

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

**OIL AND GAS DOCKET NO. 04-0258465**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY SOUTH CENTRAL TEXAS OIL & GAS CO. (802684), AS TO THE F.J. SMITH (03218) LEASE, WELL NOS. 1 AND 2, TURKEY CREEK (4000 SAND) FIELD, NUECES COUNTY, TEXAS**

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**FINAL ORDER**

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on January 8, 2009, and that the respondent, South Central Texas Oil & Gas Co. (802684), failed to appear or respond to the Notice of 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. South Central Texas Oil & Gas Co.(802684), ("Respondent") was given Notice of 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 Hearing mailed to Respondent's, most recent P-5 address, was signed and returned to the Commission on October 21, 2008. 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 19, 2007, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Earl Gilbert; President.
4. Earl Gilbert, 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 Nos. 1 and 2 on the F.J. Smith (03218) Lease ("subject wells"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on August 1, 2002.
7. According to Commission records the Respondent's Form P-5 (Organization Report) is active. Respondent had a \$50,000.00 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
8. Well No. 2 on the F.J. Smith (03218) Lease ceased production on or before September 30, 2004.
9. Well No. 1 on the F.J. Smith (03218) Lease is a permitted saltwater disposal well. Disposal into Well No. 1 ceased on or before April 30, 2004.
10. The Statewide 14(b)(2) plugging extension for Well No. 2 was denied on July 24, 2006 for failure to file an H-15 test.
11. The Statewide Rule 14(b)(2) plugging extension for Well No. 1 was denied on November 3, 2006 for an H-5 issue.
12. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with Statewide Rule 14.
13. 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 potential for pollution.
14. The estimated cost to the State of plugging the subject wells is \$34,400.00.
15. Commission records show that Well No. 1 on the F.J. Smith (03218) Lease, was permitted as a saltwater disposal well in a non-productive zone, by UIC Permit No. 10682, dated October 23, 1997, that this permit requires an MIT test annually, and that the last MIT test performed on the well was February 25, 2004.
16. Disposal wells must pass a pressure test at least once every 5 years to show that the well is not leaking, that waste is being confined to the permitted injection interval, and that useable quality water zones are properly isolated. Any injection of fluid down a wellbore could be a potential source of pollution. Without testing and supporting documentation, the Commission cannot determine if a well poses a threat to natural resources.

17. Commission records indicated no current Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the F.J. Smith (03218) Lease, Well No. 2. Commission records further showed that the F.J. Smith (03218) Lease, Well No. 2, was in production at least by November 1977, that no production had been reported for the well since September 30, 2004, H-15 tests performed on the well on October 26, 2006 and September 11, 2008, were not approved. Respondent failed to file a current approved H-15 test or plug the well.
18. The Respondent did not demonstrate good faith since it failed to timely plug or otherwise place the subject lease 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 Rules 9(12), 14(b)(2) and 14(b)(3).
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 9(12), which requires that the mechanical integrity of a disposal well shall be evaluated by conducting pressure tests to determine whether the well tubing, packer, or casing have sufficient mechanical integrity.
5. Respondent is responsible for maintaining the subject lease 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.
6. Respondent is responsible for maintaining the subject lease and 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.
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(c).

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, Earl Gilbert, 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. South Central Texas Oil & Gas Co. (802684), shall plug the F.J. Smith (03218) Lease, Well Nos. 1 and 2, Turkey Creek (4000 Sand) Field, Nueces County, Texas in compliance with applicable Commission rules and regulations; and
2. South Central Texas Oil & Gas Co. (802684), 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 31<sup>st</sup> day of March 2009.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order  
dated March 31, 2009)

ME/sa