

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
OIL AND GAS SECTION**

OIL AND GAS DOCKET NO. 01-0208325

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY DUNCAN MCCALLA D/B/A ANICO SIX SIXTY SIX (025514), AS TO THE MORROW (06325) LEASE, WELL NO. 1, PEACH CREEK (AUSTIN CHALK) FIELD, GONZALES COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on February 28, 2000 and that the respondent, Duncan McCalla d/b/a Anico Six Sixty Six (025514), failed to appear or respond to the notice. Pursuant to § 1.49 of the Commission's General Rules of Practice and Procedure [Tex. R. R. Comm'n, 16 TEX. ADMIN. CODE § 1.49] and after being duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Duncan McCalla d/b/a Anico Six Sixty Six (025514), ("respondent") was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 (Organization Report) address, which was returned to the Commission marked "attempted not known."
2. The returned certified receipt containing the First Amended Original Complaint and the Notice of Hearing Opportunity, was returned to the Commission marked "attempted not known" on February 2, 2000. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. Respondent designated itself to the Commission as the operator of Well No. 1 on the Morrow (06352) Lease ("subject well"/subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance), effective on December 8, 1989.
4. The subject well has been dry or inactive for a period in excess of one year. Commission inspection and/or production reports indicate that the subject well ceased production on or before November 1, 1994.
5. The subject well has not been properly plugged in accordance with, and is not otherwise in compliance with, Statewide Rule 14.

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6. Usable quality water in the area is likely to be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject well. Unplugged wellbores constitute a cognizable threat to public health and safety because of the probability of pollution.
7. The estimated cost to the State of plugging the subject well is \$12,000.00.
8. Commission district office inspections were conducted on November 9, 1994, July 7, 1995, November 19, 1999 and December 17, 1999 for the Morrow (06352) Lease. The signs or identification required to be posted at the lease entrance and at the well were missing.
9. The respondent did not demonstrate good faith since it failed to plug or otherwise place the subject well and subject lease in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
10. The Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 1-95455; Final Order Served: June 25, 1991;
Docket No. 2-98650; Final Order Served: April 19, 1994;
Docket No. 02-0200418; Final Order Served: May 4, 1993;
Docket No. 03-0204708; Final Order Served: June 8, 1994; and
Docket No. 03-0205694; Final Order Served: November 1, 1994.

CONCLUSIONS OF LAW

1. Proper notice was issued by the Railroad 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 in this hearing have been performed or have occurred
3. Respondent is in violation of Commission Statewide Rules 3(a) and 14(b)(2).
4. Respondent is responsible for maintaining the subject lease in compliance with Rule 3(a), which requires that each property that produces oil, gas or geothermal resources and each oil, gas or geothermal resource well and tank, or other approved crude oil measuring facility shall post signs or identification.
5. Respondent is responsible for maintaining the subject well and the subject lease in compliance with all applicable Statutes and Commission rules, specifically Statewide Rules 14, 58, and 79 and Chapters 89 and 91, Texas Natural Resources Code.
6. The documented violations committed by the respondent constitute acts deemed serious,

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a hazard to the public health, and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE ANN. §81.0531(c) (Vernon 1993).

IT IS ORDERED THAT within 30 days from the day immediately following the date this order becomes final:

1. Duncan McCalla d/b/a Anico Six Sixty Six (025514), shall plug the Morrow (06352) Lease, Well No. 1, Peach Creek (Austin Chalk) Field, Gonzales County, Texas in compliance with applicable Commission rules and regulations; and
2. Duncan McCalla d/b/a Anico Six Sixty Six (025514), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **EIGHT THOUSAND DOLLARS (\$8,000.00)**.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing 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 order is served on the parties.

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 2nd day of May, 2000.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated May 2, 2000)

MFE/sa