank battery had increased to 150' x 20' and that none of the pollution had been cleaned.
13. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.

14. 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.
15. According to Commission records, Well No. 1 of the Baptist Foundation of Texas (16133) Lease was completed on June 26, 1980. Commission district office inspection reports made on November 22, 2005, December 12, 2005, February 14, 2006, March 29, 2006, April 6, 2006 and June 6, 2006 for the Baptist Foundation of Texas (16133) Lease indicated the presence of an open, dry workover pit at Well No. 1 measuring approximately 16' x 12' x 3'.
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. Commission district office inspection reports made on November 22, 2005, December 12, 2005, February 14, 2006, March 29, 2006, April 6, 2006 and June 6, 2006 for the Baptist Foundation of Texas (16133) Lease show that Well No. 5 is not equipped with a wellhead control and has 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 public health and safety because the discharges of oil and gas wastes onto land surface can migrate into surface or subsurface waters.
19. Commission district office inspections were conducted on November 22, 2005, December 12, 2005, February 14, 2006, March 29, 2006, April 6, 2006 and June 6, 2006 for the Baptist Foundation of Texas (16133) Lease. Although the tank battery is within approximately 500' of a watershed, there is no firewall in place.
20. Commission district office inspections were conducted on November 22, 2005, December 12, 2005, February 14, 2006, March 29, 2006, April 6, 2006 and June 6, 2006 on the Baptist Foundation of Texas (16133) Lease. Well No. 9 was bullplugged and not equipped with a pressure observation valve.
21. The Respondent has not demonstrated good faith since it failed to 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.
22. A Form P-4 (Producers Transportation Authority and Certificate of Compliance) was filed with the Commission transferring the MacGregor "B" (17158) Lease from Nick Oil to D.J. & T Energy (196227). After a Good Faith Claim review the P-4 was approved for processing, but at this time the lease has not yet been transferred.

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 8, 13(b)(1)(B), 14(b)(2), 21(j) and 46(g)(2).
4. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 8, which prohibits the discharge of oil and gas wastes without a permit.
5. Respondent is responsible for maintaining the subject leases 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 leases in compliance with Statewide Rule 13(b)(1)(B), which requires that surface control of all wells be maintained with wellhead assemblies.
7. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 21(j), which requires that fire walls must be erected and kept around all permanent oil tanks, or battery of tanks, or where such tanks are within 500' of a highway or where the tanks are so located as to be deemed by the Commission to be an objectionable hazard.
8. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 46(g)(2), which requires that the wellhead shall be equipped with a pressure observation valve on the tubing and for each annulus of the well.
9. 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.
10. 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).

11. 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, Buck Nichols, 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. Nichols, Buck, Sole Proprietor, Nick Oil (610480), shall plug the Baptist Foundation of Texas (16133) Lease, Well Nos. 1, 1A, 2, 5, 6, 7, 8, 9 and 11, Morrell (Bluff Creek) Field, Jones County, Texas in compliance with applicable Commission rules and regulations;
2. Nichols, Buck, Sole Proprietor, Nick Oil (610480), shall plug or otherwise place the MacGregor "B" (17158) Lease, Well Nos. 2, 2A and 7, Morrell (Bluff Creek) Field, Jones County, Texas in compliance with applicable Commission rules and regulations; and
3. Nichols, Buck, Sole Proprietor, Nick Oil (610480), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWENTY EIGHT THOUSAND DOLLARS (\$28,000.00)**.

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 24th day of April 2007.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated April 2007)

MH/sa