

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

OIL AND GAS DOCKET NO. 7B-0260785

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY LUCKY OIL & GAS (512180), AS TO THE HARRIS, W.A. (086257) LEASE, WELL NO. 1, NORTH DELEON (STRAWN) FIELD, COMANCHE COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on January 28, 2010 and that the respondent, Lucky Oil & Gas (512180), failed to appear or respond to the First Amended 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. Lucky Oil & Gas (512180), ("Respondent") was given First Amended 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 First Amended Original Complaint and the First Amended Notice of Opportunity for Hearing mailed to Respondent's most recent P-5 address, was signed and returned to the Commission on October 8, 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 July 21, 2008, Respondent filed an Organization Report (Form P-5) with the Commission reporting that its partners consisted of the following individual(s): Eric Linder; Partner, and Melton Linder; Partner.
4. Eric Linder, was a partner 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. Melton Linder, was a partner 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. 1 on the Harris, W.A. (086257) Lease ("subject well"/"subject lease") by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on September 1, 1986.
8. Commission records indicate that Respondent's Form P-5 (Organization Report) is active. Respondent has a \$50,000.00 Letter of Credit as its financial assurance.
9. The subject well ceased production on or before August 31, 1994.
10. The Statewide Rule 14(b)(2) extension for Well No. 1 on the Harris, W.A. (086257) Lease was denied on July 22, 2008 for a Legal Enforcement Plug Order.
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 in the area 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 probability of pollution.
13. The estimated cost to the State of plugging the subject well is \$10,800.00.
14. Commission District inspections were conducted on April 17, 2008, April 21, 2008, April 23, 2008, April 28, 2008, May 8, 2008, May 19, 2008, June 20, 2008, July 14, 2008, July 22, 2008, August 19, 2008 and August 25, 2008 for the Harris, W.A. (086257) Lease. The sign or identification required to be posted at the well was illegible. Well No. 1 was mistakenly identified as Well No. 3.
15. 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.
16. Commission District inspections were conducted on April 17, 2008, April 21, 2008, April 23, 2008, April 28, 2008 and August 25, 2008 for the Harris, W.A. (086257). A leak from Well No. 1 had occurred which resulted in an area of dead grass 120' x 30' to an unknown depth.

17. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
18. 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.
19. Commission records indicate no Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the Harris, W.A. (086257) Lease, Well No. 1. Commission records further show the Harris, W.A. (086257) Lease, Well No. 1 was completed on October 23, 1979, that an H-15 test was due prior to April 2008, and that the well has not been plugged. On March 13, 2009, an H-15 was approved by the Commission.
20. Commission District inspections conducted on April 21, 2008 and April 28, 2008, reflect that saltwater was leaking out of the bradenhead and gas was bubbling out of the bradenhead of Well No. 1. Follow up inspections from May 8, 2008 to August 25, 2008, indicate the leaking had stopped but there was no bradenhead observation valve piped to the surface so that the pressure on the bradenhead could be monitored.
21. The Respondent has not demonstrated 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 in violation of Commission Statewide Rules 3, 8(d)(1), 14(b)(2), 14(b)(3) and 17(b).
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 lease 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 lease in compliance with Statewide Rule 14(b)(3), which requires the operator of any well more than 25 years old that becomes inactive shall plug the well or successfully conduct a fluid level or hydraulic pressure test establishing that the well does not pose a potential threat of harm to natural resources, including surface and subsurface water, oil and gas.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 17(b), which requires any well showing pressure on the Bradenhead, or leaking gas, oil, or geothermal resource between the surface and the production or oil string shall be tested.
8. 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.
9. 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).
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, Eric Linder, 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.
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, Melton Linder, 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. Lucky Oil & Gas (512180), shall plug the Harris, W.A. (086257) Lease, Well No. 1, North DeLeon (Strawn) Field, Comanche County, Texas in compliance with applicable Commission rules and regulations; and
2. Lucky Oil & Gas (512180), shall pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SIX THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$6,750.00)**.

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 23rd day of March 2010.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated March 23, 2010)

MFE/sa