

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

OIL AND GAS DOCKET NO. 7B-0260891

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY LUCKY OIL & GAS (512180), AS TO THE W.A. HARRIS LEASE, WELL NOS. 2 (086624) AND 3 (089779), DELEON, N. (STRAWN) FIELD, AND THE CALDWELL ESTATE (20372) LEASE, WELL NO. 1, SANDY RIDGE FIELD, COMANCHE COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on February 4, 2010 and that the respondent, Lucky Oil & Gas (512180), failed to appear or respond to the Notice of Opportunity for 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. Lucky Oil & Gas (512180) ("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 mailed to Respondent's most recent P-5 address, was signed and returned to the Commission on May 20, 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 July 21, 2008, Respondent filed an Organization Report (Form P-5) with the Commission reporting that its partners consisted of the following individual(s): Eric Linder; Partner, and Melton Linder; Partner.

4. Eric Linder, was a partner 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. Melton Linder, was a partner 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.
6. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
7. Respondent designated itself to the Commission as the operator of Well Nos. 2 (086624) and 3 (089779) on the W.A. Harris Lease ("subject wells"/"subject lease") by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on September 1, 1986.
8. Respondent designated itself to the Commission as the operator of Well No. 1 on the Caldwell Estate (20372) Lease ("subject well"/"subject lease") by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on February 1, 1987.
9. Commission records indicate that Respondent's Form P-5 (Organization Report) is active. Respondent has a \$50,000.00 Letter of Credit as its financial assurance.
10. Well Nos 2 (086624) and 3 (089779) on the W.A. Harris Lease ceased production on or before August 31, 1994.
11. Well No. 1 on the Caldwell Estate (20372) Lease is a permitted salt water disposal well. This well ceased injection prior to May 1, 1990.
12. The Statewide Rule 14(b)(2) extension for Well No. 2 (086624) on the W.A. Harris Lease was denied on August 1, 2007 for failure to file an H-15 test.
13. The Statewide Rule 14(b)(2) extension for Well No. 3 (089779) on the W.A. Harris Lease was denied on August 1, 2007 for failure to file an H-15 test.
14. The Statewide Rule 14(b)(2) extension for Well No. 1 on the Caldwell Estate (20372) Lease was denied on October 26, 2002 for an H-5 issue.
15. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
16. 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.

17. The estimated cost to the State of plugging Well No. 2 (086624) on the W.A. Harris Lease is \$9,800.00.
18. The estimated cost to the State of plugging Well No. 3 (089779) on the W.A. Harris Lease is \$8,500.00.
19. The estimated cost to the State of plugging Well No. 1 on the Caldwell Estate (20372) Lease is \$9,800.00.
20. Commission District inspections were conducted on June 9, 2008, July 14, 2008 and September 22, 2008 for the W.A. Harris Lease, Well No. 3 (089779). The sign or identification required to be posted at the well was illegible.
21. 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.
22. A Commission District inspection was conducted on June 9, 2008 for the W.A. Harris Lease, Well No. 3 (089779). The stripper bowl on the tubing head was seeping produced water. There was also an area of soil with white crystals measuring approximately 2' x 2' x 1". A follow up inspection conducted on July 14, 2008 showed that the water continued to seep through the stripper bowl onto an area of soil measuring 1' x 1' x 1". The report also showed white crystals at the wellhead. Another Commission inspection was conducted on September 22, 2008, indicating that the water continued to seep through the stripper bowl on the tubing head affecting an area of sandy gravel soil.
23. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
24. 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.
25. Commission District inspections were conducted on July 14, 2008 and September 22, 2008 for the W.A. Harris Lease. Well No. 3 (089779) showed lack of wellhead control.
26. 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.

27. No Form H-15 (Test On An Inactive Well More Than 25 Years Old) was filed when due in May 2008 for the W.A. Harris Lease, Well No. 2 (086624). The subject well was completed on February 5, 1980, and an H-15 test was due in May 2008. The operator conducted a successful H-15 test on February 2, 2009.
28. No Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the W.A. Harris Lease, Well No. 3 (089779). The subject well was completed on August 24, 1980, an H-15 test was due in May 2007, and the well has not been plugged.
29. Well No. 1 on the Caldwell Estate (20372) Lease is a permitted salt water disposal well, Permit No. 11475, dated September 3, 1987. This permit requires an MIT every 5 years. The last MIT performed on the subject well was performed April 14, 1993.
30. Disposal wells must pass a pressure test at least once every five years to show that the well is not leaking, that waste is being confined to the permitted injection interval, and that useable quality water zones are properly isolated. Any injection of fluid down a wellbore could be a potential source of pollution. Without testing and supporting documentation, the Commission cannot determine if a well poses a threat to natural resources.
31. 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 leases 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 post signs or identification.

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 that 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(c).
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, Eric Linder, 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.
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, Melton Linder, 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. Lucky Oil & Gas (512180), shall plug the W.A. Harris Lease, Well Nos. 2 (086624) and 3 (089779), DeLeon, N. (Strawn) Field, and the Caldwell Estate (20372) Lease, Well No. 1, Sandy Ridge Field, Comanche County, Texas in compliance with applicable Commission rules and regulations; and
2. Lucky Oil & Gas (512180), shall pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **THIRTEEN THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$13,750.00)**.

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 23rd day of March 2010.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated March 23, 2010)

JD/sa