

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

**OIL AND GAS DOCKET NO. 09-0264065**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY NATHAN DEE DUDLEY D/B/A NDD PRODUCTION (598342), AS TO THE THOMAS -A- (23218) LEASE, WELL NO. 2, ARCHER COUNTY REGULAR FIELD, ARCHER COUNTY, TEXAS**

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**FINAL ORDER**

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on March 18, 2010 and that the respondent, Nathan Dee Dudley d/b/a NDD Production (598342), 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. Nathan Dee Dudley d/b/a NDD Production (598342), ("Respondent") was given 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, was signed and returned to the Commission on February 22, 2010. 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 January 29, 2009, Respondent filed an Organization Report (Form P-5) with the Commission reporting that its sole proprietor consisted of the following individual(s): Nathan Dee Dudley; Owner.
4. Nathan Dee Dudley, 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. 2 on the Thomas -A- (23218) Lease ("subject well"/"subject lease") by filing a P-4 Form (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on January 29, 2009.

7. Commission records indicate that Respondent's Form P-5 (Organization Report) became delinquent on November 1, 2010. Respondent had a \$50,000.00 Bond as its financial assurance at the time of its last P-5 renewal.
8. Commission records indicate Respondent filed a Commission Form W-3 (Plugging Report) on November 25, 2008, stating the Thomas -A- (23218) Lease, Well No. 2 was plugged on November 21, 2008.
9. Commission District inspection reports performed on September 23, 2009 and November 13, 2009 for the Thomas -A- (23218) Lease, Well No. 2 indicate the well has not been plugged.
10. Well No. 2 on the Thomas -A- (23218) Lease ceased production in February 2001.
11. The subject well has not been properly plugged in accordance with, and is not otherwise in compliance with, Statewide Rule 14.
12. 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 well. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
13. The estimated cost to the State of plugging Well No. 2 on the Thomas -A- (23218) Lease is \$2,300.00.
14. Commission District inspections were conducted on September 23, 2009 and November 13, 2009 for the Thomas -A- (23218) Lease. Respondent has failed to backfill and compact an open workover pit, measuring approximately 6' x 12' x 5'.
15. 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.
16. Commission District inspections were conducted on September 23, 2009 and November 13, 2009 for the Thomas -A- (23218) Lease. Well No. 2 has casing open to the atmosphere.
17. Maintenance of surface control by wellhead assemblies is necessary to prevent the discharge of oil and gas wastes on the subject lease constituting a hazard to public health and safety because the discharges of oil and gas wastes onto land surface can migrate into surface or subsurface waters.
18. Commission District inspections were conducted on September 23, 2009 and November 13, 2009 for the Thomas -A- (23218) Lease. Well No. 2 was equipped with open casing to a depth of greater than 60 feet and the casing was not cutoff three feet below the surface.
19. Respondent reported the subject well was plugged on November 21, 2008 and a Form W-3 was filed on November 25, 2008.
20. 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.

21. Respondent has a prior history of commission rule violations including the following docket(s):

Docket No. 09-0256759; Final Order Served: October 7, 2008.

### **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 lease in compliance with Statewide Rule 8(d)(4)(G)(i)(III), 13(b)(1)(B), 14(b)(2) and 14(d)(8).
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(4)(G)(i)(III), which requires workover pits to be dewatered, filled and compacted within 120 days from completion of workover operations.
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 13(b)(1)(B), which requires that surface control of all wells be maintained with wellhead assemblies.
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 14(d)(8), which requires that for onshore or inland wells , a 10 foot cement plug shall be placed in the top of the well, and casing shall be cut off three feet below the ground.
7. 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.
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, Nathan Dee Dudley 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. Nathan Dee Dudley d/b/a NDD Production (598342), shall plug the Thomas -A- (23218) Lease, Well No. 2, Archer County Regular Field, Archer County, Texas in compliance with applicable Commission rules and regulations;
2. Nathan Dee Dudley d/b/a NDD Production (598342), shall pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FOUR THOUSAND FIVE HUNDRED DOLLARS (\$4,500.00)**.

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 23rd day of August 2011.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated August 23, 2011)

JMD/sa