

OIL & GAS DOCKET NO. 7B-0244921

ENFORCEMENT ACTION AGAINST MORTON VALLEY OIL & GAS, INC. (OPERATOR NO. 589961) FOR VIOLATIONS OF STATEWIDE RULES ON THE LOIS MEAZELL "E" LEASE, WELL NO. 1 (RRC ID NO. 111285), AND THE CASEY MEAZELL "F" (15611) LEASE, WELL NO. 1, LAKE LEON (DUFFER) FIELD, EASTLAND COUNTY, TEXAS

APPEARANCES:

FOR MOVANT:

Susan German
Staff Attorney

MOVANT:

Enforcement Section
Railroad Commission of Texas

FOR RESPONDENT:

Roland R. Baker
Agent

RESPONDENT:

Morton Valley Oil & Gas, Inc.

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

DATE ORIGINAL COMPLAINT FILED:	January 4, 2006
DATE OF NOTICE OF HEARING:	March 16, 2006
DATE OF HEARING:	May 18, 2006
HEARD BY:	James M. Doherty, Hearings Examiner
DATE RECORD CLOSED:	May 25, 2006
DATE PFD CIRCULATED:	June 13, 2006

STATEMENT OF THE CASE

This proceeding was called by the Commission on the recommendation of the District Office to determine the following:

1. Whether the respondent Morton Valley Oil & Gas, Inc. ("Morton"), should be required to plug or otherwise place in compliance with Statewide Rule 14(b)(2) [Tex. R.R. Comm'n., 16 TEX. ADMIN. CODE §3.14(b)(2)] the Lois Meazell "E" Lease, Well No. 1 (RRC ID No.

111285), and the Casey Meazell “F” (15611) Lease, Well No. 1, Lake Leon (Duffer) Field, Eastland County, Texas;

2. Whether Morton has violated Statewide Rule 3 [Tex. R.R. Comm’n., 16 TEX. ADMIN. CODE §3.3] on the Casey Meazell “F” (15611) Lease, by failing to post identification signs at Well No. 1 and tank battery;
3. Whether Morton has violated Statewide Rule 8(d)(4)(G)(i)(III) [Tex. R.R. Comm’n., 16 TEX. ADMIN. CODE §3.8(d)(4)(G)(i)(III)] on the Lois Meazell “E” Lease, Lake Leon (Duffer) Field, Eastland County, Texas, by causing or allowing a dry workover pit at Well No. 1 to remain open for more than 120 days following completion of the well;
4. Whether Morton has violated Statewide Rule 13(b)(1)(B) [Tex. R.R. Comm’n., 16 TEX. ADMIN. CODE §3.13(b)(1)(B)] on the Casey Meazell “F” (15611) Lease by failing to use a wellhead assembly on Well No. 1 to maintain surface control of the well;
5. Whether Morton 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 plug the subject wells or otherwise place the subject leases and wells in compliance with Statewide Rules 3, 8(d)(4)(G)(i)(III), 13(b)(1)(B), and 14(b)(2);
6. Whether, pursuant to Texas Natural Resources Code §81.0531, Morton should be assessed administrative penalties of not more than \$10,000 per day for each offense committed regarding the subject leases and wells; and
7. Whether any violations of Statewide Rules 3, 8(d)(4)(G)(i)(III), 13(b)(1)(B), and 14(b)(2) by Morton should be referred to the Office of the Attorney General for further civil action pursuant to Texas Natural Resources Code §81.0534.

A hearing was held on May 18, 2006. This docket was heard jointly with Oil & Gas Docket No. 7B-0243715 involving the same respondent.¹ Susan German, Staff Attorney, appeared representing the Enforcement Section of the Office of General Counsel (“Enforcement”). Roland R. Baker, Agent, appeared to represent Morton and presented evidence. Enforcement’s certified hearing file was admitted into evidence. Morton was allowed seven days following completion of the hearing to file copies of any pending Forms P-4 proposing a change of operator of the Lois Meazell “E” Lease, Well No. 1 (RRC ID No. 111285), and the record closed on May 25, 2006.

¹ A separate proposal for decision is being issued in Oil & Gas Docket No. 7B-0243715.

APPLICABLE LAW

The operator of a well must properly plug the well when required and in accordance with the Commission's rules. *See* Texas Natural Resources Code §89.011(a). The Commission's Statewide Rule 14(b)(2) provides 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.

Statewide Rule 14(c)(2) provides that as to any well for which the most recent Commission-approved operator designation form was filed prior to September 1, 1997, the entity designated as operator on that form is presumed to be the entity responsible for the physical operation and control of the well and to be the entity responsible for properly plugging the well in accordance with Statewide Rule 14 and all other applicable Commission rules and regulations concerning plugging of wells. The presumption of responsibility may be rebutted only at a hearing called for the purpose of determining plugging responsibility.

Statewide Rule 3(2) requires that an identification sign be posted at each well site, showing the name of the property, the name of the operator, and the well number. Statewide Rule 3(3) requires that an identification sign be posted at each oil stock tank showing name of the property, name of the operator, number of acres in the property, and Commission lease number.

Statewide Rule 8(d)(4)(G)(i)(III) requires an operator who maintains or uses a completion or workover pit in conjunction with completing or working over a well to dewater the pit within 30 days and backfill and compact the pit within 120 days of completion of the well.

Statewide Rule 13(b)(1)(B) provides that wellhead assemblies shall be used on wells to maintain surface control of the well.

If a person violates provisions of Title 3 of the Texas Natural Resources Code or a Commission rule pertaining to safety or the prevention or control of pollution, the person may be assessed a civil penalty by the Commission not to exceed \$10,000.00 a day for each violation. In determining the amount of the penalty, 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. *See* Texas Natural Resources Code §81.0531.

DISCUSSION OF THE EVIDENCE

Matters Officially Noticed

The examiner has officially noticed Commission organization report and financial assurance databases showing that Morton's Form P-5 organization report has been in delinquent status since July 1, 2003, and Morton last filed financial assurance in the amount of \$1,000. The examiner has also officially noticed the Commission's Form P-4 database showing that the Commission approved

a change of operator for the Casey Mezell “F” (15611) Lease from Morton to BAM Operating, Inc. on April 27, 2006, effective May 10, 2005, and that Morton remains the designated operator of the Lois Mezell “E” Lease, Well No. 1 (RRC ID No. 111285).

Enforcement

The last Form P-5 organization report filed by Morton was approved January 10, 2003. This organization report, signed by Melvin Ray Hassell on January 9, 2003, listed Morton’s officers as: Melvin R. Hassell, President, Nelda Parham Hassell, Secretary, and Danny Ray Hassell as Vice President. Morton designated itself operator of the Lois Mezell “E” Lease, Well No. 1 (RRC ID No. 111285) by filing Form P-4, approved July 23, 1993, effective July 15, 1993. Morton designated itself operator of the Casey Mezell “F” (15611) Lease, Well No. 1 by filing Form P-4, approved April 20, 1994, effective April 1, 1994.

Rule 3 Violations

Six District Office inspections of the Casey Mezell “F” (15611) Lease on dates between March 17, 2005, and April 21, 2006, disclosed that the identification sign required by Statewide Rule 3 to be posted at Well No. 1 was missing or illegible and the identification sign required to be posted at the tank battery was missing.

In the event of a pollution or safety violation or other emergency, incorrect, illegible or missing signs may cause delays in containing and remediating the violation or emergency and threaten the public health and safety.

Rule 8(d)(4)(G)(i)(III) Violation

Four District Office inspections of the Lois Mezell “E” Lease on dates between July 15, 2005, and April 21, 2006, disclosed that Morton had caused or allowed a dry workover pit measuring 20' x 15' x 3' at the site of Well No. 1 to remain open. Well No. 1 has been inactive since at least April 30, 2002.

Open completion or workover pits are considered a potential hazard because they could become convenient sites for illegal dumping of waste and because they serve as containers for surface run-off that increase the potential for seepage to subsurface waters. Such pits are likely to contain oil, saltwater, and other contaminants.

Rule 13(b)(1)(B) Violation

Five District Office inspections of the Casey Mezell “F” (15611) Lease on dates between March 17, 2005, and March 3, 2006, disclosed that Well No. 1 had casing open to the atmosphere. An inspection on April 21, 2006, disclosed that tubing and casing for Well No. 1 were shut in.

Open wellbores are pollution and safety hazards because of the possibility that surface runoff will enter the wellbore and the possibility that well fluids will flow out of the wellbore.

Rule 14(b)(2) Violations

Five District Office inspections of the Lois Meazell "E" Lease, Well No. 1 (RRC ID No. 111285) on dates between May 24, 2005, and April 21, 2006, disclosed that Well No. 1 was inactive and unplugged. No production has been reported to the Commission for this well since April 30, 2002.

Six District Office inspections of the Casey Meazell "F" (15611) Lease, Well No. 1 on dates between March 17, 2005, and April 21, 2006, disclosed that the well was inactive and unplugged. No production was reported by Morton to the Commission for this well during the period from January 31, 2002, through April 27, 2006, the date on which this lease was transferred from Morton to BAM Operating, Inc.

No Statewide Rule 14(b)(2) plugging extension could be granted to Morton for these wells after July 1, 2003, the date on which Morton's Form P-5 organization report became delinquent.

Inactive wellbores must be plugged in order to prevent pollution of usable quality surface and subsurface waters. 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 water zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface.

The estimated cost to the State to plug the Lois Meazell "E" Lease, Well No. 1 (RRC ID No. 111285) is \$8,300.

Attempts to Obtain Morton's Compliance

On six separate occasions between March 24, 2005, and September 27, 2005, the District Office sent Morton correspondence, notices or copies of memoranda requesting that Morton resolve the violations of Statewide Rules 3, 8(d)(4)(G)(i)(III), 13(b)(1)(B), and/or 14(b)(2) on the subject leases. These communications did not result in compliance by Morton.

Morton

Morton's agent presented copies of documents relating to a May 10, 2005, Sheriff's Deed to BAM Operating, Inc. of various of Morton's leases, apparently including the Casey Meazell "F" (15611) Lease. This deed appears from the documents to have been the result of a Sheriff's Sale to satisfy a judgment against Morton. Also presented was an uncertified copy of a newspaper publication concerning a March 8, 2006, Sheriff's Sale to BAM Operating, Inc., of Morton's

leasehold interest in two tracts of land in Eastland County. This also appears to have been a sale to satisfy a judgment against Morton. Morton's agent stated his belief that these two Sheriff's Sales covered Morton's leasehold interest in both of the leases that are the subject of this docket. Morton's agent was under the impression that Forms P-4 had been filed with the Commission to transfer both of the subject leases from Morton to BAM. Morton's agent also presented a copy of an October 9, 1996, letter from Danny Hassell to Morton, purportedly resigning as Vice President "effective immediately."

EXAMINER'S OPINION

The alleged violations by Morton were not disputed at the hearing and are clearly proved by the evidence. The violations of Statewide Rules 3, 13(b)(1)(B), and 14(b)(2) on the Casey Meazell "F" (15611) Lease had their inception before the May 10, 2005, Sheriff's Sale of this lease to BAM Operating, Inc. Furthermore, under Statewide Rule 58, Morton remained the operator responsible for curing these violations until April 27, 2006, when the Casey Meazell "F" (15611) Lease was transferred to BAM, with Commission approval. The transfer to BAM eliminates the need to order that the Casey Meazell "F" (15611) Lease, Well No. 1 be plugged or otherwise placed into compliance, but does not bear on the issue of whether Morton should be assessed an administrative penalty for past non-compliance with Statewide Rules 3, 13(b)(1)(B), and 14(b)(2).

Morton continues to be the designated operator of the Lois Meazell "E" Lease, Well No. 1 (RRC ID No. 111285), and no Form P-4 has been filed with the Commission to change the operator of this well from Morton to BAM. It was not proved at the hearing that this lease was the subject of the March 8, 2006, Sheriff's Sale to BAM, but even if it was, the violations of Statewide Rules 8(d)(4)(G)(i)(III) and 14(b)(2) on this lease had their inception long before this sale, and Morton continues to be the Form P-4 operator with the responsibility for curing these violations.

Enforcement recommends that an administrative penalty in the total amount of \$6,000 be assessed against Morton, consisting of two Rule 3 violations at \$250 each, one Rule 8(d)(4)(G)(i)(III) violation at \$500, one Rule 13(b)(1)(B) violation at \$1,000, and two 14(b)(2) violations at \$2,000 each. The examiner agrees with this recommendation. This penalty is consistent with the standard penalties in the recommended standard penalty schedule for enforcement cases. The violations committed by Morton are serious in that they presented a threat of pollution of usable quality water and a hazard to the public health and safety. There is no proof that any prior enforcement orders have been entered against Morton for violations of Commission rules, but Morton cannot be said to have acted in good faith. Morton failed to take any effective steps to cure the violations on the subject leases in response to multiple requests from the District Office for compliance.

The examiner declines to recommend a finding by the Commission that Danny Ray Hassell resigned as Vice President of Morton effective October 7, 1996. Mr. Hassell did not appear at the hearing to give sworn testimony to this effect, and Morton's agent who presented a purported letter of resignation by Mr. Hassell dated October 7, 1996, did not claim to have any personal knowledge

on the subject. The purported letter of resignation is hearsay in nature and conflicts with the most recent Form P-5 organization report filed by Morton, signed by Melvin Ray Hassell on January 9, 2003, which listed Danny Ray Hassell as Morton's Vice President.

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

FINDINGS OF FACT

1. Morton Valley Oil & Gas, Inc. ("Morton"), was given at least ten (10) days notice of this hearing by certified mail, addressed to Morton's most recent Form P-5 organization report address. Roland R. Baker, agent for Morton, appeared at the hearing representing Morton and presented evidence.
2. Morton is a corporation. Its officers, as listed on its most recent Form P-5 organization report approved January 10, 2003, are Melvin R. Hassell, President, Nelda Parham Hassell, Secretary, and Danny Ray Hassell, Vice President.
3. As officers, Melvin R. Hassell, Nelda Parham Hassell, and Danny Ray Hassell were persons in a position of ownership or control of Morton at the time the violations involved in this docket were committed.
4. The violations involved in this docket were violations of Commission rules related to safety and the prevention or control of pollution.
5. Morton's Form P-5 organization report has been in delinquent status since July 1, 2003. At the time its last Form P-5 was approved on January 10, 2003, Morton filed financial assurance in the amount of \$1,000.
6. Morton designated itself to the Commission as the operator of the Lois Meazell "E" Lease, Well No. 1 (RRC ID No. 111285) by filing Form P-4 (Producer's Transportation Authority and Certificate of Compliance), approved July 23, 1993, effective July 15, 1993.
7. Morton designated itself to the Commission as the operator of the Casey Meazell "F" (15611) Lease, Well No. 1 by filing Form P-4, approved April 20, 1994, effective April 1, 1994.
8. On the occasion of District Office inspections of the Casey Meazell "F" (15611) Lease on March 17, April 19, May 24, and September 21, 2005, and March 3 and April 21, 2006, the identification sign required by Statewide Rule 3 to be posted at Well No. 1 was missing or illegible and the identification sign required to be posted at the tank battery was missing.

9. On the occasion of District Office inspections of the Casey Meazell “F” (15611) Lease on July 15 and September 2, 2005, and February 3 and April 21, 2006, Morton had caused or allowed a dry workover pit measuring 20' x 15' x 3' at Well No. 1 to remain open. Well No. 1 had been inactive since April 30, 2002.
10. On the occasion of District Office inspections of the Casey Meazell “F” (15611) Lease on March 17, April 19, May 24, and September 21, 2005, and March 3, 2006, Well No. 1 had casing open to the atmosphere. As of a District Office inspection on April 21, 2006, the tubing and casing of Well No. 1 were shut in.
11. The Lois Meazell “E” Lease, Well No. 1 (RRC ID No. 111285) has been inactive for more than one year, has not been plugged, and does not have a Statewide Rule 14(b)(2) plugging extension.
 - a. On the occasion of District Office inspections on May 24, July 15, and September 2, 2005, and February 3 and April 21, 2006, Well No. 1 was inactive and unplugged.
 - b. No production has been reported to the Commission for Well No. 1 since April 30, 2002.
 - c. A Statewide Rule 14(b)(2) plugging extension could not be approved for Well No. 1 after July 1, 2003, the date on which Morton’s Form P-5 organization report became delinquent.
12. The Casey Meazell “F” (15611) Lease, Well No. 1 was inactive for more than one year, was not plugged by Morton, and Morton did not have a Statewide Rule 14(b)(2) plugging extension for the well.
 - a. On the occasion of District Office inspections on March 17, April 19, May 24, and September 21, 2005, Well No. 1 was inactive and unplugged.
 - b. No production for Well No. 1 was reported to the Commission by Morton after January 31, 2002.
 - c. A Statewide Rule 14(b)(2) plugging extension could not be granted to Morton for Well No. 1 after July 1, 2003, the date on which Morton’s Form P-5 organization report became delinquent.
13. On April 27, 2006, the Commission approved a Form P-4 change of operator for the Casey Meazell “F” (15611) Lease, Well No. 1 from Morton to BAM Operating, Inc.

14. The estimated cost to the State to plug the Lois Meazell “E” Lease, Well No. 1 (RRC ID No. 111285) is \$8,300.
15. On six separate occasions between March 24, 2005, and September 27, 2005, the District Office sent Morton correspondence, notices or copies of memoranda requesting that Morton resolve the violations of Statewide Rules 3, 8(d)(4)(G)(i)(III), 13(b)(1)(B), and/or 14(b)(2) on the Casey Meazell “F” (15611) Lease and the Lois Meazell “E” Lease, Well No. 1 (RRC ID No. 111285). This did not result in Morton’s compliance.
16. In the event of a pollution or safety violation, or other emergency, failure to comply with the identification sign requirements of Statewide Rule 3 may cause delays in identifying the problem lease, well, or tank battery and in containing or remediating the violation or emergency, threatening the public health and safety.
17. Open completion or workover pits are a potential hazard to the public health and safety because they are convenient sites for illegal dumping of waste and may collect surface runoff contaminated with oil, saltwater, or other contaminants, and lead to seepage to subsurface usable quality water.
18. Wells that are open to the atmosphere are pollution and safety hazards because of the possibility of surface drainage down the open wellbore and the possibility that well fluids will flow out of the wellbore on the surface.
19. Inactive wellbores must be plugged in order to prevent pollution of usable quality surface and subsurface water. 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 water zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface.
20. No evidence was presented that prior final enforcement orders have been entered against Morton for violation of Commission rules.
21. Morton has not demonstrated good faith in that it failed to respond to multiple requests from the District Office to resolve the violations that are the subject of this docket.

CONCLUSIONS OF LAW

1. Proper notice of hearing was timely issued to appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. Morton Valley Oil & Gas, Inc. was and is the operator of the Lois Meazell “E” Lease, Well

No. 1 (RRC ID No. 111285), Lake Leon (Duffer) Field, Eastland County, Texas, and until April 27, 2006, was the operator of the Casey Meazell "F" (15611) Lease, Well No. 1, Lake Leon (Duffer) Field, Eastland County, Texas, as defined by Commission Statewide Rules 14, 58, and 79 [Tex. R.R. Comm'n., 16 TEX. ADMIN. CODE §3.14, 3.58, and 3.79] and Chapters 85 and 89 of the Texas Natural Resources Code.

4. As operator, Morton Valley Oil & Gas, Inc., had the primary responsibility for complying with Statewide Rules 3, 8(d)(4)(G)(i)(III), 13(b)(1)(B), and 14(b)(2) [Tex. R.R. Comm'n., 16 TEX. ADMIN. CODE §3.3, 3.8(d)(4)(G)(i)(III), 3.13(b)(1)(B), and 3.14(b)(2)], Chapters 89 and 91 of the Texas Natural Resources Code, and other applicable statutes and Commission rules respecting the subject leases and wells.
5. Morton Valley Oil & Gas, Inc., violated Statewide Rule 3 [Tex. R.R. Comm'n., 16 TEX. ADMIN. CODE §3.3] on the Casey Meazell "F" (15611) Lease by failing to post and maintain the required identification signs at Well No. 1 and the tank battery. Morton was out of compliance with Statewide Rule 3 from at least March 17, 2005, until April 27, 2006.
6. Morton Valley Oil & Gas, Inc., violated Statewide Rule 8(d)(4)(G)(i)(III) [Tex. R.R. Comm'n., 16 TEX. ADMIN. CODE §3.8(d)(4)(G)(i)(III)] on the Lois Meazell "E" Lease, Lake Leon (Duffer) Field, Eastland County, Texas, by failing to backfill and compact a workover pit within 120 days of completion of Well No. 1. Morton has been out of compliance with Statewide Rule 8(d)(4)(G)(i)(III) since at least July 15, 2005.
7. Morton Valley Oil & Gas, Inc., violated Statewide Rule 13(b)(1)(B) [Tex. R.R. Comm'n., 16 TEX. ADMIN. CODE §3.13(b)(1)(B)] on the Casey Meazell "F" (15611) Lease by failing to use a wellhead assembly on Well No. 1 to maintain surface control of the well. Morton was out of compliance with Statewide Rule 13(b)(1)(B) from at least March 17, 2005, until at least March 3, 2006.
8. Morton Valley Oil & Gas, Inc., violated Statewide Rule 14(b)(2) [Tex. R.R. Comm'n., 16 TEX. ADMIN. CODE §3.14(b)(2)] by failing to timely plug the Lois Meazell "E" Lease, Well No. 1 (RRC ID No. 111285), Lake Leon (Duffer) Field, Eastland County, Texas. This well has been out of compliance with Statewide Rule 14(b)(2) since at least July 1, 2003.
9. Morton Valley Oil & Gas, Inc., violated Statewide Rule 14(b)(2) [Tex. R.R. Comm'n., 16 TEX. ADMIN. CODE §3.14(b)(2)] by failing to timely plug the Casey Meazell "F" (15611) Lease, Well No. 1, Lake Leon (Duffer) Field, Eastland County, Texas. This well was out of compliance with Statewide Rule 14(b)(2) from at least July 1, 2003, until April 27, 2006.

10. The documented violations committed by Morton Valley Oil & Gas, Inc., constitute acts deemed serious and a hazard to the public health, and demonstrate a lack of good faith within the meaning of Texas Natural Resources Code §81.0531.
11. As officers of Morton Valley Oil & Gas, Inc., at the time Morton Valley Oil & Gas, Inc. violated Commission rules related to safety and the prevention or control of pollution, Melvin R. Hassell, Nelda Parham Hassell, and Danny Ray Hassell, and any organization in which they, or any of them, may hold a position of ownership or control, are subject to the restrictions of Texas Natural Resources Code §91.114(a)(2).

RECOMMENDATION

The examiner recommends that the Commission adopt the attached final order requiring that Morton Valley Oil & Gas, Inc.:

1. Plug in compliance with Commission rules the Lois Meazell "E" Lease, Well No. 1 (RRC ID No. 111285), Lake Leon (Duffer) Field, Eastland County, Texas, and otherwise place the said lease into compliance with all Commission rules; and
2. Pay an administrative penalty in the amount of \$6,000.

Respectfully submitted,

James M. Doherty
Hearings Examiner