

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

OIL AND GAS DOCKET NO. 09-0270010

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY INFINITY OIL & GAS OF TX, INC. (424211), AS TO THE BARRON LEASE, WELL NO. 2 (210683) AND THE GASKEY LEASE, WELL NO. 1H (210708), NEWARK, EAST (BARNETT SHALE) FIELD, ERATH COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on July 28, 2011 and that the respondent, Infinity Oil & Gas of Tx, Inc. (424211), 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. Infinity Oil & Gas of Tx, Inc. (424211), ("Respondent") was given a 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 attached to the Original Complaint and the Notice of Opportunity for Hearing was mailed to Respondent's most recent P-5 address, was signed on June 17, 2011 and the electronic verification is on file with the Commission. 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 September 10, 2010, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Stanton E. Ross; President.
4. Stanton E. Ross, 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. 2 (210683) on the Barron Lease and Well No. 1H (210708) on the Gaskey Lease ("subject wells"/"subject leases") by filing a P-4 Form (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on June 8, 2005 for the Barron Lease and June 22, 2005 for the Gaskey Lease.

7. Commission records indicate that Respondent's Form P-5 (Organization Report) became delinquent on August 1, 2011. Respondent had a \$50,000.00 Bond as its financial assurance at the time of its last P-5 renewal.
8. Well No. 2 (210683) on the Barron Lease and Well No. 1H (210708) on the Gaskey Lease ceased production in May 2009.
9. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
10. Usable quality groundwater in the area is likely to be 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.
11. The estimated cost to the State of plugging Well No. 2 (210683) on the Barron Lease is \$11,100.00.
12. The estimated cost to the State of plugging Well No. 1H (210708) on the Gaskey Lease is \$15,800.00.
13. The Statewide Rule 14b2 plugging extension for Well No. 2 (210683) on the Barron Lease was denied in June 2009.
14. The Statewide Rule 14(b)(2) plugging extension for Well No. 1H (210708) on the Gaskey Lease was denied in November 2009.
15. A Commission District inspection was conducted on October 18, 2010 for the Barron Lease, Well No. 2 (210683). There was hydrocarbon-coated pea gravel inside the firewall on the back side of the tanks measuring approximately 36' x 12' x 2" deep and under the load valve of the west tank measuring approximately 6' x 4' x 2" deep. Follow up District inspections conducted on December 3, 2010, January 11, 2011, March 10, 2011 and July 8, 2011 show there has been no clean-up of the affected areas.
16. A Commission District inspection was conducted on October 22, 2010 for the Gaskey Lease, Well No. 1H (210708). There was hydrocarbon-soaked soil where a compressor was once located measuring approximately 12' x 8' x 1" deep and hydrocarbon-coated pea gravel in the firewall around the east tank measuring approximately 10' x 18' x 3" deep. Follow up District inspections conducted on December 1, 2010, December 8, 2010, January 11, 2011, February 24, 2011 and July 8, 2011 show there has been no clean up of the area.
17. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
18. 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.
19. According to Commission records, drilling operations on the Gaskey Lease, Well No. 1H (210708), were completed on January 2, 2005. Commission District inspections conducted December 1, 2010, December 8, 2010, January 11, 2011, February 24, 2011 and July 8, 2011 for the Gaskey Lease, Well No. 1H (210708). There was an open freshwater makeup pit measuring approximately 415' x 350' x 30' deep.

20. 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.
21. Commission District inspections were conducted on December 1, 2010, December 8, 2010, January 11, 2011, February 24, 2011 and July 8, 2011 for the Gaskey Lease, Well No. 1H (210708). The needle valve on the bradenhead is rusty and could not be opened. As a result, the bradenhead pressure could not be verified.
22. The Respondent has not demonstrated 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 8(d)(1), 8(d)(4)(G)(i)(I), 14(b)(2) and 17(a).
4. Respondent is 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 is 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.
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 17(a), which requires that all wells shall be equipped with a bradenhead.
7. 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.
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, Stanton E. Ross, 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. Infinity Oil & Gas of Tx., Inc. (424211), shall plug the Barron Lease, Well No. 2 (210683), and the Gaskey Lease, Well No. 1H (210708), Newark, East (Barnett Shale) Field, Erath County, Texas in compliance with applicable Commission rules and regulations;
2. Infinity Oil & Gas of Tx., Inc. (424211), shall pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **NINE THOUSAND TWO HUNDRED DOLLARS (\$9,200.00)**.

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 11th day of October 2011.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated October 11, 2011)

MFE/sa