

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

OIL AND GAS DOCKET NO. 09-0269185

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY RHOADES, PAT M., SOLE PROPRIETOR, ROCKING R DRILLING & PROD. CO. (723440), AS TO THE GRIMSLEY (11577) LEASE, WELL NO. 4, RINGGOLD, E. (CONGL. 4TH) FIELD, MONTAGUE COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on May 26, 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 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. Rhoades, Pat M., Sole Proprietor, Rocking R Drilling & Prod. Co. (723440), ("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 mailed to Respondent's most recent P-5 address, was signed and returned to the Commission on April 1, 2011. 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 9, 2010, Respondent, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Rhoades, Pat M; Sole Proprietor.
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 No. 4 on the Grimsley (11577) Lease ("subject well"/"subject lease") by filing a P-4 Form (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on January 1, 2003.
7. Commission records indicate that Respondent's Form P-5 (Organization Report) is active. Respondent has a \$50,000.00 Letter of Credit as its financial assurance.
8. Well No. 4 of the Grimsley (11577) Lease is a permitted disposal well. According to Special Condition No. 5 of the well's Permit to Dispose of Non-Hazardous Oil and Gas Waste by Injection into a Porous Formation not Productive of Oil and Gas Waste (Permit No. 09904), an annual annulus pressure test must be performed on the well and the results submitted in accordance with the instructions of Form H-5. Commission records indicate Respondent was due to conduct the annual annulus pressure test on Well No. 4 of the Grimsley (11577) Lease in June 2007. The last test was conducted June 29, 2006.
9. Disposal/Injection wells must pass a pressure test at least once every five years to show that the well is not leaking, that waste is being confined to the permitted injection interval, and that useable quality water zones are properly isolated. Any Injection of fluid down a wellbore could be a potential source of pollution. Without testing and supporting documentation, the Commission cannot determine if a well poses a threat to natural resources.
11. The Respondent has not demonstrated 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.
12. The Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 09-0263586; Final Order Served: August 10, 2010;
Docket No. 09-0256288; Final Order Served: July 30, 2008;
Docket No. 09-0243832; Final Order Served: March 15, 2006; and
Docket No. 09-0243833; Final Order Served: March 15, 2006.

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 Rule 9(12).

4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 9(12), which requires the mechanical integrity of a disposal well shall be evaluated by conducting pressure tests to determine whether the well tubing, packer, or casing have sufficient mechanical integrity.
5. Respondent is 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.
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 place the Grimsley (11577) Lease, Well No. 4, Ringgold, E. (Congl. 4th) Field, Montague 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 **SIX THOUSAND FIVE HUNDRED DOLLARS (\$6,500.00)**.

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 8th day of November 2011.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated November 8, 2011)

MFE/sa