



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

PROPOSAL FOR DECISION

OIL AND GAS DOCKET No. 7B-0289236
OIL AND GAS DOCKET No. 7B-0289237
OIL AND GAS DOCKET No. 7B-0289263
OIL AND GAS DOCKET No. 7B-0289462

ENFORCEMENT ACTION AGAINST PETROLIA GROUP, LLC FOR STATEWIDE RULE VIOLATIONS ON THE D. BROOKS (154405) LEASE, WELL NO. 2, WILLIE B. MARTIN (154406) LEASE, WELL NO. 2, D. BROOKS (095889) LEASE, WELL NO. 3, D. BROOKS (154385) LEASE, WELL NO. 1, W.B. DAVIS (017819) LEASE, WELL NO. 1, W.B. DAVIS (017821) LEASE, WELL NO. 4, JOHN C. WALLACE (017825) LEASE, WELL NO. 1, SEWARD (126661) LEASE, WELL NO. 1, SEWARD (133758) LEASE, WELL NO. 1 IN BROWN COUNTY, TEXAS, COMMISSION DISTRICT 7B.

APPEARANCES

FOR THE RAILROAD COMMISSION OF TEXAS:

Kristi Reeve, Staff Attorney, Enforcement Section
Clay Woodul, Engineering Specialist, Field Operations

FOR PETROLIA GROUP, LLC:

David Nelson, Attorney at Law
Steve Rackley, Director of Operations

PROCEDURAL HISTORY:

Notice of Hearing:	October 20, 2014
Hearing on the merits:	December 3, 2014
Transcript received:	December 16, 2014
Proposal for Decision:	August 13, 2015
Heard by:	Terry J. Johnson, Legal Examiner

SUMMARY

In DOCKET NO. 7B-0289237, the Enforcement Section of the Office of General Counsel (Enforcement) alleges that Petrolia Group, LLC (Petrolia) continued to produce from two gas wells in Brown County, despite knowledge that it was unlawful to do so.

In DOCKET NO. 7B-0289236, Enforcement alleges that Petrolia continued to produce from two gas wells in Brown County, despite knowledge that it was unlawful to do so.

In DOCKET NO. 7B-0289462, Enforcement alleges that Petrolia failed to post required lease, tank battery and well identification signs for two wells in Brown County. Enforcement further alleges that Petrolia failed to timely plug or obtain plugging extensions for three wells. Finally, Enforcement alleges that Petrolia failed to install surface control on one well.

In DOCKET NO. 7B-0289263, Enforcement alleges that Petrolia failed to timely plug or obtain an extension of the plugging deadline for two inactive wells in Brown County.

The record evidence supports all violations as alleged by Enforcement. Enforcement seeks an administrative penalty of \$75,688.00, less \$8,092.50 paid, for a total of \$67,595.50 owed.

EVIDENCE PRESENTED

DOCKET NO. 7B-0289237

This docket pertains to Petrolia's alleged unlawful production of the D. Brooks (095889) Lease, Well No. 3, and the D. Brooks (154385) Lease, Well No. 1, Brown County Regular Field, Brown County, Texas, in violation of Tex. Nat. Res. Code §§ 91.706 and 16 Tex. Admin. Code §3.73.

ENFORCEMENT'S CASE

Petrolia is the record operator of the D. Brooks (095889) Lease, Well No. 3 and the D. Brooks (154385) Lease, Well No. 1. Both wells are located in Brown County, Texas, Commission District 7B. On July 2, 2011, Petrolia was notified that each well had been severed from the proration schedule, making any production after that date unlawful.

Despite this notice, Petrolia reported production from the D. Brooks Well No. 3 in August 2011, from January 2012 through September 2012 and from January 2013 through May 2013.

Petrolia also reported production from the D. Brooks Well No. 1 in August 2011, from January 2012 through September 2012, from January 2013 through May 2013 and in August 2013.

Although Petrolia had by September 20, 2012, apparently remedied the violations that resulted in severance of the wells, the operator failed to pay the severance fee necessary to reinstate either well on the proration schedule.¹ Accordingly, production reported from the wells remained unlawful.

PETROLIA'S CASE

Petrolia's director of operations, Steve Rackley, testified that the operator had originally reported zero production for the Brooks Well Nos. 1 and 3, but amended the reports after an internal audit revealed production from the wells. Mr. Rackley, however, still believes the wells produced nothing.

“Q (by Mr. Nelson): Was there—was there something in the audit that would have indicated that there was actual production that was being reported when you thought there really wasn't?

A: Not necessarily. We were of the opinion from our field operations that there was no production and still believe there was no production.”²

Mr. Rackley nevertheless sponsored Petrolia's Exhibit 1, which showed that the Brooks Well No. 1 produced 121 MCF of gas from July 2011 through May 2013. The exhibit goes on to show that the Brooks Well No. 3 also produced 121 MCF of gas during that same period. Comparison of the wells shows that, in addition to producing identical amounts of total gas, each well also reported identical monthly production. Mr. Rackley's testimony did little to explain these mirror-image reports.

¹ Tr. 15

² Tr. 112

“Q (by Mr. Nelson): How would it be possible to have the same amount?”

A: The meters read the same way. Charts read the same way. Charts are identical and there’s a number of reasons why.”³

[. . .]

“Q (by Examiner Johnson): “[. . .] There isn’t a barrel or MCF difference. How could that be?”

A: I don’t have an answer. I’m just telling you what I was told to put back in based on our audit. It’s very similar, when you look back at the previous operator’s history and the records the state put on from the time the well was drilled until now, you look at that and see: 100, 100, 100, 50, 50, 50. I don’t know how those numbers were arrived at and without going in and looking at it, it may be that all of these—I don’t know if they commingle [sic] permit running through the same meter, but we went based upon what Charts Limited gave us after our audit.

Q: Who gave you?

A: Charts Limited, the outside company that reads our charts for us so that’s how we came with [sic] the numbers. I thought it odd also but I entered the numbers as I was given.”⁴

Mr. Rackley testified that any decision to produce these wells could not have been motivated by economic gain because sales amounted to a total of \$192.23 per well. Finally, he testified to his opinion that a proper penalty amount would be \$5,000.

DOCKET NO. 7B-0289236

This docket concerns Petrolia’s alleged unlawful production of the D.

³ Tr pg. 114

⁴ Tr pg. 122-123

Brooks (154405) Lease, Well No. 2, and the Willie B. Martin (154406) Lease, Well No. 2, Brown County Regular Field, Brown County, Texas, in violation of in violation of Tex. Nat. Res. Code §§ 91.706 and 16 Tex. Admin. Code §3.73.

ENFORCEMENT'S CASE

Petrolia is the record operator of the D. Brooks (154405) Lease, Well No. 2, and the Willie B. Martin (154406) Lease, Well No. 2. Both wells are located in Brown County, Texas, Commission District 7B. On July 2, 2011, Petrolia was notified that both wells had been severed from the proration schedule, making any production after that date unlawful.

Despite this notice, Petrolia reported production from the D. Brooks Well No. 2 in August 2011, from January 2012 through September 2012 and from January 2013 through May 2013.

Petrolia also reported production from the Willie B. Martin Well No. 2 from January 2012 through October 2012, from January 2013 through April 2013 and in August 2013.

Although Petrolia had by September 20, 2012 apparently remedied the violations that resulted in severance of the wells, the operator failed to pay the severance fee required to reinstate either well on the proration schedule. Accordingly, production reported from the wells remained unlawful.

PETROLIA'S CASE

Mr. Rackley sponsored Petrolia's Exhibit 2, which showed that from July 2011 to May 2013 the Brooks Well No. 2 reported production identical to that of the Brooks Well No. 1 and the Brooks Well No. 3, for an identical total of 121 MCF of gas with an identical sales value of \$192.23. Exhibit 2 also showed that the Martin Well No. 2 reported production of 399 MCF of gas over the same period, for a sales total of \$740.49.

Mr. Rackley again stated that a proper penalty amount should be \$5,000.

DOCKET NO. 7B-0289263

This docket pertains to Petrolia's alleged failure to timely plug or obtain an extension of the plugging deadline for the Seward (126661) Lease, Well No. 2 and the Seward (133758) Lease, Well No. 1, Brown County Regular Field, Brown County, Texas, in violation of in violation of TEX.

NAT. RES. CODE § 89.011 and 16 TEX. ADMIN. CODE § 3.14(b)(2).

ENFORCEMENT'S CASE

Petrolia is the record operator of the Seward (126661) Lease, Well No. 2, in Brown County, Texas, Commission District 7B. Petrolia has reported zero (0) production from the well since October 2005. District Office lease inspections conducted on September 6 and October 17, 2013, revealed that the well has remained inactive, without workover, re-entry or subsequent production, for a period greater than one year. Petrolia has neither plugged the well nor obtained an extension of the plugging deadline.

Petrolia is the record operator of the Seward (133758) Lease, Well No. 1, in Brown County, Texas, Commission District 7B. Petrolia has reported zero (0) production from the well since October 2005. District Office lease inspections conducted on September 5, October 14 and October 17, 2013 revealed that the well has remained inactive, without workover, re-entry or subsequent production, for a period greater than one year. Petrolia has neither plugged the well nor obtained an extension of the plugging deadline.

PETROLIA'S CASE

Mr. Rackley testified that Petrolia acknowledges its responsibility for the Seward wells and intends to take care of that obligation as soon as possible. He testified that in his opinion a proper penalty amount for the plugging violations is zero.

DOCKET NO. 7B-0289462

This docket concerns Petrolia's alleged failure to:

- (1) post required lease and well identification signs for the W. B. Davis (017819) Lease, Well No. 1 and the W. B. Davis (017821) Lease, Well No. 4, Brown County, Texas, in violation of in violation of 16 TEX. ADMIN. CODE § 3.3;
- (2) timely plug or obtain an extension of the plugging deadline for the W. B. Davis (017819) Lease, Well No. 1, the W. B. Davis (017821) Lease, Well No. 4 and the John C. Wallace (017825) Lease, Well No. 1, Janellen (Caddo) Field, Brown County, Texas, in violation of TEX. NAT. RES. CODE § 89.011 and 16 TEX. ADMIN. CODE §

3.14(b)(2); and

- (3) provide a wellhead assembly to maintain surface control of the John C. Wallace (017825) Lease, Well No. 1, Brown County, Texas, in violation of in violation of 16 TEX. ADMIN. CODE § 3.13 (b)(1)(B).

ENFORCEMENT'S CASE

Petrolia is the record operator of the W. B. Davis (017819) Lease, Well No. 1, the W. B. Davis (017821) Lease, Well No. 4, and the John C. Wallace (017825) Lease, Well No. 1, all in Brown County, Texas, Commission District 7B.

District Office lease inspections of the W. B. Davis (017819) Lease, Well No. 1, conducted on August 22 and October 2, 2013, revealed that Petrolia had failed to post the signs required at the principal entrance to the property and at the tank battery. In addition, Petrolia has reported zero (0) production from the well since March 2011. District Office lease inspections conducted on August 22 and October 2, 2013 revealed that the well has remained inactive, without workover, re-entry or subsequent production, for a period greater than one year. Petrolia has neither plugged the well nor obtained an extension of the plugging deadline.

District Office lease inspections of the W. B. Davis (017821) Lease, Well No. 4, conducted on August 22 and October 2, 2013 revealed that Petrolia had failed to post the signs required at the principal entrance to the property and at the well. Subsequent inspection on February 24, 2014 showed the correct signs posted. In addition, Petrolia has reported zero (0) production from the well since August 2010. Petrolia did not bring the well into compliance until November 21, 2013.

Petrolia has reported zero (0) production from the John C. Wallace (017825) Lease, Well No. 1 since August 2012. Petrolia did not obtain a plugging extension until December 23, 2013. District Office lease inspections conducted on August 23 and October 7, 2013, revealed that the well casing was open to the atmosphere. Subsequent inspection on February 20, 2014, showed that Petrolia had installed a wellhead assembly on the well.

PETROLIA'S CASE

Mr. Rackley sponsored Petrolia's Exhibit 3, a copy of a letter dated November 11, 2013, that, according to his testimony, Mr. Rackley faxed

to the Commission's Abilene District Office advising that Petrolia had cured deficiencies on 54 identified leases, including the two Davis leases and the Wallace lease that are the subject of this docket. Neither the exhibit nor Mr. Rackley's testimony indicate the nature of the deficiencies involved.

Mr. Rackley sponsored Petrolia's Exhibit 4, a copy of a letter dated January 9, 2014, that, according to his testimony, Mr. Rackley sent by fax, regular and certified mail, to the Abilene District Office. This writing identified 58 leases that were waiting on re-inspection. Mr. Rackley testified that the leases were not re-inspected until February. Neither Exhibit 4 nor Mr. Rackley's testimony indicate the nature of the deficiencies involved.

Mr. Rackley sponsored Petrolia's Exhibit 5, a copy of an email from Mr. Rackley to the field office dated February 7, 2014, inquiring when the Commission records will be updated. Neither Exhibit 5 nor Mr. Rackley's testimony indicate the nature of the records involved.

Mr. Rackley testified that a proper penalty amount for the sign violations is zero.

Mr. Rackley testified that Petrolia had previously put a plug in the top of the Wallace well, but the plug was missing on inspection of the lease by Field Operations personnel. He further testified that a proper penalty amount for the wellhead violation on the Wallace lease is zero.

DISCUSSION AND RECOMMENDATION

PETROLIA IS CULPABLE

The record in this case contains abundant uncontradicted evidence that Petrolia has committed the violations as alleged. Petrolia's own proof shows that it produced gas from the four wells when it knew they had been severed. And the operator offered no evidence to contradict proof that Petrolia is responsible for the sign violations, plugging violations and its failure to maintain surface control of its well.

Petrolia's sole witness testified that he did not believe there had been production from the wells while he was at the same time sponsoring

exhibits that directly contradicted this testimony.⁵ In so doing, Mr. Rackley created a dissonance that robustly undermined the marginal credibility of his later suggestion that signs and wellhead equipment had been sabotaged by a litigation opponent. Petrolia, moreover, is no stranger to the enforcement process, having previously agreed to the entry of four final enforcement orders.⁶ Ultimately, Petrolia doesn't deny culpability for the current violations but argues for "flexibility" is assessing the penalty amount.

PENALTY

The evidence in Docket No. 7B-0289237 and Docket No. 7B-0289236 shows that Petrolia unlawfully produced four wells over a period of nearly three years in violation of TEX. NAT. RES. CODE § 91.706 and 16 TEX. ADMIN. CODE § 3.73 (Statewide Rule 73). This conduct exposes Petrolia to a penalty of up to \$10,000 per violation.

Enforcement requests a penalty of \$3,000 for each of six violations of Statewide Rule 73 in Docket No. 7B-0289237, plus an enhancement penalty of \$4,000 for four previous violations of Commission rules. In Docket No. 7B-0289236, Enforcement seeks a penalty of \$3,000 for each of seven violations of Statewide Rule 73, plus \$4,000 for four previous violations.

In Docket No. 7B-0289237 and Docket No. 7B-0289236, Petrolia faces penalties totaling \$47,000 for unlawful production. Based on the nature of its testimony, it is clear that Petrolia believes Enforcement's penalty requests are excessive in light of the value of the gas produced. This argument misses the point. The penalty is not intended to address disgorgement of Petrolia's unlawful gain. It is intended to provide this operator with a disincentive for its continuing disregard of Commission rules. It is recommended that a \$47,000 penalty be assessed.

In Docket No. 7B-0289462, Enforcement seeks penalties totaling \$18,185, less the amount of \$8,092.50 that has already been paid in an effort to settle. The total is composed of \$3,000 for four sign violations, \$1,000 for the wellhead violation, \$2,000 for each of three inactive well violations together with the penalty of \$1.00 per foot of the total depth of the wells,

⁵ Tr. 112

⁶ Oil & Gas Dockets 7B-0276567 (November 20, 2012); 10-0288936 and 10-0288937 (August 12, 2014); 7B-0284007 (September 16, 2014)

amounting to \$4,185. Finally, Enforcement seeks an enhancement of \$4,000 for four previous violations. It is recommended that an \$18,185 penalty be assessed, reduced by the amount already paid.

In Docket No. 7B-0289263, Enforcement requests a total penalty of \$10,503, composed of \$4,000 for two inactive well violations together with a penalty of \$1.00 per foot of the total depth of the wells, amounting to \$2,503 plus an enhancement of \$4,000 for four previous violations. It is recommended that the Commission assess a penalty of \$10,503.

FINDINGS OF FACT

1. Petrolia Group, LLC (Petrolia) holds Operator Number 660810.

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2. Petrolia is the record operator of the D. Brooks (095889) Lease, Well No. 3 and the D. Brooks (154385) Lease, Well No. 1, Brown County Regular Field, Brown County, Texas, Commission District 7B.
3. On July 2, 2011, Petrolia was notified that the certificate of compliance for each of the subject wells had been cancelled, making any production after that date unlawful.
4. Despite this notice, Petrolia reported production of 121 MCF of gas from the D. Brooks Well No. 3 between July 2011 and May 2013.
5. Petrolia also reported production of 121 MCF of gas from the D. Brooks Well No. 1 between July 2011 and May 2013.

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6. Petrolia is the record operator of the D. Brooks (154405) Lease, Well No. 2 and the Willie B. Martin (154406) Lease, Well No. 2, Brown County Regular Field, Brown County, Texas, Commission District 7B.
7. On July 2, 2011, Petrolia was notified that the certificate of compliance for each of the subject wells had been cancelled, making any production after that date unlawful.

8. Despite this notice, Petrolia reported production of 121 MCF of gas from the D. Brooks Well No. 2 between July 2011 and May 2013.
9. Petrolia also reported production of 399 MCF of gas from the Willie B. Martin Well No. 2 between July 2011 and May 2013.

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10. Petrolia is the record operator of the Seward (126661) Lease, Well No. 2, Brown County Regular Field, Brown County, Texas, Commission District 7B.
 - a. Petrolia has reported zero (0) production from the well since October 2005.
 - b. District Office lease inspections conducted on September 6 and October 17, 2013 revealed that the well has remained inactive, without workover, re-entry or subsequent production, for a period greater than one year.
 - c. Petrolia has neither plugged the well nor obtained an extension of the plugging deadline.
11. Petrolia is the record operator of the Seward (133758) Lease, Well No. 1, Brown County Regular Field, Brown County, Texas, Commission District 7B.
 - a. Petrolia has reported zero (0) production from the well since October 2005.
 - b. District Office lease inspections conducted on September 5, October 14 and October 17, 2013 revealed that the well has remained inactive, without workover, re-entry or subsequent production, for a period greater than one year.
 - c. Petrolia has neither plugged the well nor obtained an extension of the plugging deadline.

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12. Petrolia is the record operator of the W. B. Davis (017819) Lease, Well No. 1, the W. B. Davis (017821) Lease, Well No. 4 and the John C. Wallace (017825) Lease, Well No. 1, Brown County Regular Field, Brown County, Texas, Commission District 7B.

13. District Office inspections of the W. B. Davis (017819) Lease, Well No. 1, conducted on August 22 and October 2, 2013 revealed that Petrolia had failed to post the signs required at the principal entrance to the property and at the tank battery;
 - a. Petrolia has reported zero (0) production from the well since March 2011 and District Office lease inspections conducted on August 22 and October 2, 2013 revealed that the well has remained inactive, without workover, re-entry or subsequent production, for a period greater than one year.
 - b. Petrolia has neither plugged the well nor obtained an extension of the plugging deadline.
14. District Office lease inspections of the W. B. Davis (017821) Lease, Well No. 4, conducted on August 22 and October 2, 2013 revealed that Petrolia had failed to post the signs required at the principal entrance to the property and at the well.
 - a. Subsequent inspection on February 24, 2014 showed the correct signs posted.
 - b. Petrolia has reported zero (0) production from the well since August 2010. Petrolia did not obtain a plugging extension for the well until November 21, 2013.
15. Petrolia has reported zero (0) production from the John C. Wallace (017825) Lease, Well No. 1 since August 2012. Petrolia did not obtain a plugging extension until December 23, 2013.
 - a. District Office lease inspections conducted on August 23 and October 7, 2013 revealed that the well casing was open to the atmosphere.
 - b. Subsequent inspection on February 20, 2014 showed that Petrolia had installed a wellhead assembly on the well.

OWNERSHIP AND CONTROL

16. For purposes of TEX. NAT. RES. CODE § 91.114, at all times relevant hereto Sean H. Acrey was a person who held a position of ownership or control in Petrolia.

17. For purposes of TEX. NAT. RES. CODE § 91.114, at all times relevant hereto Ian B. Acrey was a person who held a position of ownership or control in Petrolia.

CONCLUSIONS OF LAW

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1. Petrolia Group, LLC produced the D. Brooks (095889) Lease, Well No. 3, Brown County Regular Field, Brown County, Texas, Commission District 7B, in violation of TEX. NAT. RES. CODE §§ 91.706 and 16 TEX. ADMIN. CODE § 3.73.
2. Petrolia Group, LLC produced the D. Brooks (154385) Lease, Well No. 1, Brown County Regular Field, Brown County, Texas, Commission District 7B, in violation of TEX. NAT. RES. CODE §§ 91.706 and 16 TEX. ADMIN. CODE § 3.73.

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3. Petrolia Group, LLC produced the D. Brooks (154405) Lease, Well No. 2, Brown County Regular Field, Brown County, Texas, Commission District 7B, in violation of TEX. NAT. RES. CODE § 91.706 and 16 TEX. ADMIN. CODE § 3.73.
4. Petrolia Group, LLC produced the Willie B. Martin (154406) Lease, Well No. 2, Brown County Regular Field, Brown County, Texas, Commission District 7B, in violation of TEX. NAT. RES. CODE § 91.706 and 16 TEX. ADMIN. CODE § 3.73.

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5. Petrolia Group, LLC has failed to timely plug or obtain a plugging extension for the Seward (126661) Lease, Well No. 2, Brown County Regular Field, Brown County, Texas, Commission District 7B, in violation of TEX. NAT. RES. CODE § 89.011 and 16 TEX. ADMIN. CODE § 3.14(b)(2).
6. Petrolia Group, LLC has failed to timely plug or obtain a plugging extension for the Seward (133758) Lease, Well No. 1, Brown County Regular Field, Brown County, Texas, Commission District 7B, in violation of TEX. NAT. RES. CODE § 89.011 and 16 TEX. ADMIN. CODE § 3.14(b)(2).

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7. Petrolia Group, LLC has failed to maintain proper signage for the W.B. Davis (017819) Lease, Well No. 1, Janellen (Caddo) Field, Brown County, Texas, Commission District 7B, in violation of 16 TEX. ADMIN. CODE § 3.3.
8. Petrolia Group, LLC has failed to timely plug or obtain a plugging extension for the W. B. Davis (017819) Lease, Well No. 1, Janellen (Caddo) Field, Brown County, Texas, Commission District 7B, in violation of TEX. NAT. RES. CODE § 89.011 and 16 TEX. ADMIN. CODE § 3.14(b)(2).
9. Petrolia Group, LLC failed to timely plug or obtain a plugging extension for the W. B. Davis (017821) Lease, Well No. 4, Janellen (Caddo) Field, Brown County, Texas, Commission District 7B, in violation of TEX. NAT. RES. CODE § 89.011 and 16 TEX. ADMIN. CODE § 3.14(b)(2).
10. Petrolia Group, LLC failed to timely plug or obtain a plugging extension for the John C. Wallace (017825) Lease, Well No. 1, Janellen (Caddo) Field, Brown County, Texas, Commission District 7B, in violation of TEX. NAT. RES. CODE § 89.011 and 16 TEX. ADMIN. CODE § 3.14(b)(2).
11. Petrolia Group, LLC failed to provide a wellhead assembly to maintain surface control of the John C. Wallace (017825) Lease, Well No. 1, Janellen (Caddo) Field, Brown County, Texas, Commission District 7B, in violation of 16 TEX. ADMIN. CODE § 3.13(b)(1)(B).

RESPECTFULLY SUBMITTED on this the 13th day of August, 2015.



TERRY J. JOHNSON
Legal Examiner