

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

OIL AND GAS DOCKET NO. 01-0240330

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY SHIRLEY F. HOLM D/B/A HOLDEN-BROOKE OIL & GAS CO. (391910), AS TO THE W.A. WHITMIRE LEASE, WELL NO. 2 (120686), KIBBY (COLE SD.) FIELD, THE W.A. WHITMIRE LEASE, WELL NOS. 7 (151683) AND 8 (160736), DEBBY (GOV'T WELLS) FIELD, MCMULLEN COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on December 9, 2004, and that the respondent, Shirley F. Holm d/b/a Holden-Brooke Oil & Gas Co. (391910), 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. Shirley F. Holm d/b/a Holden-Brooke Oil & Gas Co., (391910), ("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 re turned 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 October 20, 2004. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. Shirley F. Holm, as sole proprietor, 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.
4. Larry E. Holm, 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. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
6. Respondent designated itself to the Commission as the operator of Well No. 2 (120686) on the W.A. Whitmire Lease and Well Nos. 7 (151683) and 8 (160736) on the W.A. Whitmire Lease ("subject wells"/"subject leases") by filing Form P-4's (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on January 25, 1993 for Well No. 2 (120686) on the W. A. Whitmire Lease and October 1, 1994 for Well No. 7 (151683) on the W.A. Whitmire Lease. Respondent designated itself to the Commission as the operator of Well No. 8 (160736) on the W. A. Whitmire Lease ("subject lease"/"subject well") by filing a Form W-1 (Application to Drill, Deepen, Plug Back or Re-enter) with the Commission on July 31, 1995.
7. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on April 1, 2002. Respondent paid a fee of \$100.00 as its financial assurance at the time of its last P-5 renewal.
8. Well No. 2 (120686) on the W.A. Whitmire Lease ceased production on or before October 31, 1993. Well No. 7 (151683) on the W.A. Whitmire Lease ceased production on or before May 31, 1997. Well No. 8 (160736) on the W.A. Whitmire Lease never produced.
9. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
10. 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.
11. The estimated cost to the State of plugging Well No 2 (120686) is \$1,400.00, \$1,300.00 for Well No. 7 (151683) and \$1,300.00 for Well No. 8 (160736), all on the W.A. Whitmire Lease.
12. 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.

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 Rule 14(b)(2).

4. Respondent is responsible for maintaining the subject leases and plugging 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.
5. 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) (Vernon 2001).
6. 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, Shirley F. Holm, and any other organization in which she 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.
7. 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, Larry E. Holm, 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. Shirley F. Holm d/b/a Holden-Brooke Oil & Gas Co. (391910), shall plug the W.A. Whitmire Lease, Well No. 2 (120686), Kibby (Cole Sd.) Field, the W.A. Whitmire Lease, Well Nos. 7 (151683) and 8 (160736), Debby (Gov't Wells) Field, McMullen County, Texas in compliance with applicable Commission rules and regulations; and
2. Shirley F. Holm d/b/a Holden-Brooke Oil & Gas Co. (391910), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SIX THOUSAND DOLLARS (\$6,000.00)**.

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 8th day of February 2005.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated February 8, 2005)

ME/sa