

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 7C-0300331

ENFORCEMENT ACTION AGAINST J & J WELL SERVICE, INC. (OPERATOR NO. 427433) FOR VIOLATIONS OF STATEWIDE RULES ON THE STASNEY, MALCORINE W. (07583) LEASE, WELL NOS. 1, 3, 5, 1028, 2028, 3028, 4028, AND 5028, FUZZY CREEK (GOEN) FIELD, CONCHO COUNTY, TEXAS

FINAL ORDER

The Railroad Commission of Texas (“Commission”) finds that after statutory notice the captioned enforcement proceeding was heard by a Commission Administrative Law Judge on January 12, 2017 and that the respondent, J & J Well Service, Inc., 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, 16 TEX. ADMIN. CODE § 1.49, and after being duly submitted to the Commission at a conference held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. J & J Well Service, Inc. (“Respondent”), Operator No. 427433, was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to the most recent Commission Form P-5 (Organization Report) (“Form P-5”) address: J & J Well Service, Inc., 5238 Christoval Road, San Angelo, Texas 76904. Respondent’s officers as identified on the Form P-5—Kippy Dwayne Joiner and Julius Willis Joiner—were each sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to their last known address: Kippy Dwayne Joiner, President, J & J Well Service, Inc., 7905 Ratliff Road, San Angelo, Texas 76904 and Julius Willis Joiner, Vice President, J & J Well Service, Inc., 2826 Red Bluff, San Angelo, Texas 76904.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing was received by the Respondent on September 29, 2016. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to Kippy Dwayne Joiner and Julius Willis Joiner was returned to the Commission unopened on November 8, 2016 and December 14, 2016. The first-class mail was not returned. Record of the delivery and return of certified mail has been on file with the Commission for more than 15 days, exclusive of the day of receipt and day of issuance. Respondent was given more than 30 days’ notice of the Original Complaint and Notice of Opportunity for Hearing. Respondent has not entered into an agreed settlement order, filed an answer, or requested a hearing.

3. Respondent filed its first Form P-5 with the Commission in 2009. On October 1, 2013, Respondent, a Corporation, filed a Form P-5 with the Commission reporting that its officers consist of the following individuals: Kippy Dwayne Joiner, President and Julius Willis Joiner, Vice President.
4. Kippy Dwayne Joiner was in a position of ownership or control of Respondent, as defined in section 91.114 of the Texas Natural Resources Code, during the time period of the violations of Commission rules committed by Respondent.
5. Julius Willis Joiner was in a position of ownership or control of Respondent, as defined in section 91.114 of the Texas Natural Resources Code, during the time period of the violations of Commission rules committed by Respondent.
6. Respondent's Form P-5 is delinquent. Respondent had a \$50,000.00 letter of credit as its financial assurance at the time of the last Form P-5 annual renewal submission.
7. Respondent designated itself to the Commission as the operator of the Stasney, Malcorine W. (07583) Lease, Well Nos. 1, 3, 5, 1028, 2028, 3028, 4028, and 5028, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective December 1, 2008, approved November 23, 2009.
8. Commission inspection reports made on November 4, 2015, March 30, 2016, June 10, 2016, and August 30, 2016, for the Stasney, Malcorine W. (07583) Lease, show that the signs or identification required to be posted at Well Nos. 5 and 2028 were missing and the signs or identification required to be posted at Well No. 1 was illegible. The Commission inspection report made on August 30, 2016, for the Stasney, Malcorine W. (07583) Lease, show that the sign or identification required to be posted at Well No. 3028 was missing.
9. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rule 3(2), may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency, which can result in delays in remedying a violation or emergency.
10. The violations of Commission rules committed by Respondent are related to safety and the control of pollution. According to an Affidavit signed by David Randle, Field Operations, on Statewide Rule 3, "In the event of a pollution or safety violation or other emergency, the lack of legible signs and identification displaying correct information may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency. Such confusion will cause delays in containing and remediating the violation or emergency, which is serious and may threaten the public health and safety."

11. Commission District inspection reports made on March 30, 2016, June 10, 2016, and August 30, 2016, for the Stasney, Malcorine W. (07583) Lease, show that Respondent failed to backfill and compact a workover pit at Well No. 1. Commission records show that Well No. 1 was completed July 22, 1978, Well No. 3 was completed January 11, 1982, Well No. 5 was completed on December 12, 1983, Well No. 2028 was completed on April 20, 1983, Well No. 3028 was completed on September 21, 1984, Well No. 4028 was completed on September 27, 1984, and Well No. 5028 was completed on January 10, 1985.
12. Pits that are not maintained, emptied, closed, backfilled and/or compacted as required in Statewide Rule 8(d)(4)(G)(i)(III) may result in unpermitted discharges of oil and gas waste which can contaminate the land surface, affect the health of humans and animals, and may be discharged to surface or subsurface waters, causing pollution.
13. The violations of Commission rules committed by Respondent are related to safety and the control of pollution. On Statewide Rule 8(d)(4)(H)(i)(III), David Randle, Field Operations states that all completion/workover pits used when completing or working over a well shall be dewatered within 30 days and backfilled and compacted within 120 days.
14. Commission District inspection reports made on November 4, 2015, March 30, 2016, June 10, 2016, and August 30, 2016 for the Stasney, Malcorine W. (07583) Lesae, Well No. 5028 show that the well is open to the atmosphere. By leaving wells open to the atmosphere, Respondent violated Statewide Rule 13(a)(6)(A).
15. A violation of Statewide Rule 13(a)(6)(A) is serious and a hazard to the public health and safety because wells left uncontrolled or open to the atmosphere may discharge oil and gas waste onto the land surface and affect the health of humans and animals. These discharges may eventually make their way to surface or subsurface waters, causing pollution.
16. The violations of Commission rules committed by Respondent are related to safety and the control of pollution. According to an Affidavit signed by David Randle, Field Operations, on Statewide Rule 13(a)(6)(A), "Open wellbores prohibited by Statewide Rule 13(a)(6)(A) are pollution/safety hazards due to the possibility of surface run-off entering the wellbore and the possibility of well fluids flowing out of the wellbore."
17. A Commission District inspection report made on March 30, 2016 for the Stasney, Malcorine W. (07583) Lease states tubing remains on the location at Well No. 1028. Commission records show that Well No. 1028 was plugged November 26, 2014 with a Wommission Form W-3 approved on February 2, 2015.
18. By failing to remove the tubing within 120 days of plugging the wells, the Respondent violated Statewide Rule 14(d)(12).

19. A violation of Statewide Rule 14(d)(12) is serious and a hazard to the public health and safety because loose junk and trash on the lease may cause pollution of surface and subsurface water.
20. The violations of Commission rules committed by Respondent are related to safety and the control of pollution. According to an Affidavit signed by David Randle, Field Operations, on Statewide Rule 14(d)(12), "open rat holes, mouse holes, cellars and pits are considered a potential hazard because they could become convenient sites for illegal dumping of wastes and because they could become containers for surface run-off that increases the potential for seepage to surface waters. Also, loose junk and trash can constitute a fire hazard and a safety hazard for humans, animals, and machines."
21. Commission inspection reports made on March 30, 2016, June 10, 2016, and August 30, 2016, for the Stasney, Malcorine W. (07583) Lease, show that there is no surface access to the Bradenhead valves on Well Nos. 1, 5, and 4028 and that the Bradenhead valve could not be opened on Well Nos. 2028, 3028, and 5028.
22. By failing to plumb the Bradenhead to above-ground level or to have an operable Bradenhead, the Respondent is in violation of Statewide Rule 17(a), which may result in a discharge of oil and gas waste into ground water and contamination of surface or subsurface waters, thereby resulting in pollution.
23. The violations of Commission rules committed by Respondent are related to safety and the control of pollution. According to an Affidavit signed by David Randle, Field Operations, on Statewide Rule 17(a), "A well where the bradenhead is not properly installed is in violation of Rule 17(a-b)."
24. Commission inspection reports made on March 30, 2016, June 10, 2016, and August 30, 2016, for the Stasney, Malcorine W. (07583) Lease, show that Respondent failed to properly screen an open-topped fiberglass tank. No penalty is being sought for this violation; Commission staff requested corrective measures only.
25. Failing to properly screen or take other protective measures, as set forth in Statewide Rule 22(b), regarding open-top tanks, skimming pits, and/or collecting pits can cause harm to birds.
26. Respondent, as Operator of the Stasney, Malcorine W. (07583) Lease, Well No. 1, filed or caused to be filed with the Commission, Commission Forms W-3C (Certification Of Surface Equipment Removal For An Inactive Well) on January 22, 2014, reporting false information. On the Commission Form W-3C, Respondent certified and declared, that the electric service had been physically terminated, that all piping, tanks, vessels, and equipment associated with and exclusive to the well had been emptied or purged of production fluids and that all surface equipment and related piping, tanks, tank batteries,

pump jacks, headers, fences, and firewalls associated with and exclusive to the well had been closed and all junk and trash had been removed. Commission District inspection reports made on March 30, 2016 and June 10, 2016 show that tubing is laying on the ground the location and that a tank is still located at this location and said tank contains fluid. A Commission District inspection report made on August 30, 2016, show that tank remains.

27. Respondent, as Operator of the Stasney, Malcorine W. (07583) Lease, Well No. 3, filed or caused to be filed with the Commission, Commission Forms W-3C (Certification Of Surface Equipment Removal For An Inactive Well) on May 14, 2013, reporting false information. On the Commission Form W-3C, Respondent certified and declared, that the electric service had been physically terminated, that all piping, tanks, vessels, and equipment associated with and exclusive to the well had been emptied or purged of production fluids and that all surface equipment and related piping, tanks, tank batteries, pump jacks, headers, fences, and firewalls associated with and exclusive to the well had been closed and all junk and trash had been removed. Commission District inspection reports made on March 30, 2016; June 10, 2016 and August 30, 2016, show that the well's flowlines are still connected, the pumping unit is sitting off to the side of the well and rods and tubing are still on location.
28. Respondent, as Operator of the Stasney, Malcorine W. (07583) Lease, Well No. 5, filed or caused to be filed with the Commission, Commission Forms W-3C (Certification Of Surface Equipment Removal For An Inactive Well) on May 14, 2013, reporting false information. On the Commission Form W-3C, Respondent certified and declared, that the electric service had been physically terminated, that all piping, tanks, vessels, and equipment associated with and exclusive to the well had been emptied or purged of production fluids and that all surface equipment and related piping, tanks, tank batteries, pump jacks, headers, fences, and firewalls associated with and exclusive to the well had been closed and all junk and trash had been removed. Commission District inspection reports made on March 30, 2016; June 10, 2016 and August 30, 2016, show that the flowlines were still connected to the well and that an open top tank battery containing fluids, with oil at the surface, was located at this well site.
29. Respondent, as Operator of the Stasney, Malcorine W. (07583) Lease, Well No. 3028, filed or caused to be filed with the Commission, Commission Forms W-3C (Certification Of Surface Equipment Removal For An Inactive Well) on May 14, 2013, reporting false information. On the Commission Form W-3C, Respondent certified and declared, that the electric service had been physically terminated, that all piping, tanks, vessels, and equipment associated with and exclusive to the well had been emptied or purged of production fluids and that all surface equipment and related piping, tanks, tank batteries, pump jacks, headers, fences, and firewalls associated with and exclusive to the well had been closed and all junk and trash had been removed. Commission District inspection reports made on March 30, 2016; June 10, 2016 and August 30, 2016, show that a steel flowline, rods and tubing are laying on the ground at the well location.

30. Respondent, as Operator of the Stasney, Malcorine W. (07583) Lease, Well No. 5028, filed or caused to be filed with the Commission, Commission Forms W-3C (Certification Of Surface Equipment Removal For An Inactive Well) on May 14, 2013, reporting false information. On the Commission Form W-3C, Respondent certified and declared, that the electric service had been physically terminated, that all piping, tanks, vessels, and equipment associated with and exclusive to the well had been emptied or purged of production fluids and that all surface equipment and related piping, tanks, tank batteries, pump jacks, headers, fences, and firewalls associated with and exclusive to the well had been closed and all junk and trash had been removed. Commission District inspection reports made on March 30, 2016 and June 10, 2016 show that a steel flowline is connected and tubing is laying on the ground at the well location.
31. Respondent, as Operator of the Stasney, Malcorine W. (07583) Lease, Well No. 4028, filed or caused to be filed with the Commission, Commission Forms W-3C (Certification Of Surface Equipment Removal For An Inactive Well) on May 14, 2013, reporting false information. On the Commission Form W-3C, Respondent certified and declared, that the electric service had been physically terminated, that all piping, tanks, vessels, and equipment associated with and exclusive to the well had been emptied or purged of production fluids and that all surface equipment and related piping, tanks, tank batteries, pump jacks, headers, fences, and firewalls associated with and exclusive to the well had been closed and all junk and trash had been removed. Commission District inspection reports made on March 30, 2016; June 10, 2016 and August 30, 2016, show that a steel flowline is connected.
32. By submitting alleged false Commission Forms PR, Respondent has knowingly submitted forms to the Commission containing information which was false or untrue in material fact, thereby violating TEX. NAT. RES. CODE ANN. § 91.143(a)(1).
33. Respondent has no prior history of violations of Commission rules.

CONCLUSIONS OF LAW

1. Proper notice was issued by the Commission to Respondent and all other appropriate persons legally entitled to notice.
2. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties have been performed or have occurred.
3. Respondent is responsible for maintaining the subject lease in compliance with all applicable Commission rules and chapters 89 and 91 of the Texas Natural Resources Code.

4. Respondent is in violation of Statewide Rules 3(2), 8(d)(4)(H)(i)(III), 13(a)(6)(A), 14(d)(12), 17(a), 22, and TEX. NAT. RES. CODE ANN. § 91.143(A)(I). 16 TEX. ADMIN. CODE §§ 3.3(2), 3.8(d)(4)(H)(i)(III), 3.13(a)(6)(A), 3.14(d)(12), 3.17(a), 3.22 and TEX. NAT. RES. CODE ANN. § 91.143(A)(I).
5. The documented violations committed by Respondent constitute acts deemed serious, and a hazard to the public health, and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE § 81.0531(c).
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3(2), which requires that each well site that produces oil, gas, or geothermal resources shall post signs or identification showing the name of the property, name of the operator and the well number.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(4)(G)(i)(III), which contains requirements for the dewatering, filling, backfilling and/or compacting of pits.
8. Respondent is responsible for maintaining surface control of a well by using wellhead assemblies in compliance with Statewide Rule 13(a)(6)(A). Maintenance of surface control is necessary not only to prevent fluids from being discharged from the wellbore onto the ground surface, but also to prevent any oil and gas wastes present in the wellbore from being displaced to surface by influxes of surface water into the open wellbore.
9. Respondent is responsible for filling the rat hole, mouse hole, and cellar and for emptying all tanks, vessels, related piping and flowlines that will not be actively used in continuing operation of the lease, within 120 days after plugging work is completed, unless an extension of time is granted by the district director, in compliance with Statewide Rule 14(d)(12). Within the same 120-day period, the operator shall remove all such tanks, vessels, related surface piping, and all subsurface piping that is less than 3 feet beneath the ground surface, remove all loose junk and trash from the location, and contour the location to discourage pooling of surface water at or around the facility site. The operator shall close all pits in accordance with the provisions of § 3.8 of this title relating to Water Protection (Statewide Rule 8).
10. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 17(a), which requires that all wells be equipped with a bradenhead.
11. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 22(b), which requires open-top tanks, skimming pits, and collecting pits to be screened or otherwise rendered harmless to birds.
12. Pursuant to TEX. NAT. RES. CODE § 81.0531, the Commission may assess administrative

penalties against Respondent for the subject violations of up to \$10,000 per day for each violation, with each day such violations continued constituting a separate violation.

13. An assessed administrative penalty in the amount of TWENTY-THREE THOUSAND DOLLARS (\$23,000.00) is justified considering the facts and violations at issue, consisting of four violations of Statewide Rule 3(2) at \$500.00 per violation, one violation of Statewide Rule 8(d)(4)(H)(i)(III) at \$2,500.00, one violation of Statewide Rule 13(a)(6)(A) at \$2,500.00, one violation of Statewide Rule 14(d)(12) at \$1,000.00, six violations of Statewide Rule 17(a) at \$1,500.00 per violation, one Statewide Rule 22 for compliance only, and six violations of TEX. NAT. RES. CODE ANN. § 91.143(A)(I) at \$1,000.00 per violations.
14. As persons in a position of ownership or control of Respondent at the time Respondent violated a Commission rule related to safety and the control of pollution, Kippy Dwayne Joiner and Julius Willis Joiner, and any other organization in which they may hold a position of ownership or control, are subject to the restriction in section 91.114(a)(2) of the Texas Natural Resources Code.

IT IS ORDERED THAT within 30 days from the day immediately following the date this order becomes final:

1. J & J Well Service, Inc. (Operator No. 427433) shall place the Stasney, Malcorine W. (07583) Lease, Well Nos. 1, 3, 5, 1028, 2028, 3028, 4028, and 5028 in compliance with Statewide Rules 3(2), 8(d)(4)(H)(i)(III), 13(a)(6)(A), 14(d)(12), 17(a), 22, TEX. NAT. RES. CODE ANN. § 91.143(A)(I), and any other applicable Commission rules and statutes.
2. J & J Well Service, Inc. (Operator No. 427433) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of TWENTY-THREE THOUSAND DOLLARS (\$23,000.00).

It is further **ORDERED** that 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, Kippy Dwayne Joiner and Julius Willis Joiner and any other organization in which they may hold a position of ownership or control, shall be subject to the restriction in section 91.114(a)(2) of the Texas Natural Resources Code 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.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 25 days after the Commission's Order is signed, unless the time for filing a motion for

rehearing has been extended under Tex. Gov't Code §2001.142, by agreement under Tex. Gov't Code §2001.147, or by written Commission Order issued pursuant to Tex. Gov't Code §2001.146(e). If a timely motion for rehearing of an application 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 Commission Order is signed.

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 28th day of February, 2017.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated February 28, 2017

MFE/dac