

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

OIL AND GAS DOCKET NO. 02-0266028

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY SUNBURST, INC. (829461), AS TO THE YANTA CATTLE CO. LEASE, WELL NO. 1 (215070), WILDCAT FIELD, GOLIAD COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on June 16, 2011 and that the respondent, Sunburst, Inc. (829461) , 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. Sunburst, Inc. (829461), ("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.
2. The returned certified receipt containing the Original Complaint and the Notice of Opportunity for Hearing mailed to Respondent's most recent P-5 address, was returned to the Commission marked "unclaimed" on April 27, 2011. 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 September 30, 2010, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Walter L. Jackson, III, President; and Walter L. Jackson, Vice-President.
4. Walter L. Jackson, III, was 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. Walter L. Jackson, was 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 (215070) on the Yanta Cattle Co. Lease ("subject wells"/"subject leases") by filing a P-4 Form (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on May 31, 2007.
8. Commission records indicate that Respondent's Form P-5 (Organization Report) became delinquent on September 1, 2011. Respondent had a \$25,000.00 Bond as its financial assurance at the time of its last P-5 renewal.
9. Commission District inspections were conducted on January 6, 2010, February 9, 2010, February 16, 2010, March 3, 2010 and April 19, 2010 for the Yanta Cattle Co. Lease. The sign or identification required to be posted at the lease entrance was missing. A follow up inspection conducted on May 24, 2011 shows that the lease entrance sign is now posted.
10. Commission District inspections were conducted on January 6, 2010, February 9, 2010, February 16, 2010, March 3, 2011, April 19, 2011 and May 24, 2011 for the Yanta Cattle Co. Lease. The sign or identification required to be posted at the well was missing.
11. 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.
12. A Commission District inspection was conducted on January 6, 2010 for the Yanta Cattle Co. Lease. The cellar is full of crude oil and heavy rains scattered oil around the location, effecting an area approximately 50' x 50'. Follow up inspection reports from February 9, 2010 to April 19, 2011 show the cellar was sucked down, but has sludge in bottom and floating, with an area around the cellar having sludge on it and the ground stained around the cellar. Further heavy rains can still cause the cellar to overflow. A follow up inspection conducted on May 24, 2011, shows approximately 1' of fluid and sludge still remains in the bottom of the cellar and 2' stain still exists outside of cellar.
13. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
14. 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.

15. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject lease and well 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 and 8(d)(1).
4. Respondent is responsible for maintaining the subject lease 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 have signs posted at all times.
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 and subject well 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.
7. 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.
8. 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, Walter L. Jackson, III 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.

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, Walter L. Jackson, 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. Sunburst, Inc. (829461), shall place the Yanta Cattle Co. Lease, Well NO. 1 (215070), Wildcat Field, Goliad County, Texas in compliance with applicable Commission rules and regulations;
2. Sunburst, Inc. (829461), shall pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **ONE THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$1,750.00)**.

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 8th day of November 2011.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated November 8, 2011)

MFE/sa