

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

**OIL AND GAS DOCKET NO. 09-0257792**

---

**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY AMERICAN PETROLEUM CORP. (018909), AS TO THE HOOKS, LILLY (05716) LEASE, WELL NO. 4, WICHITA COUNTY REGULAR FIELD, WICHITA COUNTY, TEXAS**

---

**FINAL ORDER**

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on March 12, 2009, and that the respondent, American Petroleum Corp. (018909), 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. American Petroleum Corp. (018909), ("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 returned 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 Respondents, most recent P-5 address, was signed and returned to the Commission on October 27, 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 July 28, 2008, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Rafael Pinedo; President.
4. Rafael Pinedo, 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. 4 on the Hooks, Lilly (05716) Lease ("subject well"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on September 1, 2004.
7. According to Commission records the Respondent's Form P-5 (Organization Report) is active. Respondent has a \$50,000.00 Bond as its financial assurance.
8. A Commission District inspection was conducted on May 28, 2008 for the Hooks, Lilly (05716) Lease. A leak in an injection line caused an area approximately 270' x 150' x 4" deep to be affected with standing produced water which tested at a chloride level of 49,000 ppm. In addition, produced water had collected within the retaining wall at the storage facility affecting an area approximately 10' x 15' x 3" deep which tested at a chloride level of 15,800 ppm. Followup inspection reports made on July 14, 2008 and July 15, 2008 showed the affected areas had not been cleaned.
9. A Commission District inspection conducted on July 21, 2008 on the Hooks, Lilly (05716) Lease, indicated that the affected areas had been cleaned up.
10. No permit had been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.
11. 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.
12. 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 Hooks, Lilly (05716) Lease, was cancelled, and Respondent given notice of such cancellation, on July 11, 2008.
13. 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 Hooks, Lilly (05716) Lease, was cancelled, and Respondent given notice of such cancellation, on July 11, 2008.
14. A Commission District inspection conducted on July 15, 2008, for the Hooks, Lilly (05716) Lease showed Well No. 4 was actively producing. Well No. 4 was found to be actively producing after the certificate of compliance for the Hooks, Lilly (05716) had been cancelled and before a new certificate of compliance had been issued.
15. By producing the Hooks, Lilly (05716) Lease, after notice from the Commission that the certificate of compliance had been cancelled and before a new certificate of compliance had been issued, Respondent violated Statewide Rule 73(i) and Tex. Nat. Res. Code Ann. §85.166.

16. The Respondent did not demonstrate good faith since it failed to timely 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.

### **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 was in violation of Commission Statewide Rules 8(d)(1), 73(i) and Tex. Nat. Res. Code Ann. §85.166.
4. Respondent was 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.
5. Respondent was responsible for maintaining the subject lease in compliance with Statewide Rule 73(i), which provides that upon cancellation of the certificate of compliance for a well, the operator of such well shall not produce oil, gas, or geothermal resources from that well until a new certificate of compliance with respect to the well has been issued by the Commission.
6. Respondent was 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(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, Rafael Pinedo, 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. American Petroleum Corp. (018909), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **THIRTEEN THOUSAND DOLLARS (\$13,000.00)**.

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 28<sup>th</sup> day of April 2009.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated April 28, 2009)

ME/sa