

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 04-0269470

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY ASHLEY SHARP, SOLE PROPRIETOR, DAKOTA OIL COMPANY (197406), ON THE GONZALES LEASE, WELL NO. 2 (166972), CUBA LIBRE (3RD HINNANT) FIELD, AND VAN ES LEASE, WELL NO. 2 (168716), CUBA LIBRE (3RD HINNANT) FIELD, WEBB COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on March 27, 2014, and that the respondent, Ashley Sharp, Sole Proprietor, Dakota Oil Company (197406), 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. Ashley Sharp, Sole Proprietor, Dakota Oil Company (197406), ("Respondent"), was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent Form P-5 (Organization Report) address, which was signed.
2. The electronic certified signature receipt containing the Original Complaint and the Notice of Opportunity for Hearing, was signed and returned to the Commission on February 20, 2014. The certified signature receipt is included in the file and has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On August 6, 2013, Respondent, filed an Organization Report (Form P-5) with the Commission reporting that its owner(s) consisted of the following individual(s): Ashley Sharp; Owner.
4. Ashley Sharp, as sole proprietor, 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.

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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 (166972) on the Gonzales Lease and Well No. 2 (168716) on the Van ES Lease ("subject wells"/"subject leases") by filing P-4 Forms (Producers Transportation Authority and Certificate of Compliance) effective on March 1, 2007 for both of the subject wells and subject leases.
7. Respondent's P-5 (Organization Report) became delinquent on August 6, 2013. Respondent had \$25,000 cash as its financial assurance at the time of its last P-5 renewal.
8. Commission records indicate that although a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) had been filed by the Respondent with the Commission for the Gonzales Lease, Well No. 2 (166972), effective March 1, 2007, the Texas General Land Office terminated the Lease for non-production on March 1, 2007 (Letter from Bill Black, dated September 21, 2012) and required a submission of a good faith claim ("GFC") to operate the subject well by the Respondent. Respondent has failed to provide proof of a good faith claim. On October 30, 2012, Respondent submitted documents stating he had the right to operate the property and a good faith claim. On November 27, 2012, Examiner Terry Johnson concluded a good faith claim could not be determined. On April 10, 2013, Respondent submitted additional documents and sought further review for the good faith claim. On May 2, 2013, Examiner Terry Johnson concluded the Respondent failed to demonstrate that it holds a good faith claim for the Gonzales Lease, Well No. 2 (166972).
9. On June 16, 2008, Respondent received notice that the Gonzales Lease would be severed for overproduction and the Well No. 2 (166972) was sealed on July 16, 2008. On July 18, 2008, Respondent also received notice that the Gonzales Lease would be severed for over production and Well No. 2 (166972) was sealed on August 18, 2008. The Gonzales Lease, Well No. 2 (166972) remains severed for these violations.
10. Commission records reflect that on June 16, 2008 and July 18, 2008, the Commission gave Respondent notice by certified mail of the alleged facts or conduct of the Respondent in the operation, or production, of oil and gas from the Gonzales Lease, Well No. 2 (166972) that appeared to violate the oil and gas conservation laws of this state, or rules or orders of the Commission adopted under those laws, to warrant the cancellation of the certificate of compliance. Said notice gave Respondent an opportunity to show compliance with all requirements of law for retention of the certificate of compliance.
11. 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 Gonzales Lease, Well No. 2 (166972), was cancelled, and Respondent given notice of such cancellation, on July 16, 2008 and August 18, 2008.

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12. Production reports filed by Respondent with the Commission for the Gonzales Lease, from June 16, 2008, show Respondent produced an approximate total of 8,545 mcf of gas and 1422 barrels of condensate from the Gonzales Lease, Well No. 2 (166972), after the certificate of compliance had been cancelled and before a new certificate of compliance had been issued.
13. Commission records reflect that on February 14, 2008, the Commission gave Respondent notice by certified mail of the alleged facts or conduct of the Respondent in the operation, or production, of oil or gas from the Van ES Lease, Well No. 2 (168716), that appeared to violate the oil and gas conservation laws of this state, or rules or orders of the Commission adopted under those laws, to warrant the cancellation of the certificate of compliance. Said notice gave Respondent an opportunity to show compliance with all requirements of law for retention of the certificate of compliance.
14. 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 Van ES Lease, Well No. 2 (168716), was cancelled, and Respondent given notice of such cancellation, on March 17, 2008.
15. Production reports filed by Respondent with the Commission for the Van ES Lease, Well No. 2 (168716), from March 17, 2008 to December 28, 2010, when the P-4 Certificate was reissued, show Respondent produced an approximate total of 4,200 mcf of gas and 470 barrels of condensate from the Van ES Lease, Well No. 2 (168716), after the certificate of compliance had been cancelled and before a new certificate of compliance had been issued. The P-4 certificate was reissued on December 28, 2010.
16. The Respondent has not demonstrated good faith since it failed to timely plug or otherwise place the subject leases and subject wells in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
17. Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 04-0261957; Final Order Served: February 22, 2011; and
Docket No. 04-0268182; Final Order served: October 2, 2012.

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.

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3. Respondent is in violation of TEX. NAT. RES. CODE ANN. §85.166 and Commission Statewide Rules 58(a)(1) and 73(i).
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 58(a)(1), which requires that each operator who is a producer of crude oil, natural gas, or geothermal resources shall file with the Commission's Austin office a Producer's Transportation Authority and Certificate of Compliance (Form P-4), for each of the operator's producing properties certifying that the operator has complied with the conservation laws and the oil, gas, and geothermal resources conservation orders, rules, and regulations of the Commission in respect to each property.
5. Respondent is 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 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.
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.
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, Ashley Sharp, 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. Ashley Sharp, Sole Proprietor, Dakota Oil Company (197406), shall place in compliance the Gonzales Lease, Well No. 2 (166972), Cuba Libre (3rd Hinnant) Field, and the Van ES Lease, Well No. 2 (168716), Cuba Libre (3rd Hinnant) Field, Webb County, Texas in compliance with applicable Commission rules and regulations; and

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2. Ashley Sharp, Sole Proprietor, Dakota Oil Company (197406), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FIFTEEN THOUSAND FIVE DOLLARS (\$15,500.00)**.

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. 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 22nd day of April 2014.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated April 22, 2014)

TJJ/sa