

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 7C-0278184

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 completed on August 24, 2011, November 2, 2011, January 30, 2012, November 4, 2015, March 30, 2016, June 10, 2016, and August 30, 2016, and reports filed by Respondent with the Commission reflecting zero production since May 2003, show the Stasney, Malcorine W. (07583) Lease, Well Nos. 1, 3, 5, 1028, 2028, 3028, 4028, and 5028 have been inactive for a period greater than one year. Production from the subject wells ceased on or before April 2003.
9. Commission records show that Well No. 1028 was plugged, with an approved Commission Form W-3 Plugging Report, February 2, 2015. No work-overs, re-entries, or subsequent operations have taken place on the other subject wells within the last twelve months; the subject wells have not been properly plugged in accordance with Statewide Rule 14, 16 Tex. Admin. Code § 3.14; and no plugging extension is in effect for the subject wells as allowed by Statewide Rule 14. The subject wells are not otherwise in compliance with Statewide Rule 14.
10. Usable quality groundwater in the area can become contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject wells. Unplugged wellbores, in violation of Statewide Rule 14(b)(2), constitute a cognizable threat to the public health and safety because of the potential of pollution.

11. The total estimated cost to the State for plugging the Stasney, Malcorine W. (07583) Lease, Well Nos. 1, 3, 5, 2028, 3028, 4028, and 5028 is \$265,303.00.
12. 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, "Any wellbore, cased or otherwise, is a potential conduit for flow from oil or saltwater zones to zones of usable quality water or to the surface. Holes or leaks may develop in cased wells, allowing oil or saltwater to communicate with usable quality zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface."
13. 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 Rule 14(b)(2). 16 TEX. ADMIN. CODE § 3.14(b)(2).
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 leases in compliance with Statewide Rule 14(b)(2), which requires that plugging operations on each dry or inactive well shall be commenced within a period of one year after drilling or operations cease and shall proceed with due diligence until completed, unless the operator is eligible for and obtains an extension of the plugging deadline.
7. 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.
8. An assessed administrative penalty in the amount of FORTY-FIVE THOUSAND FOUR HUNDRED SEVENTY-SEVEN DOLLARS (\$45,477.00) is justified considering the facts

and violations at issue, consisting of eight violations of Statewide Rule 14(b)(2) at \$2,000.00 per well plus \$1 per foot of total well depth for a total depth of all wells measuring 29,477 feet, less \$22,379.00 already paid in a failed settlement attempt.

9. 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 Rule 14(b)(2), 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 FORTY-FIVE THOUSAND FOUR HUNDRED SEVENTY-SEVEN DOLLARS (\$45,477.00), less \$22,739.00 already paid in a failed settlement attempt.

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