



RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

June 27, 2012

OIL AND GAS DOCKET No. 04-0267003

**ENFORCEMENT ACTION AGAINST ALAMO OPERATING COMPANY, L.C. (OPERATOR NO. 010074)
FOR VIOLATIONS OF STATEWIDE RULES ON THE DIAZ LEASE, WELL NO. 6 (DRILLING PERMIT
NO. 555939), WILDCAT FIELD, STARR COUNTY, TEXAS.**

APPEARANCES:

FOR RESPONDENT:

Michael S. Deodati, President/Member
Gene Lanfear, Attorney

Alamo Operating Company
“

FOR THE RAILROAD COMMISSION OF TEXAS:

Elaine Moore, Attorney
Mark England, Engineer

Enforcement Section, RRC
Field Operations

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

COMPLAINT FILED:	August 12, 2010
NOTICE OF HEARING:	July 28, 2011
DATE CASE HEARD:	September 8, 2011
HEARING CLOSED:	September 8, 2011
PFD PREPARED BY:	Marshall Enquist, Hearings Examiner
CURRENT STATUS:	Contested
PFD CIRCULATION DATE:	June 27, 2012

STATEMENT OF THE CASE

This proceeding was called by the Commission on the recommendation of the District Office to determine the following:

1. Whether the respondent Alamo Operating Company, L.C. (“Alamo”) should be required to

plug or otherwise place in compliance with Statewide Rule 14(b)(2) [Tex. R.R. Comm'n., 16 TEX. ADMIN. CODE §3.14(b)(2)] the Diaz Lease, Well No. 6 (Drilling Permit No. 555939), Wildcat Field, Starr County, Texas;

2. Whether Alamo Operating Company, L.C. should be required to place in compliance with Statewide Rule 16(b) [Tex. R.R. Comm'n., 16 TEX. ADMIN. CODE §3.16(b)] the Diaz Lease, Well No. 6 (Drilling Permit No. 555939), Wildcat Field, Starr County, Texas;
3. Whether Alamo Operating Company, L.C. violated provisions of Title 3, Oil and Gas, Subtitles A, B and C, Texas Natural Resources Code, Chapter 27 of the Water Code and Commission rules and laws pertaining to safety or prevention or control of pollution by failing to plug the subject wells and/or otherwise failing to place the subject wells and lease into compliance with Statewide Rules 14(b)(2) and 16(b).
4. Whether, pursuant to Texas Natural Resources Code §81.0531, Alamo Operating Company, L.C. should be assessed administrative penalties of not more than \$10,000 per day for each offense committed regarding the subject leases and wells; and
5. Whether any violations of Statewide Rules 14(b)(2) and 16(b) made by Alamo Operating Company, L.C. should be referred to the Office of the Attorney General for further civil action pursuant to Texas Natural Resources Code §81.0534.

A Notice of Hearing was issued in this case on July 27, 2011 for the hearing date of September 8, 2011. Alamo Operating Company, L.C. Member Michael S. Deodati appeared at the hearing on behalf of Alamo and offered evidence. Elaine Moore, Commission Staff Attorney, appeared to represent Enforcement. Enforcement's certified hearing file was entered into evidence.

MATTERS OFFICIALLY NOTICED

The examiner has taken Official Notice of Commission Mainframe records of Alamo Operating Company, L.C., including the P-5 screen, Officer screen, P-5 Financial Assurance, and "On-Schedule Leases, Wells and Wellbore by Operator" as of April 25, 2012. These show that Alamo is an active operator with financial assurance in the form of \$50,000 Letter of Credit. Alamo operates 23 wells, of which 14 are inactive under Statewide Rule 14(b)(2).

The examiner has also taken Official Notice of the certified file in this case, as well as the W-1 screen, the Operator/Wellbore/PDQ screen, and the GIS Wellbore Attributes screen of the Commission Online System.

AUTHORITY

Statewide Rule 14(b)(2) [16 TEX. ADMIN. CODE §3.14(b)(2)] requires the commencement of plugging operations on each dry or inactive well within one year after drilling or operations cease,

unless the operator is eligible for and obtains an extension of the plugging deadline under Statewide Rule 14(b)(2).

Statewide Rule 14(c)(1) [16 TEX. ADMIN. CODE §3.14(c)(1)] provides that "...the entity designated as the operator of a well specifically identified on the most recent Commission-approved operator designation form filed on or after September 1, 1997, is responsible for properly plugging the well in accordance with this section and all other applicable Commission rules and regulations concerning plugging wells."

Statewide Rule 14(a)(D) [16 TEX. ADMIN. CODE §3.14(a)(D)] [formerly Statewide Rule 14(a)(G)] defines "operator designation form" as "...a certificate of compliance and transportation authority or an application to drill, deepen, recomple, plug back, or re-enter that has been completed, signed and filed with the Commission or its delegate."

Statewide Rule 16(b) [16 TEX. ADMIN. CODE §3.16(b)] [formerly Statewide Rule 16(a)] requires the operator of a well to file a plugging report within thirty days of plugging a dry hole. The rule also requires the owner or operator of a well to file a completion report within thirty days of completing a well. Finally, the rule requires that amended completion reports be filed within thirty days of the recompletion of a well.

Texas Natural Resources Code §89.002(a)(2) defines "Operator" as "...a person who assumes responsibility for the physical operation and control of a well as shown by a form the person files with the commission and the commission approves."

Texas Natural Resources Code §89.011(a) requires that the "...operator of a well shall properly plug the well when required and in accordance with the commission's rules that are in effect at the time of the plugging."

DISCUSSION OF THE EVIDENCE

Enforcement

Alamo Operating Company, L.C. ("Alamo") has reported itself to the Commission as a limited company performing activities in the State of Texas regulated by the Commission. Michael Deodati ("Deodati") is the sole officer of Alamo and was listed as Member during the time of the pled violations.

Alamo designated itself the operator of the Diaz Lease, Well No. 6 (Drilling Permit No. 555939) by filing an amended Form W-1 (Application for Permit to Drill), received by the Commission and approved February 23, 2005.

Statewide Rule 14(b)(2)

Statewide Rule 14(b)(2) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.14(b)(2)] requires the commencement of plugging operations on each dry or inactive well within one year after drilling or operations cease, unless the operator is eligible for and obtains an extension of the plugging deadline under Statewide Rule 14(b)(2).

Under Statewide Rule 14(c)(1), the entity designated as the operator of a well specifically identified on the most recent Commission-approved operator designation form filed on or after September 1, 1997 is responsible for properly plugging the well in accordance with Statewide Rule 14 and all other applicable Commission rules and regulations concerning plugging of wells.

A Commission District Office inspection report made on October 22, 2009, and the absence of production reports filed by Respondent with the Commission since being issued the Drilling Permit in February 2005 show that Well No. 6 (Permit No. 555939) on the Diaz Lease is inactive and not equipped to produce. The October 22, 2009 inspection found no valves on the well other than a needle valve on a flange. The subject well has never produced and has been inactive for a period greater than one year. A second inspection was conducted by the District Office on August 29, 2011. That inspection noted the well was not producing and was not tied into a sales line.

No workovers, re-entries, or subsequent operations have taken place on the subject well within the last 12 months and the subject well has not been plugged. No plugging extension is in effect for the subject well as allowed by Statewide Rule 14. By failing to timely plug the subject well or to obtain an extension of the plugging deadline, Respondent has violated Statewide Rule 14(b)(2) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.14(b)(2)].

Respondent's violation of Statewide Rule 14(b)(2) is serious and threatens the public health and safety. Unplugged wellbores are likely to cause pollution of usable quality groundwater and surface water, as defined in Statewide Rule 8(a)(28), by serving as a conduit for the passage of oil, gas, saltwater and other substances from one stratum or formation to another or to the surface or from the surface downward.

Pursuant to calculations by Commission District office personnel, the total estimated cost to the State for plugging the Diaz Lease, Well No. 6 (Drilling Permit No. 555939) is \$27,000.00.

Statewide Rule 16(b)

Statewide Rule 16(b) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.16(b)] requires the operator of a well to file a plugging report within thirty days of plugging a dry hole. The rule also requires the owner or operator of a well to file a completion report within thirty days of completing a well. Finally, the rule requires that amended completion reports be filed within thirty days of the recompletion of a well.

According to Commission records, surface casing was set in Well No. 6 (Drilling Permit No.

555939) of the Diaz Lease on February 28, 2005. Despite completion of the well, Respondent failed to file the requisite completion report.

Respondent's failure to file the required completion report is a violation of Statewide Rule 16(b) [Tex R.R. Comm'n, 16 TEX. ADMIN. CODE §3.16(b)]. Respondent's violation of Statewide Rule 16(b) is serious and a hazard to the public health and safety because, should a well need to be re-entered for any reason, the wellbore documentation provided in those reports is necessary to safely and efficiently carry out the replugging, recompletion, reworking or other action.

Enforcement's Case

Originally, the case in this matter was brought against Touchstone Resources USA, Inc. ("Touchstone"). Touchstone had filed a drilling permit for the Diaz Lease, Well No. 6, with three concurrent Form W-1s, apparently necessary to list the nine fields Touchstone proposed to complete in. The three Form W-1s were signed by Touchstone on December 22, 2004, December 23, 2004 and January 10, 2005. All were stamped "Received" at the Commission on January 10, 2005 and the permit was granted the same day.

In the course of gathering the evidence for this docket, it was found that another operator, Alamo Operating Company, LC, had the active permit for the subject well at the time it was drilled. On February 23, 2005, the Commission received an amended drilling permit filed by Alamo Operating Co., LC, for the Diaz Lease, Well No. 6, which was intended to replace Touchstone as operator of the subject well. The amended drilling permit was signed by Mike Hunt on February 16, 2005. At hearing, Mr. Hunt testified that he often filed documents for Alamo and Mr. Deodati in 2005. The Commission approved the amended permit on February 23, 2005, essentially superceding the Touchstone permit.

In support of its argument that Alamo had agreed to operate the subject well, Enforcement entered into evidence a fax from Bruington Engineering, L.C. to Sid Greehey (lessee of the Diaz lease) dated February 14, 2005. The fax asked Greehey to confirm that although Touchstone had permitted Well No. 6 on January 10, 2005, that Touchstone had gone non-consent. The fax further indicated that as of February 15, Mike Deodati of Alamo had agreed to permit the well in Alamo's name. As stated above, Alamo was granted the amended Drilling Permit on February 23, 2005.

Drilling the well was initiated and a call was made to the District Office on February 28, 2005 at 11:10 AM giving notice that surface casing was scheduled to be set at 7:00 PM that day. The information was recorded by the District 4 Office on a "Notification Form". The District Office employee taking the call noted that the well was the Diaz Lease, Well No. 6, Drilling Permit No. 555939. The District Office drilling notification form further states that the operator was Alamo Operating. The call was from Lauro Chapa and the drilling contractor was listed as Scorpion.

Enforcement entered into evidence a letter from Miller Consulting, Inc., dated March 1, 2005 and bearing a Commission file-stamp of March 1, 2005. The letter conveyed the request of Alamo Operating Company, L.C. that its amended Drilling Permit for the Diaz Lease, Well No. 6, Drilling

Permit No. 555969, be canceled without prejudice, and the prior permit for the same lease and well, granted to Touchstone Resources, USA on January 10, 2005, be left in full force and effect. This letter was acted on by the Commission, mistakenly in the view of Enforcement, and the Commission GIS screen for "Operator/Wellbore/PDQ Results" now shows Touchstone as the operator of the subject well.

Enforcement argues that the March 1, 2005 Miller Consulting letter failed to convey the important information that drilling had already commenced by the time the Miller Consulting letter was delivered to the Commission. Had that information been included, the Alamo amended drilling permit would not have been canceled. At the time the March 1, 2005 Miller Consulting letter was received by the Commission in Austin, the District 4 Office in Corpus Christi had already been notified the previous day, February 28, 2005, that the subject well had been drilled to 1,020 feet, and surface casing was to be set that same evening at 7:00 P.M. Because the March 1, 2005 Miller Consulting letter filed in the Commission Drilling Permitting Section in Austin did not convey the fact that drilling had commenced, the Commission Drilling Permitting Section in Austin did not know the Alamo drilling permit could not be canceled. As a result, the Alamo amended drilling permit cancellation was erroneous. Enforcement states that a cancellation letter can cancel a permit that is not in use, but cannot cancel a drilling permit at the time the permit is being utilized, that is, when drilling has already commenced. Once drilling of a well commences, the operator of the well can only be changed by filing an amended Form W-1, listing the new operator, or by having the new operator file the completion reports (Forms W-2/G-1) in the new operator's name.

In summary, the evidence shows that the Diaz Lease, Well No. 6 was reported as being drilled to a depth sufficient to set surface casing on February 28, 2005 and that the casing would be set at 7:00 PM that same day. The letter from Miller Consulting attempting to cancel the Alamo drilling permit was dated March 1, 2005 and was hand-delivered to the Commission on March 1, 2005. Because Alamo Drilling Permit No. 555939 was being utilized at the time the Miller letter was received, the Alamo permit should not have been canceled and Alamo should still be considered the operator of the subject well.

Enforcement notes that a completion report was never filed for the well, by any operator. Pursuant to Statewide Rule 16, a completion report should have been filed within 90 days of completion of the well or cessation of operations. No plugging extension was obtained for the well and no Form W-3A (Notice of Intention to Plug and Abandon) has been filed. Thus, the subject well is in violation of Statewide Rules 14(b)(2) and 16(b).

Enforcement's Recommended Penalty

Commission staff requests that Respondent be assessed an administrative penalty of \$2,500.00, consisting of one Statewide Rule 14(b)(2) violation at \$2,000.00 and one Statewide Rule 16(b) violation at \$500.00. In addition, Enforcement requests that Alamo be required to bring the subject lease and well into compliance with all Commission Statewide Rules.

Alamo Operating Company, L.C.

Alamo argues that it did not participate in the drilling or operation of the subject well. At the time the drilling of the well was being contemplated, Alamo was in a partnership with Bruington Engineering, LC and had been acting as a contract operator. In approximately mid-February of 2005, Alamo, Bruington and others met with Sid Greehey, the lessee of the Diaz Lease. There was a tentative agreement that Alamo would drill the well. Subsequently an amended W-1 filed in Alamo's name was sent to the Commission to replace the previously granted Touchstone permit, making Alamo the operator of the Diaz Lease, Well No. 6. Mr. Deodati denied directing Mike Hunt to obtain an amended permit for the subject well and stated that he never received a copy of the amended Form W-1.

Shortly after the mid-February meeting, Alamo asked Greehey to advance the drilling funds which would enable Alamo to obtain insurance for the proposed operations. Greehey did not do so. At this point, Alamo withdrew from the project as it was unwilling to assume the liability for the operation without insurance coverage.

Alamo entered into evidence a letter from Greehey & Company dated February 25, 2005, which amended and accepted a proposed drilling contract from Scorpion Exploration & Production, Inc. The letter stated that Scorpion was to act as an independent contractor and driller of the subject well, which was described as the "...Alamo Operating Co., LC Diaz #6...". The letter stated that Scorpion could respond with its written agreement by fax, which Scorpion apparently did, with a hand-written date of the 24th of February.¹ The acceptance was signed by Lauro Chapa, President of Scorpion.

Alamo, after asking Miller Consulting to cancel the existing Alamo drilling permit for the subject well, received no communication from the Commission indicating a problem. Alamo had no reason to believe that the permit was not canceled. The well did not show up on any of the Alamo monthly proration schedules. Alamo did not receive any notice of a problem from the Commission until September 4, 2007, when it received a District Office letter dated August 30, 2007 notifying Alamo that it was delinquent in filing a completion report for the well. On September 5, 2007, Mike Hunt of Bruington contacted the Commission, related the sequence of events leading up to the drilling of the well, and was told that the Commission showed the well to be operated by Touchstone and that the Commission would contact Touchstone for a completion report or Form W-3 Plugging Report. Following the August 30, 2007 District Office letter, Alamo did not receive any further correspondence from the Commission requesting completion papers or a plugging report.

Alamo did not become aware that there was an ongoing problem until it received a September 22, 2010 letter from Elaine Moore, RRC Staff Attorney, indicating Alamo was in violation of Statewide Rules 14 and 16 on the Diaz Lease, Well No. 6. Since that time, Alamo has

¹ The discrepancy between the date on the letter of February 25 and the February 24 acceptance date was not explained at the hearing.

provided the Commission with numerous copies of emails, letters and reports indicating that responsibility for the well does not lie with Alamo. For example, Alamo provided the Daily Workover/Completion Reports made on March 14 and 15, 2005 by Cimarron Engineering Corporation. These reports indicate the subject well was completed at a total depth of 5770' on March 14, 2005 by Cimarron Engineering, for Touchstone, using the Scorpion #2 rig.

At hearing, Alamo provided an exhibit, dated January 1, 2011, consisting of the Commission printout "Operator/Wellbore/PDQ Results" that indicates that Touchstone Resources USA, Inc. is the Commission-recognized operator of the subject well.

Alamo also asserts that Sid Greehey sold the Diaz Lease to Reveille Resources, whose address is 13636 Breton Ridge, Unit B, Houston Texas 77070. If Alamo is found to be the operator of the subject well, and ordered to plug the well, it would be forced to trespass to plug the well, and find itself at risk of being sued by Reveille, the owner of the well. Alamo has no lawful right to plug the well. If Alamo is held to be the operator of this well, assessed a penalty and ordered to plug the well, Alamo will file a mandamus suit in district court. Alamo asks that this docket be dismissed.

EXAMINER'S OPINION

The examiner agrees with Enforcement. Despite the alleged inequity to Alamo, there are important policy considerations which weigh on the side of holding Alamo responsible for the use of a drilling permit taken in its name. Further, the statutory provision is unambiguous and dictates that Alamo is the designated operator and responsible for plugging the well.

The fact situation in this case is unfortunate. The lessee of the Diaz Lease, Greehey & Company, clearly moved quickly to find a contractor to drill its Well No. 6, successively involving Touchstone and then Alamo before settling on Scorpion as the contract driller of the subject well. Touchstone obtained a drilling permit for the well on January 10, 2005, but soon after withdrew from the project. Alamo, believing it would drill the well, filed an amended drilling permit with the Commission. The amended permit replaced Touchstone with Alamo as operator of the well and was granted on February 23, 2005. Alamo and Greehey then had a disagreement and, by the next day, Thursday the 24th, Greehey contracted with Scorpion to drill the well. Scorpion immediately began work and by the following Monday, February 28, 2005, reported to the District 4 Office that drilling had proceeded to the point that surface casing would be set to approximately 1,020 feet at 7:00 PM that day.

In the meantime, Alamo contacted an Austin consultant to seek cancellation of the drilling permit in Alamo's name, asking that the prior drilling permit in the name of Touchstone be left as the permit of record. Although the Alamo permit was "canceled" in the offices of the Commission in Austin on March 1, 2005, the "cancellation" was ineffective as the permit had already been reported as in use to District Office 4 the previous day, February 28, 2005.

Scorpion was acting in accordance with permit conditions when it reported that surface casing was about to be set. Drilling permits granted in 2005 carried the following language under

the heading “During Drilling”:

“*Notification of Setting Casing. The operator MUST call in notification to the appropriate district office (phone number shown on the permit) a minimum of eight (8) hours prior to the setting of surface casing, intermediate casing, AND production casing. The individual giving notification MUST be able to advise the district office of the drilling permit number.”

The asterisk in “*Notification of Setting Casing” refers to the bolded “*NOTIFICATION” heading at the bottom of the page which contains the following instructions:

“The operator is REQUIRED to notify the district office when setting surface casing, intermediate casing, and production casing, or when plugging a dry hole. Time requirements are given above. The drilling permit number MUST be given with such notifications.”

The Commission cannot allow operators to cancel their drilling permits if the permit has already been used. If operators were allowed to cancel their permits after use, then an operator could walk away from a well that had become too expensive to drill, had junk in the hole or otherwise had become a liability to the operator, all without the Commission’s knowledge. This would leave a partially completed wellbore in place which would become a conduit for migration of fluids from one zone to another or to the surface, potentially causing pollution. The Commission would not know the wellbore configuration, depth, sufficiency of casing, sufficiency of cementing, placement of shotholes, or any other information required for plugging.

The notification requirements are intended to prevent operators from walking away from wells without the Commission’s knowledge. Most well problems will arise after surface casing is set. By requiring notification of each step in the drilling process, including the setting of surface casing, the Commission obtains the knowledge that a permit has been used. Once that is known, the Commission can distinguish wells that have been at least partially drilled from wells that were never drilled after permitting, and hold operators accountable.

Alamo could have transferred the liability for the granted drilling permit by requiring that an amended permit listing a successor operator of the well be filed. However, it did not do this.

Alamo claims that its “cancellation” of its permit absolves it of responsibility and left Touchstone as operator of the subject well. However, the “cancellation” took place after the permit was in use, which negates the “cancellation”. Regardless of any purported “cancellation”, State law [Texas Natural Resources Code §§89.002(a)(2) and 89.011], as well as Commission Statewide Rule 14(c)(1) dictate that the most recent Commission-approved operator is responsible for plugging a well. It is undisputed that Alamo is the most recent Commission-approved operator of the subject well. No entity has filed any form designating itself as operator after Alamo.

Alamo argues that it had no notice that the Commission considered it responsible for the

subject well, as the well did not appear in any of Alamo's monthly proration print-outs. There is a simple explanation for this. Only wells that have been assigned Commission lease identification numbers appear on proration print-outs. Completion papers for the subject well were never filed, so the well was never assigned a lease identification number, hence it never appeared on any operator's proration schedule.

Alamo also argues that the Diaz Lease was sold to Reveille Resources and that Alamo would have no right to enter the Diaz Lease and plug a well owned by Reveille. Texas Natural Resources Code §89.044 is titled "Right to Enter on Land" and states: "(a) The commission and its employees or agents, the operator, or the nonoperator, on proper identification, may enter the land of another for the purpose of plugging or replugging a well that has not been properly plugged." Reveille Resources has not sought RRC approval to be designated as operator of the subject well.

The examiner recommends that Alamo be assessed an administrative penalty of \$2,500 for violations of Statewide Rule 14 and 16, and be required to place the Diaz Lease, Well No. 6 (Drilling Permit 555939) in compliance with Commission rules and regulations.

Based on the record in this docket, the examiner recommends adoption of the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Alamo Operating Company, L.C. ("Alamo") was given at least ten (10) days notice of this hearing by certified mail sent to its most recent Form P-5 address. Alamo appeared at the hearing and presented evidence.
2. Alamo's most recent P-5 organization report lists Alamo as a limited company with Michael S. Deodati as an officer with the title "Member". On Mr. Deodati's appearance slip for the hearing, he listed himself as "President" of Alamo.
3. As an officer, Michael S. Deodati was a person in a position of ownership or control of Alamo, as defined by Section 91.114(c) of the Texas Natural Resources Code, at the time the violations in this docket were committed.
4. The violations in this docket are violations of Commission rules related to safety and the prevention or control of pollution.
5. Alamo's Form P-5 organization report is active, and Alamo has financial assurance on file in the amount of a \$50,000 letter of credit.
6. Alamo designated itself the operator of the Diaz Lease, Well No. 6 (Drilling Permit No. 555939) by filing an amended Form W-1 (Application for Permit to Drill), received by the Commission and approved February 23, 2005 and Alamo remains the designated operator. No subsequent operator has been approved by the Commission.

7. A Commission District Office inspection of the Diaz Lease, Well No. 6 made on October 22, 2009 and the absence of production reports filed by Respondent with the Commission since being issued Drilling Permit No. 555939 in February 2005 demonstrate that Well No. 6 on the Diaz Lease is inactive and not equipped to produce. The October 22, 2009 inspection found no valves on the well other than a needle valve on a flange.
8. A Commission District Office inspection made on August 29, 2011 noted that the well was not producing and was not tied into a sales line.
9. Well No. 6 (Drilling Permit No. 555939) has been inactive since at least March, 2005 to the date of the hearing on September 8, 2011, a period of time greater than one year.
10. Respondent's violation of Statewide Rule 14(b)(2) is serious and threatens the public health and safety. Unplugged wellbores are likely to cause pollution of usable quality groundwater and surface water, as defined in Statewide Rule 8(a)(28), by serving as a conduit for the passage of oil, gas, saltwater and other substances from one stratum or formation to another or to the surface or from the surface downward.
11. According to Commission records, specifically a District Office Notification Form, drilling of the Diaz Lease, Well No. 6 (Drilling Permit No. 555939) to a depth of 1,020 feet was reported on February 28, 2005 at 11:10 AM, with notification that surface casing would be set at 7:00 PM.
 - a. When surface casing was reported being set on February 28, 2005 on the Diaz Lease, Well No. 6 (Drilling Permit No. 555939) by Scorpion Exploration and Production, Inc., the active permit for the well was in the name of Alamo Operating Company, L.C.
 - b. A drilling permit in active use may not be cancelled.
 - c. Alamo attempted to cancel amended Drilling Permit 555939 for the subject well on March 1, 2005.
 - d. On March 1, 2005, the amended drilling permit listing Alamo as the operator of the Diaz Lease, Well No. 6 was mistakenly and ineffectively canceled in the Austin office of the Commission, which, at the time, lacked knowledge that drilling had commenced on the subject well and that the drilling permit was in use.
 - e. No completion report for the subject well has ever been filed.
 - f. No subsequent operator has attempted to acquire the Form P-4 responsibility for the subject well.
12. Daily Workover/Completion Reports made by Cimarron Engineering Corp. and included in the certified file, indicate the Diaz Lease, Well No. 6 (Drilling Permit No. 555939) was completed on approximately March 15, 2005.
13. Respondent's failure to file the required completion report is a violation of Statewide Rule 16(b) [Tex R.R. Comm'n, 16 TEX. ADMIN. CODE §3.16(b)]. Respondent's violation of

Statewide Rule 16(b) is serious and a hazard to the public health and safety because, should a well need to be re-entered for any reason, the wellbore documentation provided in those reports is necessary to safely and efficiently carry out replugging, recompletion, reworking or other action related to the well.

CONCLUSIONS OF LAW

1. Proper notice of hearing was timely issued to the appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. Alamo Operating Company, L.C. is the operator of the Diaz Lease, Well No. 6 (Drilling Permit No. 555939).
4. Alamo Operating Company, L.C. violated Statewide Rule 14(b)(2) [Tex R.R. Comm'n, 16 TEX ADMIN. CODE §3.14(b)(2)] by failing to plug the Diaz Lease, Well No. 6 (Drilling Permit No. 555939) within one year after drilling or operations ceased.
5. Alamo Operating Company, L.C. violated Statewide Rule 16(b) [Tex R.R. Comm'n, 16 TEX ADMIN. CODE §3.16(b)] by failing to file a completion report for the Diaz Lease, Well No. 6 (Drilling Permit No. 555939) .
6. The documented violations committed by Alamo Operating Company, L.C. constituted acts deemed serious and a hazard to the public health and safety within the meaning of Texas Natural Resources Code §81.0531.
7. Alamo Operating Company, L.C. did not demonstrate good faith within the meaning of Texas Natural Resources Code §81.0531.
8. As an officer of Alamo Operating Company, L.C., at the time Alamo violated Commission rules related to safety and the prevention or control of pollution, Michael S. Deodati and any organization subject to the Commission's jurisdiction in which he may hold a position of ownership or control are subject to the restrictions of Texas Natural Resources Code §91.114(a)(2).

RECOMMENDATION

The examiner recommends that Alamo Operating Company, L.C. be required to place the Diaz Lease, Well No. 6 (Drilling Permit No. 555939) in compliance with all Commission rules and regulations and pay an administrative of \$2,500.00, consisting of a penalty of \$2,000 for one violation of Commission Statewide Rule 14(b)(2) and \$500 for one violation of Commission Statewide Rule 16(b).

Respectfully submitted,



Marshall Enquist
Hearings Examiner