

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

OIL AND GAS DOCKET NO. 08-0249505

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY WILBANKS, BRUCE A. COMPANY (923063), AS TO THE BUNDY LEASE, WELL NO. 1 (051657), J.K.S. (TUBB) FIELD AND THE RIXIE (26123) LEASE, WELL NO. 2, T.C.I. (GRAYBURG ZONE) FIELD, PECOS COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on April 5, 2006, and that the respondent, Wilbanks, Bruce A. Company (923063), 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. Wilbanks, Bruce A. Company (923063), ("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 January 18, 2007. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. May 10, 2006, Respondent, a Corporation, filed an Organization Report (Form P-5), with the Commission reporting that its officers consisted of the following individual(s): Joe A. Wilbanks, President; and Stephen T. Wilbanks, Vice-President.
4. Joe A. Wilbanks was a person 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. Stephen T. Wilbanks was a person 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 No. 1 (051657) on the Bundy Lease and Well No. 2 on the Rixie (26123) Lease ("subject wells"/"subject leases") by filing a Form P-4 (Producers Transportation of Authority and Certificate of Compliance) with the Commission effective on November 1, 1992 for Well No. 1 on the Bundy Lease and December 1, 1994 for Well No. 2 on the Rixie (26123) Lease..
8. According to Commission records the Respondent's Form P-5 (Organization Report) is active. Respondent has a \$50,000.00 Letter of Credit as its financial assurance.
9. The Bundy Lease, Well No. 1 (051657) is currently inactive and has been inactive for more than 12 months.
 1. A Commission inspection on May 9, 2006 found that the well was inactive and not connected to a gathering system. Follow up inspections on June 26, 2006, August 15, 2006, October 10, 2006, January 7, 2007 and March 5, 2007 confirm that the well is inactive and not currently equipped for production.
 2. Commission records report the Bundy Lease, Well No. 1 (051657) ceased production after September 1993.
10. The Rixie (26123) Lease, Well No. 2, is currently inactive and has been inactive for more than 12 months.
 1. A Commission inspection on May 5, 2006 found that the well was inactive with no motor on the pumpjack and not connected to a flowline or tank battery. Follow up inspections on June 26, 2006, August 15, 2006, October 10, 2006, January 7, 2007 and March 5, 2007 confirm that the well is inactive and not currently equipped for production.
 2. Commission records report the Rixie (26123) Lease, Well No. 2, ceased production after October 1994.
11. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
12. 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.
13. The estimated cost to the State of plugging the subject wells is \$8,400.00 for Well No. 1 (051657) on the Bundy Lease and \$12,300.00 for Well No. 2 on the Rixie (26123) Lease.

14. Commission records indicate that Well No. 1 (051657) of the Bundy Lease was completed in December 1971, is more than 25 years old, inactive, unplugged and subject to the testing requirements of Statewide Rule 14(b)(3). According to Commission records, the Commission Form H-15 (Test On An Inactive Well More Than 25 Years Old) became delinquent for the subject well in January 2002. Respondent has failed to test the well or file an approved Form H-15.
15. Commission records indicate that Well No. 2 on the Rixie (26123) Lease was completed in September 1980, is more than 25 years old, inactive, unplugged and subject to the testing requirements of Statewide Rule 14(b)(3). On June 12, 1997, the Commission determined that an H-15 test (Test On An Inactive Well More Than 25 Years Old) conducted on May 6, 1997 on the subject well failed and, as a result, the Form H-15 was not approved. Respondent has failed to test the well again or file an approved Form H-15.
16. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject leases and subject wells in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
17. The plugging extensions for Well No. 1 (051657) on the Bundy Lease and Well No. 2 on the Rixie (26123) Lease, were cancelled on May 5, 2005.
18. The H-15 test that was conducted on May 6, 1997, for Well No. 2 on the Rixie (26123) Lease, failed due to high fluid levels.

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 14(b)(2) and 14(b)(3).
4. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 14(b)(3), which requires that the operator of any well more than 25 years old that becomes inactive shall plug or test such well to determine whether the well poses a potential threat of harm to natural resources, including surface and subsurface water, oil and gas.
5. Respondent is responsible for maintaining the subject leases and 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.

6. Wilbanks, Bruce A. Company (923063) is required to plug the Bundy Lease, Well No. 1, (051657) J.K.S. (Tubb) Field.
 1. The well has not reported any production since September 1993.
 2. The well is not connected to a gathering system and the meter run to the well is disconnected.
 3. The plugging extension for the well was cancelled by the Commission on May 5, 2005, and has not been renewed.
 4. The well is more than 25 years old, and respondent has not submitted the required mechanical integrity tests for the well which became due in January 2002.
7. Wilbanks, Bruce A. Company (923063) is required to plug Well No. 2 on the Rixie (26123) Lease, T.C.I. (Grayburg Zone) Field.
 1. The well has not reported any production since October 1994.
 2. The well is not equipped for production as it is missing the motor on the pumping unit, and is not connected with a flowline to a tank battery.
 3. The plugging extension for the well was cancelled by the Commission on May 5, 2005, and has not been renewed.
 4. The well is more than 25 years old, and failed its last mechanical integrity test which was submitted on May 6, 1997.
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).
9. 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, Joe A. Wilbanks, 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.

10. 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, Stephen T. Wilbanks, 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. Wilbanks, Bruce A. Company (923063), shall plug the Bundy Lease, Well No. 1 (051657), J.K.S. (Tubb) Field and the Rixie (26123) Lease, Well No. 2, T.C.I. (Grayburg Zone) Field, Pecos County, Texas in compliance with applicable Commission rules and regulations;
2. Wilbanks, Bruce A. Company (923063), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **EIGHT THOUSAND DOLLARS (\$8,000.00)**.

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. 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 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 April 2007.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated April 24, 2007)

MH/ sa