

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

OIL AND GAS DOCKET NO. 09-0262533

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY RHOADES, PAT M., SOLE PROPRIETOR, ROCKING R DRILLING & PROD. CO. (723440) ON THE HINES, J.B. -A- (12446) LEASE, WELL NOS. 1, 2, 3 AND 4 AND THE ZACHRY (20063) LEASE, WELL NOS. 1, 2 AND 3, CLAY COUNTY REGULAR FIELD, CLAY COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on September 29, 2011 and that the respondent, Rhoades, Pat M., Sole Proprietor, Rocking R Drilling & Prod. Co. (723440), 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. Rhoades, Pat M., Sole Proprietor, Rocking R Drilling & Prod Co. (723440), ("Respondent") was given a Notice of Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 Organization Report.
2. The returned certified receipt attached to the Original Complaint and the Notice of Hearing was mailed to Respondent's most recent P-5 address, which was signed and returned to the Commission on August 12, 2011. The certified electronic verification has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On August 25, 2008, Respondent, filed an Organization Report (Form P-5) with the Commission reporting that its sole proprietor consisted of the following individual(s): Rhoades, Pat M.
4. Rhoades, Pat M., 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 Nos. 1, 2, 3 and 4 on the Hines, J.B. -A- (12446) Lease and Well Nos. 1, 2 and 3 on the Zachry (20063) Lease ("subject wells"/"subject leases") by filing P-4 Forms (Producer's Transportation Authority and Certificate of Authority) both effective on September 15 2005.

7. Commission records indicate that Respondent's Form P-5 (Organization Report) is active. Respondent has a \$50,000 Letter of Credit as its financial assurance.
8. Production from Well Nos. 1, 2, 3 and 4 on the Hines, J.B. -A- (12446) Lease ceased in July 2002.
9. Production for Well Nos. 1, 2 and 3 on the Zachry (20063) Lease ceased in December 2007.
10. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with Statewide Rule 14.
11. The Statewide Rule 14b2 extensions for Well Nos. 1, 2, 3 and 4 on the Hines, J.B. -A- (12446) Lease were denied on September 3, 2008 for failure to file H-15's.
12. The Statewide Rule 14b2 extensions for Well Nos. 1 and 3 on the Zachry (20063) Lease were denied on September 3, 2008 for failure to file H-15's.
13. The Statewide Rule 14b2 extension for Well No. 2 on the Zachry (20063) Lease was denied on August 8, 2007 for an H-15 problem.
14. 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 wells. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
15. The estimated cost to the State of plugging Well Nos. 1, 2, 3 and 4 on the Hines, J.B. -A- (12446) Lease is \$12,000.00.
16. The estimated cost to the State of plugging Well Nos. 1, 2 and 3 on the Zachry (20063) Lease is \$9,000.00.
17. According to Commission records, Well Nos. 1, 2, 3 and 4 of the Hines, J.B. -A- (12446) Lease are more than 25 years old, inactive, unplugged and subject to testing requirements. All of the subject wells were due for a fluid level or hydraulic pressure test in August 2008. Respondent has failed to test the wells and file an approved Commission Form H-15 (Test On An Inactive Well More Than 25 Years Old).
18. According to Commission records, Well Nos. 1, 2 and 3 on the Zachry (20063) Lease are more than 25 years old, inactive, unplugged and subject to testing requirements. Commission records further indicate Well Nos. 1 and 3 were due for a fluid level or hydraulic pressure test in August 2008 and Well No. 2 was due in May 2007. Respondent has failed to test the wells and file approved Commission Forms H-15 (Test On An Inactive Well More Than 25 Years Old).
19. The Respondent did not demonstrate good faith since it failed to plug or otherwise place the subject leases and 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 responsible for maintaining the subject leases in compliance with Statewide Rules 14(b)(2) and 14(b)(3).
4. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 14(b)(3), which requires the operator of any well more than 25 years old that becomes inactive shall plug the well or successfully conduct a fluid level or hydraulic pressure test establishing that the well does not pose a potential threat of harm to natural resources, including surface and subsurface water, oil and gas.
5. Respondent is responsible for maintaining the subject leases 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.
6. 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.
7. 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, Rhoades, Pat M., 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. Rhoades, Pat M., Sole Proprietor, Rocking R Drilling & Prod. Co. (723440), shall plug the Hines, J.B. -A- (12446) Lease, Well Nos. 1, 2, 3 and 4, and the Zachry (20063) Lease, Well Nos. 1, 2 and 3, Clay County Regular Field, Clay County, Texas in compliance with applicable Commission rules and regulations;
2. Rhoades, Pat M., Sole Proprietor, Rocking R Drilling & Prod. Co. (723440), shall pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWENTY EIGHT THOUSAND DOLLARS (\$28,000.00) less FOURTEEN THOUSAND DOLLARS (\$14,000.00) already received.**

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 13th day of March 2012.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated March 13, 2012)

ME/sa