OIL AND GAS DOCKET NO. 7B-0226001

ENFORCEMENT ACTION AGAINST J. S. TAYLOR, INC. FOR VIOLATIONS OF STATEWIDE RULES ON THE J. R. CALVIN (12493) LEASE, WELL NOS. 1 AND 2, PALO PINTO COUNTY REGULAR FIELD, PALO PINTO COUNTY, TEXAS.

APPEARANCES:

FOR MOVANT: MOVANT:
Susan German, Staff Attorney Enforcement Section

FOR RESPONDENT: RESPONDENT:
No Appearance J. S. Taylor, Inc
Phil Robertson, Attorney John W. Jenson

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

DATE OF REQUEST FOR ACTION: July 25, 2000
DATE CASE HEARD: November 15, 2001
RECORD CLOSED: November 15, 2001
HEARD BY: Mark Helmueller, Hearings Examiner
PFD PREPARED BY: Mark Helmueller, Hearings Examiner
PFD CIRCULATION DATE: January 23, 2002
CURRENT STATUS: Protested
STATEMENT OF THE CASE

This was a Commission-called docket to determine the following:

1. Whether the respondent, J. S. Taylor, or the entity otherwise place in compliance with Statewide Rule 14 on the J. R. Calvin Lease, Palo Pinto County, Texas.

2. Whether the respondent has violated provisions of the Texas Natural Resources Code, Chapters 81, 85, 86, 89, and 91 and the Commission's rules related to prevention or control of pollution by failing to plug the well.

3. Whether the respondent should be assessed administrative penalties of $10,000.00 per day for each offense committed regarding such well.

4. Whether any violations of Rule 14 by the respondent should be referred to the Attorney General for further civil action.

5. Whether other orders should be entered as permitted by law.

Susan German, Staff Attorney, appeared at the hearing representing the Railroad Commission of Texas, Enforcement Section. Phil Robertson, attorney, appeared on behalf of Jenson, who was listed as the Vice-President on the last P-5 organization report filed by J. S. Taylor.

The Enforcement Section's hearing file was admitted into evidence. The staff recommends a penalty of $2,000 for each of the violations it is seeking.

DISCUSSION OF THE EVIDENCE

Enforcement also contended that the respondent, J. S. Taylor, designated itself as operator of the J. R. Calvin (12493) Lease, Well Nos. 1 and 2 by filing a Commission Form P-4 (Producer's Transportation Authority and Certificate of Compliance), effective November 1, 1994, and approved by the Commission on November 7, 1994.
Enforcement further argued that Well No. 1 of any injection activity reported for activity inactive ceased on or before June 15, 2000, June 26, 2000. Enforcement also submitted evidence that Well No. 1 of any injection activity reported for activity inactive ceased on or before June 26, 2000.

Jenson submitted both testimony and an affidavit indicating that he was improperly listed as Vice-President of J. S. Taylor. Jenson asserted that he was not the Vice-President of J. S. Taylor as indicated on the Organization Report. The affidavit of John Jenson to serve as Vice-President, but that no agreement was included on the Organization Report. Additionally, Jenson held no ownership interest in the J. S. Taylor. Jenson requests that the Commission enter a finding that he is not a person holding or control in J. S. Taylor.

EXAMINER’S OPINION

The operator of a well must plug a well when required and in accordance with Commission rules. For Form P-4s filed prior to September 1, 1997, the operator, for purposes of liability, is presumed to be the person who assumed responsibility for the physical operation of a well as shown on the approved Form P-4 designating that person as operator. Texas Natural Resources Code §91.114(c) provides:

Regardless of whether the person’s name appears or is required to appear on the organization report required by Section 91.142, a person is in control of an organization if:

(1) the person is:

(A) an officer or director of the organization;
(B) a general partner of the organization;
(C) the owner of a sole proprietorship or partnership; or
(D) the owner of at least 25 percent of the beneficial interest in the organization;
(E) a trustee of the organization;

EXAMINER’S OPINION
FINDINGS OF FACT

1. Respondent, J. S. Taylor, Inc. (“J. S. Taylor”) was given at least 10 days to respond to a proceeding by mailing a copy of the complaint by certified mail, addressed to the most recent Commission-approved P-5 (Organization Report) address. An acknowledgment of receipt of the complaint was executed by John Taylor on September 14, 2001. John Jenson appeared at the hearing through his attorney and presented evidence.

2. The most recent Commission-approved P-5 (Organization Report) for J. S. Taylor was filed on May 13, 1998. It lists John S. Taylor as the President and John William Jenson as the Vice-President for the organization.

3. John Jenson was improperly listed on the Organization Report as the Vice-President. Mr. Jenson did not hold a position of ownership or control in J. S. Taylor at any time.

4. The respondent, J. S. Taylor, designated itself as operator of the J. R. Calvin (12493) Lease, Well Nos. 1 and 2 by filing an Application for Authority and Certificate of Compliance, effective November 1, 1994, and approved by the Commission on November 7, 1994.

5. Commission District inspection reports for April 6, 2000, May 15, 2000, June 26, 2000 and March 19, 2001 found the two wells to be inactive.

6. Zero production reports filed by J. S. Taylor from July 1997 through December 1997 and the absence of production reports filed with the Commission since December 1997 demonstrate that Well No. 1 has been inactive for a period greater than one year.
The absence of any injection activity in the subject wells has been out of compliance with Section 7.5, Code of Texas, since 1987.

Well No. 1 has been out of compliance since 1987.

Well No. 2 has been out of compliance since 1987.

The estimated cost to bring the subject wells into compliance with Section 7.5, Code of Texas, during the following periods:

a. Well No. 1 has been out of compliance since 1987.

b. Well No. 2 has been out of compliance since 1987.

The estimated cost to comply with the above requirements is $100,000.

The operator of the subject wells in compliance with Section 7.5, Code of Texas, has not discharged saltwater during the period.

CONCLUSIONS OF LAW

1. Proper notice of hearing.

2. The Commission has jurisdiction.

3. J. S. Taylor is the current operator of the subject wells.

4. John Jenson is not a person defined under Texas law.

5. An operator, J. S. Taylor, is the current operator of the subject wells.

6. The Commission has jurisdiction and authority over the subject wells.
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6. Well No. 1 on the J.

Natural Resources Code §71.06.

7. Well No. 2 on the J.

Natural Resources Code §71.06.

The documented violation is a hazard to the public health and safety as defined in the Natural Resources Code §81.002.

RECOMMENDATION

The examiner recommends the attached order following the hearing.

Respectfully submitted,

Mark Helmueller

Hearings Examiner