

March 24, 2011

OIL AND GAS DOCKET NO. 05-0261318

ENFORCEMENT ACTION AGAINST JOHN CHRISTIAN GINDER DBA NORTHAMERICAN SERVICE GROUP (OPERATOR NO. 613768) FOR VIOLATIONS OF STATEWIDE RULES ON THE W.A. EARLY (00707) LEASE, WELL NOS. 4, 5, 6, 9, 11, 12A, 13 AND 14, CORSICANA (SHALLOW) FIELD, NAVARRO COUNTY, TEXAS.

APPEARANCES:

FOR THE RAILROAD COMMISSION OF TEXAS:

Christopher Hotchkiss Attorney, Enforcement Section

FOR JON CHRISTIAN GINDER DBA NORTHAMERICAN SERVICE GROUP:

Don Rhodes, Consultant

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

COMPLAINT FILED:	March 18, 2009
NOTICE OF HEARING:	June 2, 2009
DATE CASE HEARD:	October 15, 2009
HEARING CLOSED:	October 15, 2009
PFD PREPARED BY:	Marshall Enquist, Hearings Examiner
PFD CIRCULATION DATE:	March 24, 2011
CURRENT STATUS:	Contested

STATEMENT OF THE CASE

This is an Enforcement action against Jon Christian Ginder DBA Northamerican Service Group (Operator No. 613768) for violations of Statewide Rules 3, 8(d)(1), 14(b)(2) and 14(b)(3) on the W.A. Early (00707) Lease, Well Nos. 4, 5, 6, 9, 11, 12A, 13 and 14, Corsicana (Shallow) Field, Navarro County, Texas.

A hearing in this docket was held October 15, 2009. Notice of Hearing was sent to respondent by first class and certified mail at the most recent organization address reported to the Commission on Commission Form P-5 (Organization Report). The most recent P-5 addresses were Northamerican Service Group, P.O. Box 691172, Houston, Texas 77269 and Northamerican Service

Group, 14500 Cutten Road Apt. 2104, Houston, Texas 77069. Notice was also served at Northamerican Service Group, c/o North American Energy Group, 1808 Snake River Road Suite D, Katy, Texas 77449-7745 and at John Wilshusen, Jon Christian Ginder DBA Northamerican Service Group, P.O. Box 65, Imperial, Texas 79743. Don Rhodes, Consultant, appeared at the hearing representing Jon Christian Ginder DBA Northamerican Service Group. Chris Hotchkiss, Staff Attorney, appeared at the hearing representing the Railroad Commission of Texas, Office of General Counsel, Enforcement Section (“Enforcement”).

AUTHORITY

Statewide Rule 3(2) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.3] requires the posting of signs and identification in English, which display clearly legible and correct information, with letters and numbers at least one inch in height, at each well site, which must show the name of the property as carried on the records of the Commission, the name of the operator and the well number.

Statewide Rule 8(d)(1) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.8] requires persons disposing of oil and gas wastes by any method to have a permit to do so unless authorized under subsection (d)(3) or (e) of Statewide Rule 8, or under Statewide Rule 9, 46 or 98. Oil and gas wastes are defined in Statewide Rule 8(a)(26) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.8(a)(26)] to include materials to be disposed of or reclaimed, which have been generated in connection with activities associated with the exploration, development and production of oil or gas. These materials include but are not limited to “saltwater, other mineralized water, sludge, spent drilling fluids, cuttings, waste oil, spent completion fluids and other liquid, semi-liquid, or solid waste material.” “To dispose” is defined in Statewide Rule 8(a)(24) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.8(a)(24)] to include “conducting, draining, discharging, emitting, throwing, releasing, depositing, burying, landfarming, or allowing to seep, or to cause or allow any such acts of disposal.”

Statewide Rule 14(b)(2) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.14] requires the commencement of plugging operations on each dry or inactive well within one year after drilling or operations cease, unless the operator is eligible for and obtains an extension of the plugging deadline.

Statewide Rule 14(b)(3) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.14(b)(3)] requires the operator of any well more than 25 years old that becomes inactive and subject to the provisions of this subsection to 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.

MATTERS OFFICIALLY NOTICED

The examiner has taken Official Notice of Commission Mainframe records including the JDOC screen and associated Remarks screen indicating the current status of the docket. The Examiner has also taken Official Notice of the Commission Mainframe Wellbore menu, including the “District W-3 Approval Date” and “Oil and Gas W-2/G-1 Record” screens for the eight wells that are the subject of this docket.

ENFORCEMENT'S EVIDENCE

Jon Christian Ginder DBA Northamerican Service Group (hereinafter "Ginder" or "Respondent") designated himself the operator of the W.A. Early (00707) Lease, Well Nos. 4, 5, 6, 9, 11, 12A, 13 and 14, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective February 1, 2005 and approved March 16, 2005.

Statewide Rule 3(2)

Commission District Office inspection reports made on November 12, 2008; January 5, 2009; May 27, 2009 and June 2, 2009 showed that the signs or identification required by Statewide Rule 3(2) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.3(2)] to be posted at the 8 wells that are the subject of this docket were missing. By failing to maintain legible signs or identification as required, Respondent violated Statewide Rule 3(2).

Respondent's violation of Statewide Rule 3(2) is serious and threatens the public health and safety. 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.

Statewide Rule 8(d)(1)

A Commission District Office inspection report made on November 12, 2008 for the W.A. Early (00707) Lease found that Well No. 12A was leaking oil at the surface, and onto the well site. No dimensions were given, but the photographic evidence (see Attachment I) clearly shows that the contaminated area is at least 10 feet by 15 feet. Subsequent inspections on January 5, 2009; May 27, 2009 and June 2, 2009 showed no remediation efforts. Respondent did not have a permit for such discharges, nor were they authorized under Statewide Rule 8(d)(3) or under Statewide Rules 9, 46 or 98. By discharging oil and/or gas wastes without a permit, Respondent violated Statewide Rule 8(d)(1) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.8(d)(1)].

Respondent's violation of Statewide Rule 8(d)(1) is serious and a hazard to the public health and safety, in that unpermitted discharges of oil and gas waste can contaminate the land surface, affect the health of humans and animals, and may eventually be discharges to surface or subsurface waters, causing pollution.

Statewide Rule 14(b)(2)

Commission District Office inspection reports made on November 12, 2008; January 5, 2009; May 27, 2009 and June 2, 2009 and reports filed by the Respondent with the Commission reflecting zero production since February 28, 2005 showed that the W.A. Early (00707) Lease, Well Nos. 4, 5, 6, 9, 11, 12A, 13 and 14 had been inactive for a period greater than one year. Production from the subject wells ceased on or before February 28, 2005.

No workovers, re-entries or subsequent operations have taken place on any of the subject

wells in this complaint within the last 12 months; none of the subject wells have been plugged; the plugging extensions for all of the subject wells as allowed by Statewide Rule 14 were cancelled August 21, 2007 based on Respondent's failure to submit to the Commission a successful Form H-15 (Test on an Inactive Well More Than 25 Years Old) and Respondent has not requested a hearing on the matter.

By failing to timely plug the subject wells or obtain an extension of the plugging deadline, Respondent violated Statewide Rule 14(b)(2)[Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.14(b)(2)]. Respondent's violation of Statewide Rule 14(b)(2) is serious and threatens the public health and safety. Unplugged wellbores are likely to cause pollution of usable quality groundwater and surface water by serving as a conduit for the migration of oil, gas, saltwater and other substances from one stratum or formation to another or to the surface or from the surface downward.

Pursuant to calculations by Commission District Office personnel, the total estimated cost to the State for plugging the W.A. Early (00707) Lease, Well Nos. 4, 5, 6, 9, 11, 12A, 13 and 14 is \$143,200.00 (eight wells at \$17,900 each).

Statewide Rule 14(b)(3)

Commission records indicate no Form H-15 (Test on an Inactive Well More Than 25 Years Old) has been filed and approved for the W.A. Early (00707) Lease, Well Nos. 4, 5, 6, 9, 11, 12A, 13 and 14. Commission records further show that the H-15 tests were due in May, 2006 and that the wells have not been plugged.

By failing to test and file the required H-15 test results with the Commission, or plug the W.A. Early (00707) Lease, Well Nos. 4, 5, 6, 9, 11, 12A, 13 and 14, Respondent violated Statewide Rule 14(b)(3). Respondent's violation of Statewide Rule 14(b)(3) is serious and a hazard to the public health and safety because wells over twenty-five years old may develop holes or leaks in the casing, allowing oil or saltwater to communicate with usable quality water zones or to flow to the surface.

Enforcement's Prayer

Enforcement staff requests that the Commission enter an order assessing Respondent an administrative penalty of \$34,500.00 less \$4,000.00 already paid (consisting of eight Rule 3 violations at \$250 each, one Rule 8 violation at \$500, eight Rule 14(b)(2) violations at \$2,000 each and eight Rule 14(B)(3) violations at \$2,000 each) and directing Respondent to place the subject lease and wells in compliance with all Commission rules and regulations.

JON CHRISTIAN GINDER DBA NORTHAMERICAN SERVICE GROUP'S EVIDENCE

Respondent did not present any evidence and did not dispute Enforcement's allegations. Consultant Don Rhodes, appearing as a representative of Jon Christian Ginder BDA Northamerican Service Group, stated that Respondent would renew its P-5 Organization Report, move forward to plug the wells and pay whatever penalty the Commission might assess. Mr. Rhodes noted that if

Respondent could be given an additional 30 days before Commission action, it would be well along with its plugging program. Enforcement and Respondent agreed that respondent would provide the Commission a check for \$2,000 by Monday, October 19, 2009, would renew its P-5, would present the Commission with a plugging contract to demonstrate good faith and would provide the Commission with progress reports on a daily basis.

EXAMINER'S OPINION

At hearing, Respondent Ginder, through his consultant, attempted to strike a deal for more time in which to obtain compliance by plugging the subject wells. The examiner has Officially Noticed that the Commission did receive a check from Respondent in the amount of \$2,000 on Monday, October 19, 2009 as Respondent promised. Respondent also renewed its P-5 Organization Report and is currently active. However, Commission records Officially Noticed by the examiner on the Commission Mainframe Wellbore menu, specifically the screens "District W-3 Approval Date" and "Oil and Gas W-2/G-1 Record", show that none of the wells that are the subject of this complaint have been plugged.

Respondent Ginder did not dispute Enforcement's allegation that Ginder violated Statewide Rules 3(2), 8(d)(1) and 14(b)(2). Upon review of the evidence, the examiner concludes that Enforcement's allegations of violations are correct.

Regarding Enforcement's allegations that the wells on this docket are in violation of Statewide Rule 14(b)(3), that is, that they are wells older than 25 years that have become inactive and therefore subject to the provisions of Statewide Rule 14 requiring an H-15 test, Commission mainframe records (Oil and Gas W-2/G-1 Record) indicate that Well Nos. 4, 5, 6, 9, 12A, 13 and 14 have "Built" dates of January 12, 1984. This is the date the Commission mainframe system was established. Wells with a January 12, 1984 "Built" date are wells which were completed prior to January 12, 1984. In the case of Well Nos. 4, 5, 6, 9, 13 and 14, the wells were at least 25 years old as of January 12, 2009, nine months before the hearing date. These wells were subject to the Provisions of Statewide Rule 14(b)(3).

Well No. 11 has a "Built" date of December 5, 1990 on the first "Oil and Gas W-2/G-1 Record" that appears on the Mainframe. However, backtracking to an earlier "Oil and Gas W-2/G-1 Record" shows that Well No. 11 has an earlier "Built" date of January 12, 1984, demonstrating that it is over 25 years old and subject to the provisions of Statewide Rule 14(b)(3).

Well No. 12A has a "Built" date of February 26, 1990, but further review shows that the "Built" date was based on a Completion Report filed merely to "...indicate status as an oil well, not a injection well" with the further notation that the well number was changed from 12W to 12A. Well No. 12W has a "Built" date of January 12, 1984, indicating it is over 25 years old and subject to the provisions of Statewide Rule 14(B)(3).

The examiner agrees with Enforcement's allegations and recommends that Respondent be assessed an administrative penalty of \$34,500 less \$4,000 paid on May 28, 2009 and less \$2,000 paid on October 19, 2009, for a remaining assessed penalty of \$28,500.00.

Based on the record in this docket, the examiner recommends adoption of the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Jon Christian Ginder DBA Northamerican Service Group (Operator No. 613768) was given at least 10 days notice of this proceeding by certified mail, addressed to its most recent Form P-5 (Organization Report) address. Jon Christian Ginder DBA Northamerican Service Group appeared at the hearing through Consultant Don Rhodes. Chris Hotchkiss appeared at the hearing representing Enforcement staff.
2. Jon Christian Ginder DBA Northamerican Service Group designated itself the operator of the W.A. Early (00707) Lease, Well Nos. Well Nos. 4, 5, 6, 9, 11, 12A, 13 and 14, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective February 1, 2005 and approved March 16, 2005.
3. Commission District Office inspection reports made on November 12, 2008; January 5, 2009; May 27, 2009 and June 2, 2009 showed that the signs or identification required by Statewide Rule 3(2) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.3(2)] to be posted at Well Nos. Well Nos. 4, 5, 6, 9, 11, 12A, 13 and 14 on the W.A. Early (00707) Lease were missing.
4. Respondent's violation of Statewide Rule 3(2) is serious and threatens the public health and safety. 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.
5. A Commission District Office inspection report made on November 12, 2008 for the W.A. Early (00707) Lease found that Well No. 12A was leaking oil at the surface, and onto the well site. No dimensions were given, but the photographic evidence shows that the contaminated area is at least 10 feet by 15 feet. Subsequent inspection on January 5, 2009; May 27, 2009 and June 2, 2009 showed no remediation efforts. Respondent did not have a permit for such discharges, nor were they authorized under Statewide Rule 8(d)(3) or under Statewide Rules 9, 46 or 98.
6. Respondent's violation of Statewide Rule 8(d)(1) is serious and a hazard to the public health and safety, in that unpermitted discharges of oil and gas waste can contaminate the land surface, affect the health of humans and animals, and may eventually be discharges to surface or subsurface waters, causing pollution.
7. Commission District Office inspection reports made on November 12, 2008; January 5, 2009; May 27, 2009 and June 2, 2009 and reports filed by the Respondent with the Commission reflecting zero production since February 28, 2005 showed that the W.A. Early (00707) Lease, Well Nos. 4, 5, 6, 9, 11, 12A, 13 and 14 had been inactive for a period greater

than one year. Production from the subject wells ceased on or before February 28, 2005.

8. No workovers, re-entries or subsequent operations have taken place on any of the subject wells in this complaint within the last 12 months; none of the subject wells have been plugged; the plugging extensions for all of the subject wells as allowed by Statewide Rule 14 were cancelled August 21, 2007 based on Respondent's failure to submit to the Commission a successful Form H-15 (Test on an Inactive Well More Than 25 Years Old) and Respondent has not requested a hearing on the matter.
9. By failing to timely plug the subject wells or obtain an extension of the plugging deadline, Respondent violated Statewide Rule 14(b)(2)[Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.14]. Respondent's violation of Statewide Rule 14(b)(2) is serious and threatens the public health and safety. Unplugged wellbores are likely to cause pollution of usable quality groundwater and surface water by serving as a conduit for the migration of oil, gas, saltwater and other substances from one stratum or formation to another or to the surface or from the surface downward.
10. Commission records indicate no Form H-15 (Test on an Inactive Well More Than 25 Years Old) has been filed and approved for the W.A. Early (00707) Lease, Well Nos. 4, 5, 6, 9, 11, 12A, 13 and 14. Commission records show that the wells are over 25 years old and subject to the provisions of Statewide Rule 14(b)(3).
11. By failing to test and file the required H-15 test results with the Commission, or plug the W.A. Early (00707) Lease, Well Nos. 4, 5, 6, 9, 11, 12A, 13 and 14, Respondent violated Statewide Rule 14(b)(3). Respondent's violation of Statewide Rule 14(b)(3) is serious and a hazard to the public health and safety because wells over twenty-five years old may develop holes or leaks in the casing, allowing oil or saltwater to communicate with usable quality water zones or to flow to the surface.
12. Pursuant to calculations by Commission District Office personnel, the total estimated cost to the State for plugging the W.A. Early (00707) Lease, Well Nos. 4, 5, 6, 9, 11, 12A, 13 and 14 is \$143,200.00 (eight wells at \$17,900 each).
13. Jon Christian Ginder DBA Northamerican Service Group, was the officer in a position of ownership or control of Jon Christian Ginder DBA Northamerican Service Group at the time the violations of Commission Statewide Rules 3(2), 8(d)(1), 14(b)(2) and 14(b)(3) were committed.
14. Jon Christian Ginder DBA Northamerican Service Group paid \$4,000 on May 28, 2009 and paid \$2,000 on October 19, 2009 in partial settlement of this docket.

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. Jon Christian Ginder DBA Northamerican Service Group (hereinafter “Ginder” or “Respondent”) designated himself the operator of the W.A. Early (00707) Lease, Well Nos. 4, 5, 6, 9, 11, 12A, 13 and 14, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective February 1, 2005 and approved March 16, 2005.
4. Jon Christian Ginder DBA Northamerican Service Group violated Commission Statewide Rule 3(2) on the W.A. Early (00707) Lease, Well Nos. 4, 5, 6, 9, 11, 12A, 13 and 14, from at least November 12, 2008, through the date of the hearing, October 15, 2009, a period of just under one year.
5. Jon Christian Ginder DBA Northamerican Service Group violated Commission Statewide Rule 8(d)(1) on the W.A. Early (00707) Lease, Well No. 12A, from at least November 12, 2008 through the date of the hearing on October 15, 2009, a period of just under one year.
6. Jon Christian Ginder DBA Northamerican Service Group violated Commission Statewide Rule 14(b)(2) on the W.A. Early (00707) Lease, Well Nos. 4, 5, 6, 9, 11, 12A, 13 and 14, from at least February 28, 2006, through the date of the hearing, October 15, 2009, a period of just under two years and eight months.
7. By failing to timely plug the subject wells or obtain an extension of the plugging deadline, Respondent violated Statewide Rule 14(b)(2)[Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.14]. Respondent’s violation of Statewide Rule 14(b)(2) is serious and threatens the public health and safety. Unplugged wellbores are likely to cause pollution of usable quality groundwater and surface water by serving as a conduit for the migration of oil, gas, saltwater and other substances from one stratum or formation to another or to the surface or from the surface downward.
8. Jon Christian Ginder DBA Northamerican Service Group violated Commission Statewide Rule 14(b)(3) on the W.A. Early (00707) Lease, Well Nos. 4, 5, 6, 9, 11, 12A, 13 and 14, from at least May, 2006, through the date of the hearing, October 15, 2009, a period of three years and five months.
9. The documented violations committed by Respondent were a hazard to the public health and demonstrated a lack of good faith pursuant to Texas Natural Resources Code §81.0531©.
10. As the officer in a position of ownership or control of at the time the violations were committed, Jon Christian Ginder, and any organization in which he may hold a position of ownership or control shall be subject to the restrictions of Texas Natural Resources Code §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 sooner, if 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 organization have agreed.

RECOMMENDATION

The examiner recommends that the above findings of fact and conclusions of law be adopted by the Commission. The examiner recommends that Jon Christian Ginder DBA Northamerican Service Group be ordered to plug Well Nos. 4, 5, 6, 9, 11, 12A, 13 and 14 on the W.A. Early (00707) Lease, Corsicana (Shallow) Field, Navarro County, Texas and place the lease in compliance with all Commission rules and regulations, and be assessed an administrative penalty of \$34,500.00 (consisting of eight Statewide Rule 3(2) violations at \$250 each, one Statewide Rule 8(d)(1) violation at \$500, eight violations of Statewide Rule 14(b)(2) at \$2,000 each, and eight violations of Statewide Rule 14(b)(3) at \$2,000 each), less \$4,000 paid on May 28, 2009 and \$2,000 paid on October 19, 2009, for a remaining assessed penalty of \$28,500.00.

Respectfully submitted,

Marshall Enquist
Hearings Examiner