

**RAILROAD COMMISSION OF TEXAS  
OFFICE OF GENERAL COUNSEL  
OIL AND GAS SECTION**

**OIL AND GAS DOCKET NO. 09-0250724**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY ALCO OIL & GAS CO., LLC (011204), AS TO THE PERKINS -A- (00091) LEASE, WELL NOS. 2, 22, 23, 27 AND 31, ARCHER COUNTY REGULAR FIELD, ARCHER 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 February 28, 2008, and that the respondent, Alco Oil & Gas Co., LLC (011204), 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. Alco Oil & Gas Co., LLC (011204), ("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 First Amended Original Complaint and the Notice of Hearing was signed and returned to the Commission on January 11, 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 August 2, 2007, Respondent, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Ashvin Mascarenhas; Manager.
4. Ashvin Mascarenhas, was a person in a position of ownership or control of respondent, as defined by Texas Natural Resource 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. 2, 22, 23, 27 and 31 on the Perkins -A- (00091) Lease (“subject wells”/“subject lease”) by filing a Form P-4 (Producer’s Transportation Authority and Certificate of Compliance) with the Commission effective on March 1, 2003.
7. According to Commission records the Respondent’s Form P-5 (Organization Report) became delinquent on July 1, 2008. Respondent had \$250,000.00 cash as its Financial Assurance at the time of its last P-5 renewal.
8. Commission records reflect that on August 27, 2004, the Commission gave Respondent notice by certified mail of the alleged facts or conduct of the Respondent in the operation, or production, of oil or gas from the Perkins -A- (00091) Lease, that appeared to violate the oil and gas conservation laws of this state, or rules or orders of the Commission adopted under those laws, to warrant the cancellation of the certificate of compliance. Said notice gave Respondent an opportunity to show compliance with all requirements of law for retention of the certificate of compliance.
9. Commission records reflect that Respondent did not timely show compliance with all requirements of law for retention of the certificate of compliance and, as a result, the certificate of compliance for the Perkins -A- (00091) Lease, was cancelled, and Respondent given notice of such cancellation, on September 27, 2004.
10. A Commission District inspection dated January 23, 2007 indicated that the lease was actively producing on Well Nos. 2, 22, 23, 27 and 31, Although no production reports had been filed by Respondent with the Commission for the Perkins -A- (00091) Lease to show any production, it was clear to the Commission field representatives that the lease was actively producing, after the certificate had been cancelled and before a new certificate of compliance had been issued.
11. The respondent has not demonstrated good faith since it failed to 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 Statewide Rules 73(i) and Tex. Nat. Res. Code §85.166.
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 73(i), which makes it unlawful for an operator of wells to produce oil, gas, or geothermal resources from the wells after notice from the Commission has been provided to the operator that the certificate of compliance for the wells has been cancelled and before a new certificate of compliance with respect to the wells has been issued by the Commission.

5. Respondent violated Tex. Nat. Res. Code §85.166, by producing the Perkins -A- (00091) Lease, after notice from the Commission that the certificate of compliance had been cancelled and before a new certificate of compliance had been issued.
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, Ashvin Mascarenhas, 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 sooner, if 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.
7. Respondent is responsible for maintaining the subject lease and 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.
8. 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. §85.166.

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

1. Alco Oil & Gas Co., LLC (011204), shall place the Perkins -A- (00091) Lease, Well Nos. 2, 22, 23, 27 and 31, Archer County Regular Field, Archer County, Texas in compliance with applicable Commission rules and regulations; and
2. Alco Oil & Gas Co., LLC (011204), shall pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **ONE THOUSAND DOLLARS (\$1,000.00)**.

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 order is served on the parties.

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 29th day of July 2008.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated July 29, 2008)

ME/sa