

March 4, 2003

OIL AND GAS DOCKET NO. 05-0232641

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**ENFORCEMENT ACTION AGAINST CHARLES RANDY RIDENOUR, DOING BUSINESS AS, RIDENOUR, RANDY INDEPENDENT FOR VIOLATIONS OF STATEWIDE RULES ON THE JACKSON, C. C., ESTATE (02279) LEASE, WELL NO. 1, CORSICANA (SHALLOW) FIELD, NAVARRO COUNTY, AND THE JACKSON, J. A. (01715) LEASE, WELL NOS. 1, 1-I, 3, 4, 4-RI, 5-RI, 10, 11, AND 12, CORSICANA (SHALLOW) FIELD, NAVARRO COUNTY, TEXAS.**

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**APPEARANCES:**

**FOR MOVANT:**

Barbara Epstein, Staff Attorney

**FOR RESPONDENT:**

Charles Randy Ridenour

**MOVANT:**

Railroad Commission of Texas

**PARTY:**

Self

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

<b>COMPLAINT FILED:</b>	December 6, 2002
<b>NOTICE OF HEARING:</b>	January 16, 2003
<b>DATE CASE HEARD:</b>	February 24, 2003
<b>PFD PREPARED BY:</b>	Mark Helmueller, Hearings Examiner
<b>PFD CIRCULATION DATE:</b>	March 4, 2003
<b>CURRENT STATUS:</b>	Protested

**STATEMENT OF THE CASE**

This was a Commission-called hearing on the recommendation of the District Office to determine the following:

1. Whether the respondent should be required to plug or otherwise place in compliance with

Statewide Rules 13 and 14, the Jackson, C. C., Estate (02279) Lease, Well No. 1, Corsicana (Shallow) Field, Navarro County, and the Jackson, J. A. (01715) Lease, Well Nos. 1, 1-I, 3, 4, 4-RI, 5-RI, 10, 11, and 12, Corsicana (Shallow) Field, Navarro County, Texas;

2. Whether the respondent has violated provisions of Title 3, Oil and Gas, Subtitles A, B, and C, Texas Natural Resources Code, Chapter 27 of the Texas Water Code, and Commission rules and laws pertaining to safety or prevention or control of pollution by failing to comply with said statutes and Statewide Rules 13 and 14;
3. Whether the respondent should be assessed administrative penalties of not more than \$10,000 per day for each offense committed regarding said leases and wells;
4. Whether any violations should be referred to the Office of the Attorney General for further civil action pursuant to Tex. Nat. Res. Code Ann. § 81.0534.

Barbara Epstein, Staff Attorney, appeared at the hearing representing the Railroad Commission of Texas, Enforcement Section. Charles Randy Ridenour, doing business as, Ridenour, Randy Independent (hereinafter "Ridenour") appeared on his own behalf. The Enforcement Section's hearing file was admitted into evidence.

Enforcement recommended that Ridenour be ordered to bring the Jackson, C. C., Estate (02279) Lease, Well No. 1, and the Jackson, J. A. (01715) Lease, Well Nos. 1, 1-I, 3, 4, 4-RI, 5-RI, 10, 11, and 12, into compliance with Commission rules and be ordered to pay a total administrative penalty of \$26,000: \$1,000 each for the six violations of Rule 13(b)(1)(B); and \$2,000 each for the ten violations of Statewide Rule 14(b)(2). The examiner agrees with the recommendation.

#### **DISCUSSION OF THE EVIDENCE**

Enforcement presented Commission records showing that the last Commission Form P-5 for Ridenour was filed January 26, 2001. Ridenour paid a fee of \$100 as financial assurance at the time of his last renewal. Ridenour's Organization Report is currently delinquent.

Ridenour was recognized as the operator of the Jackson, C. C. Estate (02279) Lease, Well No. 1, Corsicana (Shallow) Field, Navarro County, and the Jackson, J. A. (01715) Lease, 1, 1-I, 3, 4, 4-RI, 5-RI, 10, 11, and 12, Corsicana (Shallow) Field, Navarro County, Texas after Ridenour submitted Commission Form P-4s (Producer's Transportation Authority and Certificate of Compliance) on July 22, 1994. The Form P-4s were approved by the Commission on July 28, 1994.

Commission inspection reports made on May 29, 2000, July 6, 2001, April 5, 2002, and July 23, 2002, found that Well No. 1 on the Jackson, C. C., Estate (02279) Lease was shut in and not equipped to produce. Commission records report that production from the well ceased on or before November 30, 1996. The last plugging extension for the well expired on January 26, 2002. The estimated cost to plug the well is \$2,700. Accordingly, Enforcement contends that the well was in violation of Statewide Rule 14(b)(2) from January 26, 2002 to the present. Enforcement

recommends that Ridenour pay an administrative penalty of \$2,000 for the violation.

An inspection report made on July 23, 2002, found that Well No. 1 on the Jackson, C. C., Estate (02279) Lease was open to the atmosphere in violation of Statewide Rule 13(b)(1)(B). Enforcement recommends that Ridenour pay an administrative penalty of \$1,000 for the violation.

Commission inspection reports made on May 20, 2002 and July 23, 2002, found that Well Nos. 1, 1-I, 3, 4, 4-RI, 5-RI, 10, 11, and 12 on the Jackson, J. A. (01715) Lease were shut in and not equipped to produce. Commission records report that production from the wells ceased on or before March 31, 2001. Plugging extensions for Well Nos. 1 and 1-I expired on January 26, 2002. The estimated costs to plug all nine wells is \$27,000. Accordingly, Enforcement contends that Well Nos. 1 and 1-I were in violation of Statewide Rule 14(b)(2) from January 26, 2002 to the present. Enforcement further contends that Well Nos. 3, 4, 4-RI, 5-RI, 10, 11, and 12 were in violation of Statewide Rule 14(b)(2) from March 31, 2002 to the present. Enforcement recommends that Ridenour pay an administrative penalty of \$2,000 for each of the 9 violations.

Commission inspection reports made on May 20, 2002 and July 23, 2002, found that Well Nos. 4, 5-RI, 10, 11, and 12 on the Jackson, J. A. (01715) Lease all had casing open to the atmosphere in violation of Statewide Rule 13(b)(1)(B). Enforcement recommends that Ridenour pay an administrative penalty of \$1,000 for each of the 5 violations.

Ridenour does not dispute that he is the designated operator of both leases and further does not dispute the Commission inspections showing that the wells are currently in violation of Commission Rules. Ridenour claims that the violations are the result of the landowner for both leases filing an action to terminate the leases in November 1998. In September 1999, a summary judgment order adverse to Ridenour was entered in the landowner's litigation. Ridenour claims he was further advised by the landowner's son, a District Court Judge, never to set foot on the property again. Ridenour claims that he walked the leases on the day the summary judgment order was entered and presented photographs of the wells to establish how they were equipped and that they were not in violation of Commission rules.

Ridenour appealed the decision terminating his leases until his final appeal was rejected in September 2001. He claims the landowner's son then told him that Ridenour's right to any of the equipment was forfeited. Any equipment on the property was to be sold by the landowner to pay for legal fees. Ridenour did not contest the landowner's right to the equipment, but claims that none of the wells were out of compliance with Commission Rules until the landowner began removing and selling the wellhead equipment.

Finally, Ridenour claims he no longer has funds to either bring the wells into compliance or to pay any administrative penalty. He requested that consideration be given to the fact that he has always cooperated with the Commission, noting specifically that he had repaired at least three breakouts related to orphan wells.

#### **APPLICABLE AUTHORITY**

Statewide Rule 13(b)(1)(B) requires that wellhead assemblies be used to maintain surface control of the well. Wellhead assemblies are necessary to prevent fluids from being discharged from the wellbore onto the ground surface and to prevent any oil and gas waste in the wellbore from being displaced to the surface by potential influxes of water into the open wellbore.

Statewide Rule 14(b)(2) provides that the operator of a well must plug the well in accordance with Commission Rules within one year after operations cease, unless an extension is granted. For Form P-4s filed prior to September 1, 1997, the operator, for purposes of plugging liability, is presumed to be the person who assumed responsibility for the physical operation and control of a well as shown on the approved Form P-4 designating that person as operator.

In determining the amount of an administrative penalty under Texas Natural Resources Code §81.0531, the Commission must consider the respondent's history of previous violations, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the respondent.

Texas Natural Resources Code §89.044 provides that an operator, on proper identification, may enter the land of another for the purpose of plugging a well that has not been properly plugged.

#### **EXAMINER'S OPINION**

Ridenour acknowledges: 1) that the wells are not in compliance with Statewide Rules 13 and 14; 2) that he no longer has any leases; and 3) that he is responsible for plugging the wells. He claims that he was unable to bring the wells into compliance due to a dispute with the landowner and that the landowner caused the open wellbore violations by stripping and selling his equipment.

The fact that the landowner successfully prevailed in a legal action terminating Ridenour's right to operate the wells does not provide a basis for excusing Ridenour from complying with Commission Rules. Texas Natural Resources Code §89.044 gives Ridenour the right to enter the property to properly plug the wells even where he does not possess a current lease. Unfortunately, Ridenour indicates that he is financially unable to exercise this right as he lacks the \$30,000 in estimated plugging costs. Accordingly, it appears that Ridenour's lack of funds is the reason for his failure to bring the wells into compliance, as opposed to the legal action which terminated his right to operate the wells. In any event, neither the legal action, nor the lack of funds excuse Ridenour from meeting his regulatory requirements.

Accordingly, the examiner recommends that Ridenour be ordered to plug all the wells as he does not possess a valid organization report and he no longer has any right to operate the wells. The examiner further recommends that Ridenour be ordered to pay a total administrative penalty of \$26,000 broken down as follows: \$2,000 each for 10 violations of Statewide Rule 14(b)(2) on the subject leases; and \$1,000 each for 6 violations of Statewide Rule 13(b)(1)(B) on the subject leases.

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. Respondent, Charles Randy Ridenour, doing business as Ridenour, Randy Independent (“Ridenour”), was given at least 10 days notice of this proceeding by certified mail, addressed to the most recent Form P-5 (Organization Report) address. Ridenour appeared at the hearing and offered testimony.
2. The last Commission Form P-5 for Ridenour was filed January 26, 2001. Ridenour paid a fee of \$100 as financial assurance at the time of his last renewal. Ridenour’s Organization Report is currently delinquent.
3. Ridenour was recognized as the operator of the Jackson, C. C., Estate (02279) Lease, Well No. 1, Corsicana (Shallow) Field, Navarro County, and the Jackson, J. A. (01715) Lease, Well Nos. 1, 1-I, 3, 4, 4-RI, 5-RI, 10, 11, and 12, Corsicana (Shallow) Field, Navarro County, after Ridenour submitted Commission Form P-4s (Producer’s Transportation Authority and Certificate of Compliance) on July 22, 1994. The Form P-4s were approved by the Commission on July 28, 1994.
4. During the time period that Ridenour was the recognized operator of the Jackson, C. C., Estate (02279) Lease, Well No. 1 was inactive for more than 12 months .
  - A. Commission inspection reports made on May 29, 2000, July 6, 2001, April 5, 2002, and July 23, 2002, found that Well No. 1 on the Jackson, C. C., Estate (02279) Lease was shut in and not equipped to produce.
  - B. Commission records show that the last Commission Form W-1X (Application for Future Re-Entry of Inactive Well Bore and 14(b)(2) Extension Permit) for Well No. 1 on the Jackson, C. C., Estate (02279) Lease expired on January 26, 2002.
  - C. Commission records report no production from Well No. 1 on the Jackson, C. C., Estate (02279) Lease after November 30, 1996.
5. During the time period that Ridenour was the recognized operator of the Jackson, J. A. (01715) Lease, Well Nos. 1, 1-I, 3, 4, 4-RI, 5-RI, 10, 11, and 12, were inactive for more than 12 months.
  - A. Commission inspection reports made on May 20, 2002 and July 23, 2002, found that Well Nos. 1, 1-I, 3, 4, 4-RI, 5-RI, 10, 11, and 12 on the Jackson, J. A. (01715) Lease

were shut in and not equipped to produce.

- B. Commission records show that the last Commission Form W-1X (Application for Future Re-Entry of Inactive Well Bore and 14(b)(2) Extension Permit) for Well Nos. 1, and 1-I on the Jackson, J. A. (01715) Lease expired on January 26, 2002.
  - C. Commission records report no production from the wells on the Jackson, J. A. (01715) Lease after March 31, 2001.
6. A Commission inspection report on July 23, 2002 indicates that Well No. 1 on the Jackson, C. C., Estate (00279) Lease had casing open to the atmosphere in violation of Rule 13(b)(1)(B).
  7. Commission inspection reports dated May 20, 2002, and July 23, 2002 indicated that Well Nos. 4, 5-RI, 10, 11, and 12 on the Jackson, J. A. (01715) Lease had casing open to the atmosphere in violation of Rule 13(b)(1)(B).
  8. The estimated cost to plug Well No. 1 on the Jackson, C. C., Estate (02279) Lease is \$2,700.
  9. The estimated cost to plug Well Nos. 1, 1-I, 3, 4, 4-RI, 5-RI, 10, 11, and 12 on the Jackson, J. A. (01715) Lease is \$27,000.
  10. Usable quality groundwater may be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject wells. Unplugged and open to atmosphere wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
  11. Ridenour has no previous history of violations.
  12. Ridenour has not demonstrated good faith since he failed to plug or otherwise place the subject wells in compliance after being notified of the violations by the district office.

#### 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. Ridenour was the operator of the Jackson, C. C., Estate (02279) Lease, Well No. 1, Corsicana (Shallow) Field, Navarro County, as defined by Commission Statewide Rule 14

- and §89.002 of the Texas Natural Resources Code from July 28, 1994 through the present.
4. Ridenour was the operator of the Jackson, J. A. (01715) Lease, Well Nos.1, 1-I, 3, 4, 4-RI, 5-RI, 10, 11, and 12, Corsicana (Shallow) Field, Navarro County, as defined by Commission Statewide Rule 14 and §89.002 of the Texas Natural Resources Code from July 28, 1994 through the present.
  5. Ridenour has the primary responsibility for complying with Rules 13 and 14, and Chapter 89 of the Texas Natural Resources Code as well as other applicable statutes and Commission rules relating to the Jackson, C. C., Estate (02279) Lease, Well No. 1.
  6. Ridenour has the primary responsibility for complying with Rules 13 and 14, and Chapter 89 of the Texas Natural Resources Code as well as other applicable statutes and Commission rules relating to the Jackson, J. A. (01715) Lease, Well Nos.1, 1-I, 3, 4, 4-RI, 5-RI, 10, 11, and 12.
  7. Well No. 1 on the Jackson, C. C., Estate (02279) Lease is not properly plugged or otherwise in compliance with Statewide Rules 13 and 14 or Chapters 85, 89 and 91 of the Texas Natural Resources Code.
  8. Well No. 1 on the Jackson, C. C., Estate (02279) Lease has been out of compliance with Statewide Rule 14 from January 26, 2002 to the present.
  9. Well No. 1 on the Jackson, C. C., Estate (02279) Lease has been out of compliance with Statewide Rule 13 from July 23, 2002 to the present.
  10. Well Nos. 1, 1-I, 3, 4, 4-RI, 5-RI, 10, 11, and 12, on the Jackson, J. A. (01715) Lease, are not properly plugged or otherwise in compliance with Statewide Rule 14 or Chapters 85, 89 and 91 of the Texas Natural Resources Code.
  11. Well Nos. 1 and 1-I on the Jackson, J. A. (01715) Lease have been out of compliance with Statewide Rule 14 from January 26, 2002 to the present.
  12. Well Nos. 3, 4, 4-RI, 5-RI, 10, 11, and 12, on the Jackson, J. A. (01715) Lease have been out of compliance with Statewide Rule 14 from March 31, 2002 to the present.
  13. Well Nos. 4, 5-RI, 10, 11, and 12, on the Jackson, J. A. (01715) Lease are not properly plugged or otherwise in compliance with Statewide Rule 13 or Chapters 85, 89 and 91 of the Texas Natural Resources Code.
  14. Well Nos. 4, 5-RI, 10, 11, and 12, on the Jackson, J. A. (01715) Lease have been out of compliance with Statewide Rule 13 from May 20, 2002 to the present.
  15. The documented violations committed by Ridenour are a hazard to the public health and

demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE ANN. §81.0531(c).

**RECOMMENDATION**

The examiner recommends that the above findings and conclusions be adopted and the attached order approved, requiring Ridenour:

- 1) to plug Well No. 1 on the Jackson, C. C., Estate (02279) Lease;
- 2) to plug Well Nos. 1, 1-I, 4, 4-RI, 5-RI, 10, 11, and 12 on the Jackson, J. A. (01715) Lease;  
and
- 3) to pay an administrative penalty of TWENTY SIX THOUSAND DOLLARS (\$26,000).

Respectfully submitted,

Mark J. Helmueller  
Hearings Examiner