

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

OIL AND GAS DOCKET NO. 09-0233185

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY COLVIN, HAYES & ASSOCIATES, INC. (169373), AS TO THE L. CARTWRIGHT "A" (12571) LEASE, WELL NOS. 1, 2, 6, 7, 8, 9, 20 AND 23, ARCHER COUNTY REGULAR FIELD, ARCHER COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on February 3, 2003, and that the respondent, Colvin, Hayes & Associates, Inc. (169373), 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. Colvin, Hayes & Associates, Inc. (169373), ("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, 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 Opportunity for Hearing was signed and returned to the Commission on December 23, 2002. The receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On May 8, 1998, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Ellie H. Colvin; President.
4. Respondent designated itself to the Commission as the operator of Well Nos. 1, 2, 6, 7, 8, 9, 20 and 23 on the L. Cartwright "A" (12571) Lease ("subject wells"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on April 15, 1997.
5. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on April 1, 1999. Respondent paid a fee of \$100.00 as financial assurance at the time of its last Form P-5 renewal.

6. The subject wells ceased production on or before January 31, 1999.
7. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
8. 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.
9. The estimated cost to the State of plugging the subject wells is \$16,000.00.
10. Commission district office inspections were conducted on April 10, 2002 and May 1, 2002 for the L. Cartwright "A" (12571) Lease. The sign and/or identification required to be posted at Well No. 2 did not display the information required.
11. Commission district office inspections were conducted on April 10, 2002, May 1, 2002 and June 27, 2002 for the L. Cartwright "A" (12571) Lease. The sign and/or identification required to be posted at Well No. 1 was missing.
12. Commission district office inspections were conducted on June 27, 2002 for the L. Cartwright "A" (12571) Lease. The sign and/or identification required to be posted at Well No. 2 was missing.
13. Commission district office inspections were conducted on April 10, 2002 and May 1, 2002 for the L. Cartwright "A" (12571) Lease. At Well No. 9 the Respondent had caused or allowed an unauthorized discharge of oil to saturate an area of soil starting at the wellhead, then going North 3-4' x 36', then going East 2' x 75', then back North 2' x 50' where it runs into a natural drainage ditch running through pasture land. Also, there was an area of water measuring 18" x 3' x 2" containing a small amount of oil. At Well No. 8 Respondent had caused or allowed an unauthorized discharge of oil to saturate an area beginning at the wellhead measuring 5' x 30' then going North 10' x 70'. There was also an area measuring 9' x 20' of oil and rainwater approximately 1"-2" deep.
14. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.
15. 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, leaching into the ground, and percolation through soils into groundwater supplies.
16. Commission district inspections were conducted on May 1, 2002 and June 27, 2002 for the L. Cartwright "A" (12571) Lease. Well No. 1 has 7" casing open to the atmosphere.
17. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject lease and the subject well in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
18. The Commission spent a total of \$394.25 on the L. Cartwright "A" (12571) Lease cleaning

up and disposing of discharged oil to abate the pollution caused by the unauthorized discharge.

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(a), 8(d)(1), 13(b)(1)(B) 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 lease in compliance with 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 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 all applicable Commission rules and for properly plugging the subject well according to Statewide Rules 14, 58, and 79 and Chapters 89 and 91 of the Texas Natural Resources Code.
8. 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) (Vernon 2001).
9. The Commission was authorized to clean and dispose the L. Cartwright "A" (12571) Lease, Well Nos. 1, 2, 6, 7, 8, 9, 20 and 23 and is entitled to reimbursement pursuant to the TEX. NAT. RES. CODE §91.113(f).

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

1. Colvin, Hayes & Associates, Inc. (169373), shall plug the L. Cartwright "A" (12571) Lease, Well Nos. 1, 2, 6, 7, 8, 9, 20 and 23, Archer County Regular Field, Archer County, Texas in compliance with applicable Commission rules and regulations; and
2. Colvin, Hayes & Associates, Inc. (169373), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **NINETEEN**

THOUSAND ONE HUNDRED DOLLARS (\$19,100.00) and REIMBURSE State Funds in the amount of **THREE HUNDRED NINETY FOUR DOLLARS AND TWENTY FIVE CENTS (\$394.25).**

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 6th day of May 2003.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated May 6, 2003)

MT/sa