

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

OIL AND GAS DOCKET NO. 7B-0266199

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY B&B OIL, INC. (039791), AS TO THE COX (18398) LEASE, WELL NOS. 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 14, 16A, 17, 18, 19, 19A, 22A AND 25A, AND THE ELLOITT, KATHRYN (18593) LEASE, WELL NOS. 1, 2, 3, 4 AND 5, HAWK EYE (ADAMS BRANCH) FIELD, EASTLAND COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on March 3, 2011 and that the respondent, B&B Oil, Inc. (039791) , 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. B&B Oil, Inc. (039791), ("Respondent") was given Notice of Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 Organization Report.
2. The returned certified receipt containing the Original Complaint and the Notice of Opportunity for Hearing was mailed to Respondent's most recent P-5 address, was received on February 1, 2011. The returned certified receipt attached to the Original Complaint and the Notice of Opportunity for Hearing mailed to the Respondent's President, Joseph F. Wallen, was received and signed on February 1, 2011. The confirmation and electronic receipts have been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On September 16, 2010, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Joseph F. Wallen; President.

4. Joseph F. Wallen, was 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 Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 14, 16A, 17, 18, 19, 19A, 22A and 25A on the Cox (18398) Lease and Well Nos. 1, 2, 3, 4 and 5 on the Elliott, Kathryn (18593) Lease ("subject wells"/"subject leases") by filing P-4 Forms (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on June 1, 2007 for both of the leases and subject wells.
7. Commission records indicate that Respondent's Form P-5 (Organization Report) is active. Respondent has a \$250,000.00 Letter of Credit as its financial assurance.
8. Well Nos. 1, 2, 3, 4, 5, 7, 9, 12, 14, 16A, 17, 18, 19 and 25A on the Cox (18398) Lease ceased production on or before January 2009.
9. Well Nos. 6, 8, 19A and 22A on the Cox (18398) Lease ceased injection on or before January 2009.
10. The Statewide Rule 14(b)(2) extensions for Well Nos. 1, 2, 3, 4, 5, 7, 9, 12, 14, 17, 18 and 19 on the Cox (18398) Lease were denied on September 21, 2009 for failure to file H-15's (Test On An Inactive Well More Than 25 Years Old).
11. The Statewide Rule 14(b)(2) extensions for Well No. 6 on the Cox (18398) Lease was denied on August 29, 2007 for an H-5 (Disposal/Injection Well Pressure Test) issue.
12. The Statewide Rule 14(b)(2) extension for Well No. 8 on the Cox (18398) Lease was denied on May 28, 2010 for other well violations.
13. The Statewide Rule 14(b)(2) extension for Well No. 19A on the Cox (18398) Lease was denied on June 25, 2007 for an H-5 issue.
14. The Statewide Rule 14(b)(2) extension for Well No. 22A on the Cox (18398) Lease was denied on February 18, 2009 for an H-5 issue.
15. Well Nos. 1, 2, 4 and 5 on the Elliott, Kathryn (18593) Lease ceased production in June 2009.

16. Well No. 3 on the Elliott, Kathryn (18593) Lease ceased injection in April 2004.
17. The Statewide Rule 14(b)(2) extensions for Well Nos. 1, 2, 4 and 5 on the Elliott, Kathryn (18593) Lease were denied on September 21, 2009 for failure to file H-15's (Test On An Inactive Well More Than 25 Years Old).
18. The Statewide Rule 14(b)(2) extension for Well No. 3 on the Elliott, Kathryn (18593) Lease was denied on June 2, 2010 for other well violations.
19. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
20. 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.
21. The estimated cost to the State of plugging Well Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 14, 16A, 17, 18, 19, 19A, 22A and 25A on the Cox (18398) Lease is \$113,400.00.
22. The estimated cost to the State of plugging Well Nos. 1, 2, 3, 4 and 5 on the Elliott, Kathryn (18593) Lease is \$31,500.00.
23. Commission District inspections were conducted on November 3, 2009 and January 4, 2011 for the Cox (18398) Lease. The signs or identification required to be posted at Well Nos. 7, 8 and 17 were illegible.
24. Failure to properly identify a well by the posting of the sign required by Statewide Rule 3 has the potential for causing confusion and delay in remedying a violation or emergency and poses a threat to the public health and safety.
25. Commission District inspections were conducted on January 12, 2010 and March 11, 2010 for the Cox (18398) Lease. There was an active leak at Well No. 16A, wherein the area of pollution has increased in size to approximately 21' x 3' to 6' x an unknown depth and the 12' x 6' x 8" area of pollution at Well No. 7 has been partially tilled but needs additional work. An inspection conducted on January 4, 2011 shows the site has not been remediated and Well No. 16A continues to leak and the area of pollution has increased to 21' x 6'-8' x 8'.
26. Commission District inspections were conducted on November 2, 2009, January 12, 2009 and March 11, 2009 for the Elliott, Kathryn (18593) Lease. Well No. 1 has a 6' x 4' x 3" area of hydrocarbon stained soil; Well No. 2 has a 6' x 3' x 3" area of hydrocarbon stained soil at the wellhead; Well No. 4 has a 9' x 2' x 2" area of hydrocarbon stained soil at the wellhead, which has been partially tilled; and the west 210 water tank has a corrosion leak at the south bottom seam, with a 6' x 3' x

unknown depth area of pollution in sandy soil with white crystals visible, soaked into the soil. The inspection conducted on December 28, 2010 shows no active leaks and none of the areas have been remediated.

27. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
28. The unpermitted discharges of oil and gas wastes or other substances or materials on the subject lease constitute a hazard to public health and safety because leaks and spills of oil and produced waters onto soils can migrate into surface water bodies causing contamination or can leach into the ground and percolate through soils into groundwater supplies.
29. Commission District inspections were conducted on November 4, 2009 to March 11, 2010 for the Cox (18398) Lease. Well Nos. 9, 16A and 25A have casing annulus open to the atmosphere. A follow up inspection conducted on January 4, 2011 shows the casing leak continues on Well No. 16A and the casing is now shut -in on Well Nos. 9 and 25A.
30. The time out of compliance for Well Nos. 9 and 25A on the Cox (18398) Lease is approximately 16 months.
31. Maintenance of surface control by wellhead assemblies is necessary to prevent the discharge of oil and gas wastes on the subject lease constituting a hazard to public health and safety because the discharges of oil and gas wastes onto land surface can migrate into surface or subsurface waters.
32. Commission records indicate no Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the Cox (18398) Lease, Well Nos. 1, 2, 3, 4, 5, 7, 9, 12, 14, 16A, 17, 18 and 19. Commission records further show that the Cox (18398) Lease: Well No. 1 was completed on March 1, 1982; Well No. 2 was completed on April 20, 1982; Well No. 3 was completed on April 25, 1982; Well No. 4 was completed on May 28, 1982; Well No. 5 was completed on June 4, 1982; Well No. 7 was completed on June 23, 1982; Well No. 9 was completed on June 22, 1982; Well No. 12 was completed on July 1, 1982; Well No. 14 was completed on August 24, 1982; Well No. 16A was completed on January 5, 1985; Well No. 17 was completed on September 10, 1982; Well No. 18 was completed on August 31, 1982; Well No. 19 was completed on October 13, 1982; and an H-15 test was due in June 2009 for each well, except Well No. 16A, which was due June 2010. The subject wells have not been plugged.
33. Commission records indicate no Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the Elliott, Kathryn (18593) Lease, Well Nos. 1, 2, 4 and 5. Commission records further show that the Elliott, Kathryn

(18593) Lease: Well No. 1 was completed on June 7, 1982; Well No. 2 was completed on May 1, 1982; Well No. 4 was completed on August 20, 1982; Well No. 5 was completed on June 19, 1982, and an H-15 test was due in June 2009 for each well. The subject wells have not been plugged.

34. Commission records indicate Well Nos. 6, 8, 19A and 22A, on the Cox (18398) Lease were permitted as an injection wells by Permit No. 10828 and require annual mechanical integrity pressure testing. The last H-5 performed and approved are as follows: Well No. 6 on November 6, 2008; Well No. 8 on March 22, 2006; Well No. 19A on November 6, 2008; and Well No. 22A on August 1, 2003.
35. Commission records indicate Well No. 3 on the Elliott, Kathryn (18593) Lease was permitted as an injection well by Permit No. 10046 and requires an annual mechanical integrity pressure, with the last H-5 performed and approved on March 22, 2006.
36. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject leases and wells in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.

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 3 , 8(d)(1), 13(b)(1)(B), 14(b)(2), 14(b)(3) and 46(j).
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3, 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 have signs posted at all times.
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(1), which prohibits the discharge of oil and gas wastes without a permit.
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 13(b)(1)(B), which requires that surface control of all wells be maintained with wellhead assemblies.

7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 14(b)(3), which requires the operator of any well more than 25 years old that becomes inactive shall 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.
8. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 46(j), which requires the mechanical integrity of an injection well shall be evaluated by conducting pressure tests to determine whether the well tubing, packer, or casing have sufficient mechanical integrity.
9. 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.
10. 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.
11. 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, Joseph F. Wallen 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. B&B Oil, Inc. (039791), shall plug Well No. 3, Elliott, Kathryn (18593) Lease, Hawk Eye (Adams Branch) Field, Eastland County, Texas in compliance with applicable Commission rules and regulations;
2. B&B Oil, Inc. (039791), shall plug or otherwise place the Cox (18398) Lease, Well Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 14, 16A, 17, 18, 19, 19A, 22A and 25A, and the Elliott, Kathryn (18593) Lease, Well Nos. 1, 2, 3, 4 and 5, Hawk Eye (Adams Branch) Field, Eastland County, Texas; and

3. B&B Oil, Inc. (039791), shall pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **NINETY SEVEN THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$97,750.00)**.

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. GOVT. 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 24th day of May 2011.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated May 24, 2011)

MFE/sa