

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

OIL AND GAS DOCKET NO. 09-0231564

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY TEXHOMA HOT OIL SVC, INC. (848648), AS TO THE GATEWOOD (26220) LEASE, WELL NO. 1, BERRY (MISS.) FIELD, HARDEMAN COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on February 12, 2004, and that the respondent, Texhoma Hot Oil Svc, Inc. (848648), 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. Texhoma Hot Oil Svc, Inc. (848648), ("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 returned to the Commission marked "unclaimed."
2. The returned certified receipt containing the Original Complaint and the Notice of Opportunity for Hearing was returned to the Commission marked "unclaimed" on December 17, 2003. The returned certified receipt containing the Original Complaint and the Notice of Opportunity for Hearing, sent to the President, Gary Wayne Callaway, was returned to the Commission marked "unclaimed" on December 17, 2003. The certified receipts have been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On June 15, 2001, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Gary Wayne Callaway; President.
4. Respondent designated itself to the Commission as the operator of Well No. 1 on the Gatewood (26220) Lease ("subject well"/"subject lease") by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on August 21, 1992.
5. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on March 1, 2002. Respondent paid a fee of \$100.00 as its Financial Assurance at the time of its last Form P-5 renewal.

6. The subject well is a permitted saltwater disposal well and ceased injection on or before February 28, 2002. The well has been inactive for more than one year.
7. The subject well has not been properly plugged in accordance with, and is not otherwise in compliance with, Statewide Rule 14.
8. 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 well. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
9. The estimated cost to the State of plugging the subject well is \$13,200.00.
10. A Commission district office inspection was conducted on April 4, 2002 for the Gatewood (26220) Lease. There was an area of oil on the soil west of the battery measuring approximately 12' x 37', standing water with oil around the edge measuring approximately 20' x 100', oil saturated soil and standing oil measuring approximately 6' to 8' wide x 30', standing oil beneath the injection pump measuring approximately 5' x 7' and basic sediment on the soil at a valve on the west tank measuring approximately 3' x 4'.
11. A Commission district office inspection was conducted on April 22, 2002 for the Gatewood (26220) Lease. The pollution recorded in the prior report had altered somewhat and new pollution had occurred. The area on the west side of the battery measuring approximately 12' x 37' was reduced to 10' x 21'. The area west of the injection pump approximately 20' by 100' and had no standing fluid but areas of oil saturation covered approximately 30% of the original area. The area south of the injection pump reported as measuring approximately 6' to 8' wide x 30' had no standing fluid, but had saturated soil over 80% of the original area. The area beneath the injection pump reported as measuring approximately 5' to 7' had reduced to approximately 3' x 4' and remained with basic sediment on the soil. A new area of pollution had developed at the center steel rectangular tank on the south side of the storage facility, measuring approximately 1' to 2' wide by 40' in length, due to fluid by-passing the tank.
12. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.
13. 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.
14. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject lease and subject well in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
15. The Commission spent a total of \$2,402.00 to clean up the Gatewood (26220) Lease.

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 8(d)(1) and 14(b)(2).
4. Respondent is responsible for maintaining the subject lease in compliance with Rule 8(d)(1), which prohibits the discharge of oil and gas wastes without a permit.
5. Respondent is responsible for maintaining the subject lease in compliance with all applicable Commission rules and for properly plugging the subject well according to Statewide Rules 14, 58, and 79 and Chapters 89 and 91 of the Texas Natural Resources Code.
6. Respondent is the person responsible for cleaning up the discharges on the subject lease under TEX. NAT. RES. CODE ANN. §91.113(b), and the Commission may recover from respondent all costs incurred in cleaning up the subject lease pursuant to TEX. NAT. RES. CODE ANN. §91.113(f).
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) (Vernon 2001).

IT IS ORDERED THAT within 30 days from the day immediately following the date this order becomes final:

1. Texhoma Hot Oil Svc, Inc. (848648), shall plug or otherwise place the Gatewood (26220) Lease, Well No. 1, Berry (Miss.) Field, Hardeman County, Texas in compliance with applicable Commission rules and regulations; and
2. Texhoma Hot Oil Svc, Inc., (848648), 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)** and **REIMBURSE** State Funds in the amount of **TWO THOUSAND FOUR HUNDRED TWO DOLLARS (\$2,402.00)** .

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 23rd day of April 2004.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated April 23, 2004)

JD/sa