

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

OIL AND GAS DOCKET NO. 7B-0266208

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY B&B OIL, INC. (039791), AS TO THE TARVER, DELBERT (18485) LEASE, WELL NOS. 2, 3, 4 AND 6, AND THE TARVER "B" LEASE, WELL NOS. 2, 4, 5, 6, 10, 12, 15, 16, 17, 19, 20, 23, 24, 25, 26, 27 AND 29, 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 and signed for 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 for 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. 2, 3, 4 and 6 on the Tarver, Delbert (18485) Lease and Well Nos. 2, 4, 5, 6, 10, 12, 15, 16, 17, 19, 20, 23, 24, 25, 26, 27 and 29 on the Tarver "B" (19441) Lease ("subject wells"/"subject leases") by filing P-4 Forms (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on October 1, 2008 for the Tarver, Delbert (18485) Lease and June 1, 2007 for the Tarver "B" (19441) Lease.
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. 2, 3, 4 and 6 on the Tarver, Delbert (18485) Lease ceased production in June 2009.
9. Well Nos. 2, 5, 10, 12, 15, 16, 17, 19, 20, 23, 25, 26, 27 and 29 Tarver "B" (19441) Lease ceased production in May 2009.
10. Well Nos. 4, 6 and 24 on the Tarver "B" (19441) Lease ceased injection in April 2009.
11. The Statewide Rule 14(b)(2) extensions for Well Nos. 2, 3 and 6 on the Tarver, Delbert (18485) Lease were denied on September 21, 2009 for failure to file H-15's (Test On An Inactive Well More Than 25 Years Old).
12. The Statewide Rule 14(b)(2) extension for Well No. 4 on the Tarver, Delbert (18485) Lease was denied on September 11, 2010 for failure to file an H-15 (Test On An Inactive Well More Than 25 Years Old).
13. The Statewide Rule 14(b)(2) extensions for Well Nos. 2, 10, 12, 16, 17, 19, 20, 25 and 26 on the Tarver "B" (19441) Lease were denied on September 21, 2009 for failure to file H-15's (Test On An Inactive Well More Than 25 Years Old).
14. The Statewide Rule 14(b)(2) extensions for Well Nos. 5 and 27 on the Tarver "B" (19441) Lease were denied on June 30, 2008 for a non active P-5 (Organization Report).
15. The Statewide Rule 14(b)(2) extensions for Well Nos. 15, 23 and 29 on the Tarver "B" (19441) Lease were denied on February 26, 201 for other well violations.
16. The Statewide Rule 14(b)(2) extensions for Well Nos. 4 and 24 were denied on July 22, 2005 for an H-5 (Disposal/Injection Well Pressure Test) issue.
17. The Statewide Rule 14(b)(2) extension for Well No. 6 was denied on March 19, 2010 for an H-5 (Disposal/Injection Well Pressure Test) issue.
18. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.

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19. 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.
20. The estimated cost to the State of plugging Well Nos. 2, 3, 4 and 6 on the Tarver, Delbert (18485) Lease is \$25,200.00.
21. The estimated cost to the State of plugging Well Nos. 2, 4, 5, 6, 10, 12, 15, 16, 17, 19, 20, 23, 24, 25, 26, 27 and 29 on the Tarver "B" (19441) Lease is \$107,100.00.
22. Commission District inspections were conducted on December 15, 2009, February 10, 2010 and March 24, 2010 for the Tarver "B" (19441) Lease. The signs or identification required to be posted at Well Nos. 2, 5 and 23 were illegible. A Commission District inspection was conducted on January 4, 2011, shows the sign at Well No. 23 remains illegible. The time out of compliance for Well Nos. 2 and 5 was approximately 12 months.
23. 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.
24. Commission District inspections were conducted on November 3, 2009 and December 28, 2010 for the Tarver, Delbert (18485) Lease. The water tank at the battery has had a leak resulting in a hydrocarbon spill. The spill has been tilled but additional work needs to be done to an area approximately 35' x 15' x 1'.
25. Commission District inspection were conducted on December 15, 2009 to January 4, 2011 for the Tarver "B" (19441) Lease. There was little or no change for the following areas: an area of 36' x 8' x 6" of hydrocarbon stained soil within the dikes at the battery has reduced to a 24' x 8' x 6"; an area of 2' x 2' x 1' of standing salt water from an active leak on the fiberglass water tank at the battery; an area of 12' x 6' x 7" of stained soil at the wellhead at Well No. 10; an area of 12' x 24' x 8" of hydrocarbon stained soil remains at the well head of Well No. 15, this area has been tilled, but the TPH is still too high; an area of 12' x 24' x 1' of hydrocarbon stained soil at the wellhead of Well No. 23 has been tilled, but more work needed; an area of 12' x 14' x 1' of hydrocarbon stained soil at the wellhead of Well No. 25 has been tilled, but more work is needed; and an area of hydrocarbon stained soil at the wellhead of Well No. 29 shows these areas remain polluted with hydrocarbons.
26. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
27. 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.

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28. Commission District inspection were conducted from December 15, 2009 to January 4, 2011 for the Tarver "B" (19441) Lease. The well head control is not being maintained on Well Nos. 5, 26 and 27, specifically, these wells have valves/connections open to the atmosphere.
29. 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.
30. Commission records indicate no Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the Tarver, Delbert (18485) Lease, Well Nos. 2, 3, 4 and 6. Commission records further show that the Tarver, Delbert (18485) Lease, Well No. 2 was completed on May 10, 1982; Well No. 3 was completed on May 15, 1982; Well No. 4 was completed on May 15, 1982; and Well No. 6 was completed on July 1, 1982, and an H-15 test was due for each of the subject wells in June 2009. The wells have not been plugged.
31. Commission records indicate no Form H-15 (Test On an Inactive Well More Than 25 Years Old) has been filed and approved for the Tarver "B" (19441) Lease, Well Nos. 2, 10, 12, 16, 17, 19, 20, 25 and 26. Commission records further show that Tarver "B" (19441) Lease, Well No. 2 was completed on February 5, 1983; Well No. 10 was completed on March 31, 1983; Well No. 12 was completed on April 11, 1983; Well No. 16 was completed on February 18, 1984; Well No. 17 was completed on June 24, 1983; Well No. 19 was completed on June 22, 1983; Well No. 20 was completed on June 25, 1983; Well No. 25 was completed on June 28, 1983; and Well No. 26 was completed on June 28, 1983 and an H-15 test was due for each of the subject well in June 2009. The subject wells have not been plugged.
32. Commission records indicate the Tarver "B" (19441) Lease, well No. 4 was permitted as a secondary recovery well on August 20, 1993 (Permit No. 10039). Commission District inspections were conducted from December 15, 2009 to January 4, 2011 for the Tarver "B" (19441) Lease, showed the tubing at Well No. 4 was not equipped with an operable pressure observation valve.
33. Commission records indicate Well Nos. 4, 6 and 24 on the Tarver "B" (19441) Lease were permitted as injection wells by Permit No. 10039 and requires annual mechanical integrity pressure testing, with the last H-5 performed and approved as follows: Well No. 4 on June 19, 2008; Well No. 6 on October 29, 2004; and Well No. 24 on June 6, 2008.
34. 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.
35. Respondent has a prior history of commission rule violations including the following docket(s):

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Docket No. 7B-0257673; Agreed Order Served: December 8, 2009.

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), 46(g)(2) 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(g)(2), which requires that the wellhead shall be equipped with a pressure observation valve on the tubing and for each annulus of the well.
9. 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.
10. 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.
11. 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.

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12. 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 or otherwise place the Tarver, Delbert (18485) Lease, Well Nos. 2, 3, 4, and 6, and the Tarver "B" (19441) Lease, Well Nos. 2, 4, 5, 6, 10, 12, 15, 16, 17, 19, 20, 23, 24, 25, 26, 27 and 29, Hawk Eye (Adams Branch) Field, Eastland County, Texas in compliance with applicable Commission rules and regulations;
2. 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 **EIGHTY FOUR THOUSAND ONE HUNDRED FIFTY DOLLARS (\$84,150.00)**.

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