

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

OIL AND GAS DOCKET NO. 09-0258685

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY DOUGLAS STEWART KING, SOLE PROPRIETOR, JANLO OPERATING (429835), AS TO THE PARKS LEASE, WELL NO. 1 B (217083), NEWARK EAST (BARNETT SHALE) FIELD, PARKER COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on January 20, 2011 and that the respondent, Douglas Stewart King, Sole Proprietor, Janlo Operating (429835) , 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. Douglas Stewart King, Sole Proprietor, Janlo Operating (429835), ("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 was mailed to Respondent's most recent P-5 address, which was returned to the Commission marked "unclaimed, unable to forward" on October 24, 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 1, 2005, Respondent, a Sole Proprietorship, filed an Organization Report (Form P-5) with the Commission reporting that its owner consisted of the following individual(s): Douglas Stewart King.

4. Douglas Stewart King, as sole proprietor, 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. 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. 1 B (217083) on the Parks Lease ("subject well"/"subject lease") by filing a P-4 Form (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on June 1, 2005.
7. Commission records indicate that Respondent's Form P-5 (Organization Report) became delinquent on September 1, 2006. Respondent had \$7,150.00 cash as its financial assurance at the time of its last P-5 renewal.
8. The subject well ceased production on or before June 2006.
9. On April 8, 2009 the subject well was plugged.
10. Well No. 1 B (217083) on the Parks Lease was out of compliance with Statewide Rule 14(b)(2) for 15 months.
11. Usable quality groundwater in the area could have been 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.
12. A Commission District inspection was conducted on February 15, 2008 for the Parks Lease.
There was an area of produced water pollution around the tank battery of approximately 10' x 10', an area of produced water pollution of approximately 135' x 15' in the reserve pit. The inspection reports from March 5, 2008, April 3, 2008 and November 21, 2008 show the same areas of pollution. The inspection report from April 8, 2009 show this pollution to be remediated.
13. No permit was 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 could migrate into surface water bodies causing contamination or can leach into the ground and percolate through soils into groundwater supplies.

15. The Parks Lease was out of compliance with Statewide Rule 8(d)(1) for 14 months.
16. Commission District inspections were conducted on January 8, 2008, February 15, 2008, March 5, 2008, April 3, 2008 and November 21, 2008 for the Parks Lease. Respondent had partially filled a reserve pit and it is unlevelled with a plastic liner, the open portion of the reserve pit contains approximately 100 barrels of water with 200mg/1 chlorides. Commission records reflect that drilling was completed on or about May 6, 2005.
17. Unfilled pits constitute a hazard to public health and safety because of the potential for illegal dumping in the pits and the potential for surface run-off to collect in the pit and seep into subsurface waters.
18. A Commission District inspection was conducted on April 8, 2009, indicating that the Parks Lease is in compliance.
19. The Parks Lease was out of compliance with Statewide Rule 8(d)(4)(G)(i)(I) for approximately 46 months.
20. Commission District inspections were conducted on January 8, 2008, February 15, 2008, March 5, 2008, April 3, 2008, November 21, 2008 and April 8, 2009 for the Parks Lease. The signs or identification required to be posted at the lease entrance, well and tank were missing.
21. 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.
22. The Parks Lease was out of compliance with Statewide Rule 3 for approximately 15 months.
23. The Respondent did not demonstrate 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.
24. The Respondent had a prior history of Commission rule violations including the following docket(s):

Docket No. 7C-0231866; Final Order Served: March 22, 2005.

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 3, 8(d)(1), 8(d)(4)(G)(i)(I) and 14(b)(2).
4. Respondent was 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 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.
6. Respondent was responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(4)(G)(i)(I), which requires reserve pits and mud circulation pits to be dewatered, backfilled and compacted within one year of cessation of drilling operations.
7. 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.
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. §81.0531©.
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, Douglas Stewart King 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. Douglas Stewart King, Sole Proprietor, Janlo Operating (429835), shall pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SIX THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$6,750.00)**.

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 9th day of May 2011.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated May 9, 2011)

CH/sa