

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
HEARINGS SECTION**

OIL AND GAS DOCKET NO. 01-0256718

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY CLARO OPERATING, LLC (158277), AS TO THE TANK BATTERY LEASE, WELL NO. 1 (558027), WILDCAT FIELD AND THE FRYAR, J.H. ET AL LEASE, WELL NO. 1 (055361), LOMAS PIEDRAS (PENN. LIME) FIELD, REAL COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on June 11, 2009, and that the respondent, Claro Operating, LLC (158277), failed to appear or respond to the Notice of Hearing. 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. Claro Operating, LLC (158277), ("Respondent") was given Notice of Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 Organization Report, which was signed and returned to the Commission.
2. The returned certified receipt (green card) that was attached to the Original Complaint and the Notice of Hearing mailed to Respondent's most recent P-5 address, was signed and returned to the Commission on May 11, 2009. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On February 22, 2005, Respondent filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Bill Bolch; Manager.
4. Bill Bolch, was a person in a position of ownership or control of respondent, as defined by Texas Natural Resources Code Section 91.114, during the time period of the violations of Commission rules committed by respondent.
5. The violations of Commission rules committed by respondent are related to safety and the control of pollution.

6. Respondent designated itself to the Commission as the operator of Well No. 1 (558027) on the Tank Battery Lease (“subject well”/“subject lease”) by filing a Form W-1 (Application to Drill, Deepen, Plug Back, or Re-Enter) with the Commission on February 22, 2005.
7. On February 22, 2005, Respondent was issued a drilling permit (Permit No. 558027) for Well No. 1 of the Tank Battery Lease. The permit expired February 22, 2007. A Commission District inspection conducted on October 30, 2007, showed the well was completed with casing. Follow up inspections conducted on January 25, 2008 and May 1, 2009 showed the reserve pit remained open at the well.
8. Commission District inspection reports made on October 30, 2007 and January 25, 2008 on the Tank Battery Lease showed that Well No. 1 (558027) had been completed with casing. Despite completion of the well, Respondent has failed to file the requisite completion report.
9. Respondent designated itself to the Commission as the operator of Well No. 1 (055361) on the Fryar, J. H. Et Al Lease (“subject well”/“subject lease”) by filing a Commission Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on February 1, 2005.
10. According to Commission records the Respondent’s Form P-5 (Organization Report) became delinquent on February 1, 2006. Respondent had a \$25,000.00 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
11. Well No. 1 (558027) on the Tank Battery Lease has never produced.
12. Production from Well No. 1 (055361) on the Fryar, J.H. Et Al Lease ceased on or before January 1993.
13. The Statewide Rule 14(b)(2) plugging extension for Well No. 1 (055361) on the Fryar, J. H. Et Al Lease was denied on January 31, 2006 for a non active P-5 (Organization Report).
14. Usable quality groundwater in the area is likely to be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject wells. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
15. The total estimated cost to the State for plugging Well No. 1 (558027) on the Tank Battery Lease is \$2,300.00.
16. The total estimated cost to the State for plugging Well No. 1 (055361) on the Fryar, J. H. Et Al Lease is \$18,100.00.
17. Unfilled pits constitute a hazard to public health and safety because of the potential for illegal dumping in the pits and the potential for surface run-off to collect in the pit and seep into subsurface waters.

CONCLUSIONS OF LAW

1. Proper notice was issued by the Railroad Commission to respondent and to 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 8, 14(b)(2) and 16.
4. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 8, which prohibits the discharge of oil and gas wastes without a permit.
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 16(a), that requires the owner or operator of an oil, gas or geothermal resource well, within 30 days after completion of such well or the plugging of such well, if the well is a dry hole, shall file with the Commission the appropriate completion or plugging report.
6. Respondent is responsible for maintaining the subject leases and subject wells in compliance with all applicable Commission rules according to Statewide Rules 14, 58, and 79 and Chapters 89 and 91 of the Texas Natural Resources Code.
7. The documented violations committed by the respondent constitute acts deemed serious, a hazard to the public health, and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE ANN. §81.0531(c).
8. As a person in a position of ownership or control of respondent at the time respondent violated Commission rules related to safety and the control of pollution, Bill Bolch, and any other organization in which he may hold a position of ownership or control, shall be subject to the restrictions of Texas Natural Resource Code Section 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 until 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 the organization have agreed, whichever is earlier.

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

1. Claro Operating, LLC (158277), shall plug the Tank Battery Lease, Well No. 1 (558027), Wildcat Field, and the Fryar, J.H. Et Al Lease, Well No. 1 (055361), Lomas Piedras (Penn. Lime) Field, Real County, Texas in compliance with applicable Commission rules and regulations; and
2. Claro Operating, LLC (158277), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FOUR THOUSAND DOLLARS (\$4,000.00)**.

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 parties are notified of the order.

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 26th day of January 2010.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated January 26, 2010)

MH/sa