



# RAILROAD COMMISSION OF TEXAS

## HEARINGS DIVISION

### PROPOSAL FOR DECISION

**OIL AND GAS DOCKET No. 6E-0304617**

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**ENFORCEMENT ACTION AGAINST PINE CREEK OPERATING LLC (OPERATOR NO. 665645) FOR VIOLATIONS OF STATEWIDE RULES ON THE JONES, W.E. (06124) LEASE, WELL NOS. 4 AND 7, EAST TEXAS FIELD, GREGG COUNTY, TEXAS**

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### APPEARANCES

#### **FOR THE RAILROAD COMMISSION OF TEXAS:**

Melissa Glaze, Enforcement Attorney, Enforcement Section  
David Randle, Engineering Specialist 5, Field Operations Staff

#### **FOR PINE CREEK OPERATING LLC**

Donnie W. Wisenbaker

#### **PROCEDURAL HISTORY:**

Notice of Hearing:	December 13, 2017
Hearing on the merits:	February 22, 2018
Proposal for Decision issued:	February 28, 2018
Heard by:	Clayton J. Hoover, <i>Administrative Law Judge</i>

### SUMMARY

In Docket No. 6E-0304617, the Railroad Commission of Texas ("Enforcement") alleges that Pine Creek Operating LLC (Operator No. 665645), ("Pine Creek"), is in violation of Statewide Rules on the Jones, W.E. (06124) Lease, Well Nos. 4 and 7, East Texas Field, Gregg County, Texas, as a result of failure to plug an inactive well and excess vegetation.

Enforcement Attorney, Melissa Glaze, presented the testimony of David Randle and various inspection reports and other documentary evidence to show Statewide Rule violations identified by staff beginning in June, 2016.<sup>1</sup> All violations have been brought into compliance by Pine Creek.

Donnie Wisenbaker, as representative of Pine Creek, offered testimony and documentary evidence concerning Pine Creek's acquisition of the lease in 2014, the past violations and their remediation, including before and after pictures of the location which was cleared of storage tanks and vegetation. In order to remediate the location, it was necessary to disassemble the large bolted steel tanks and clear the location of vegetation with heavy equipment at a cost of over \$15,000.

While the preponderance of the record evidence supports violations as alleged by Enforcement, it is clear that Pine Creek exercised good faith and exceeded its obligations in remediating the violations and removing the tanks. Enforcement seeks an administrative penalty of \$12,300.

#### **APPLICABLE AUTHORITY**

SWR 14(b)(2), addressing *Plugging*:

(2) 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 Commission or its delegate approves a plugging extension under §3.15 of this title (relating to Surface Equipment Removal Requirements and Inactive Wells).

SWR 21(i) provides:

(i) Any rubbish or debris that might constitute a fire hazard shall be removed to a distance of at least 150 feet from the vicinity of any well, tank, or pump station. All waste shall be burned or disposed of in such manner as to avoid creating a fire hazard.

#### **EVIDENCE PRESENTED**

##### **ENFORCEMENT'S CASE**

Enforcement offered into evidence eight exhibits and the testimony of David Randle, Engineering Specialist 5 of the Railroad Commission of Texas' Field Operations Section. Enforcement presented exhibits showing Pine Creek's P-5 status and a Commission Form P-4 printout showing the approval date of December 10, 2014, by which Pine Creek

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<sup>1</sup> Enforcement Exhibit 3

assumes the responsibilities of operator. Mr. Randle carefully reviewed details of the inspection reports of the wells contained in Staff's Exhibit 3.<sup>2</sup>

Enforcement contends that the Railroad Commission filings, the above-described Inspection Reports and the testimony of Mr. Randle demonstrate violations of Statewide Rule 14(b)(2) and 21(i), although Enforcement does not contest that all such violations have been remediated.

Enforcement requests that Pine Creek be assessed administrative penalties in the amount of \$12,300.

#### PINE CREEK'S CASE

Pine Creek's witness Donnie Wisenbaker testified and presented documentary evidence about his company's acquisition of the lease in 2014, and subsequent measures taken to cure the violations, including plugging one of the wells in June of 2017.<sup>3</sup> In order to remediate the location, it was necessary to disassemble the large bolted steel tanks and clear the location of vegetation with heavy equipment at a cost of over \$15,000. One well has been plugged, and the other now has a valid plugging extension.

#### OPINION

Enforcement alleges that Pine Creek Operating LLC (Operator No. 665645), ("Pine Creek"), is in violation of Statewide Rules on the Jones, W.E. (06124) Lease, Well Nos. 4 and 7, East Texas Field, Gregg County, Texas, as a result of failure to failure to plug an inactive well and excess vegetation.<sup>4</sup> Enforcement used the Penalty Guidelines of Rule 107 to arrive at the recommended penalty contained herein of \$12,300.

The preponderance of evidence in this case shows that Pine Creek committed the violations as alleged by Enforcement, although it also shows that Pine Creek demonstrated good faith and mitigated the effects of the violations under Rule 107(i).

Pine Creek has no history of other violations of Commission Rules and Regulations.

While the preponderance of the record evidence supports violations as alleged by Enforcement, it is clear that Pine Creek demonstrated good faith and exceeded its obligations in remediating the violations, plugging the well and removing the tanks. The lease is now in full compliance. The Administrative Law Judge therefore recommends that the penalty be reduced by \$7,500 pursuant to Rule 107(i) on account of such good faith, resulting in a penalty of \$4,800.

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<sup>2</sup> Enforcement Exh. 1-3

<sup>3</sup> Respondent's Exhibits 1-10

<sup>4</sup> See Original Complaint

### CONCLUSION/RECOMMENDATION

The Administrative Law Judge agrees with Enforcement that, based on the preponderance of the evidence, Pine Creek has violated Statewide Rule 14(b)(2) and 21(i) and makes the following Findings of Fact and Conclusions of Law:

#### FINDINGS OF FACT

1. Pine Creek Operating LLC appeared at the hearing through through its representative, Donnie Wisenbaker.
2. As established by Pine Creek Operating LLC's most recent Form P-5 *Organization Report*, Pine Creek Operating LLC is a Limited Liability Company.
3. Pine Creek Operating LLC was designated as the operator of the Jones, W.E. (06124) Lease, Well Nos. 4 and 7, East Texas Field, Gregg County, Texas, by virtue of a Commission Form P-4 permit approved on December 10, 2014.
4. Pine Creek Operating LLC violated Statewide Rule 14(b)(2) and 21(i) as a result of its failure to plug an inactive well and to remove prohibited vegetation and debris as reflected in the District Office field inspections and Commission filings. The well has now been plugged and the vegetation and debris have been cleared away.
5. The subject lease is now in full compliance and other than the violations described above, Pine Creek Operating LLC has no prior history of rule violations.
6. Pine Creek demonstrated good faith and exceeded its obligations in remediating the violations and removing the tanks at a cost of over \$15,000.

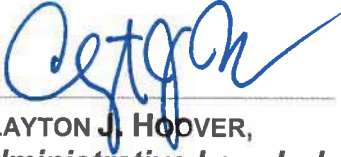
#### CONCLUSIONS OF LAW

1. Proper notice of hearing was timely issued to the appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. Pine Creek Operating LLC violated Statewide Rule 14(b)(2) and 21(i) as a result of its failure to plug an inactive well and to remove prohibited vegetation and debris.
4. Pine Creek exercised good faith and exceeded its obligations in remediating the violations and removing the tanks at a cost of over \$15,000, which justifies a \$7,500 reduction in the penalty sought by Enforcement.

**RECOMMENDATIONS**

The Administrative Law Judge recommends that the above Findings of Fact and Conclusions of Law be adopted and that Pine Creek Operating LLC be assessed an administrative penalty of \$4,800.00, as discussed above.

RESPECTFULLY SUBMITTED,

A handwritten signature in blue ink, appearing to read "Clayton J. Hoover", written over a horizontal line.

CLAYTON J. HOOVER,  
*Administrative Law Judge*