

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 09-0278484

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY HARDROCK OPERATING COMPANY, INC. (356779), AS TO THE CHOAT (07122) LEASE, WELL NOS. 1, 2, 3 AND 7W, AND THE KEITH, E.C. (07301) LEASE, WELL NOS. 6, 7, 8, 9, 11, 12, 14, 15, 17 AND 19W, YOUNG COUNTY REGULAR FIELD, YOUNG COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on January 16, 2014, and that the respondent, Hardrock Operating Company, Inc. (356779), 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. Hardrock Operating Company, Inc. (356779), ("Respondent"), was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent Form P-5 (Organization Report) address, which was returned to the Commission.
2. The certified envelope containing the Original Complaint and the Notice of Opportunity for Hearing, was returned to the Commission on November 7, 2013, marked "return to sender, unable to forward." The certified 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 February 17, 2011, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officer(s) consisted of the following individual(s): Shane Willingham; President.
4. Shane Willingham, 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 Nos. 1, 2, 3 and 7W on the Choat (07122) Lease and Well Nos. 6, 7, 8, 9, 11, 12, 14, 15, 17 and 19W on the Keith, E.C. (07301) Lease ("subject wells"/"subject leases") by filing P-4 Forms (Producers Transportation Authority and Certificate of Compliance) effective on June 1, 2010 for all of the subject wells and leases.
7. Respondent's P-5 (Organization Report) became delinquent on January 1, 2012. Respondent had \$50,000 cash as its financial assurance at the time of its last P-5 renewal.
8. Production from Well Nos. 1, 2, 3 and 7W on the Choat (07122) Lease ceased in July 2011.
9. Production from Well Nos. 6, 7, 8, 9, 11, 12, 14, 15 and 17 on the Keith, E.C. (07301) Lease ceased in April 2010.
10. Injection into Well No. 19W on the Keith, E.C. (07301) Lease ceased in November 2009.
11. The Statewide 14b2 plugging extensions for Well Nos. 1, 2, 3 and 7W on the Choat (07122) Lease were denied on July 29, 2006 for failure to file H-15's (Test On An Inactive Well More Than 25 Years Old).
12. The Statewide 14b2 plugging extensions for Well Nos. 6, 7, 8, 9, 11, 12, 14, 15 and 17 on the Keith, E.C. (07301) Lease were denied on July 24, 2006 for failure to file H-15's (Test On An Inactive Well More Than 25 Years Old).
13. The Statewide 14b2 plugging extension for Well No. 19W on the Keith, E.C. (07301) Lease was denied on June 29, 2007 for an inactive P-5.
14. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
15. 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.
16. The total estimated cost to the State for plugging Well Nos. 1, 2, 3 and 7W on the Choat (07122) Lease is \$12,000.00.
17. The total estimated cost to the State for plugging Well Nos. 6, 7, 8, 9, 11, 12, 14, 15, 17 and 19W is \$30,000.00.

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18. Commission District inspections were conducted on July 6, 2012 and July 23, 2012 for the Choat (07122) Lease. The signs or identification required to be posted at Well Nos. 1, 2, 3 and 7W are missing.
19. Commission District inspections were conducted on July 3, 2012 and July 23, 2012 for the Keith, E.C. (07301) Lease. The signs or identification required to be posted at the lease entrance and Well Nos. 6, 7, 8, 9, 12, 14, 15, 17 and 19W are missing. The sign or identification required to be posted at Well No. 11 is illegible and at the tank battery it does not reflect the correct operator.
20. Failure to properly identify a well by the posting of the sign required by Statewide Rule 3 has the potential for causing confusion and delay in remedying a violation or emergency and poses a threat to the public health and safety.
21. Commission District inspections were conducted on July 3, 2012 and July 23, 2012 for the Keith, E.C. (07301) Lease. There were two open workover pits, one at Well No. 17 measuring approximately 15' x 9' x 4' and one at Well No. 19W measuring approximately 9' x 15' x 3' .
22. 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 runoff to collect in the pit and seep into subsurface waters.
23. Commission District inspections were conducted on July 6, 2012 and July 23, 2012 for the Choat (07122) Lease. Well No. 2 has tubing open to the atmosphere and Well No. 3 has casing open to the atmosphere.
24. Commission District inspections were conducted on July 3, 2012 and July 23, 2012 for the Keith, E.C. (07301) Lease. Well Nos. 11, 12 and 17 have casing open to the atmosphere.
25. 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.
26. Commission District inspections were conducted on July 3, 2012 and July 23, 2012 for the Keith, E.C. (07301) Lease. All flow lines from the wells go to the Choat (07122) tank battery. A review of Commission records show Respondent has failed to make a written application to allow for surface commingling and that the Commission has not approved a commingling permit for the subject leases.
27. Well No. 19W of the Keith, E.C. (07301) Lease is a permitted injection well. Commission District inspections conducted on July 3, 2012 and July 23, 2012 for the Keith, E.C. (07301) Lease show that Well No. 19W is not equipped with operable pressure observation valves on either the tubing or the casing.

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28. 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.
29. Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 09-0260378; Final Order Served: June 18, 2009; and
Docket No. 09-0278479; Final Order Served: June 20, 2013.

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 Rules 3, 8(d)(4)(G)(i)(III), 13(b)(1)(B), 14(b)(2), 26(b)(1) and 46(g)(2).
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3, which requires that each property that produces oil, gas or geothermal resources and each oil, gas or geothermal resource well and tank, or other approved crude oil measuring facility shall post signs or identification.
5. 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.
6. 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.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 26(b)(1), requires that the operator gain Commission approval for surface commingling by a written application.
8. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 46(g)(2), which requires that the wellhead shall be equipped with a pressure observation valve on the tubing and for each annulus of the well.

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9. 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.
10. 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.
11. 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, Shane Willingham, 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. Hardrock Operating Company, Inc. (356779) , shall plug the Choat (07122) Lease, Well Nos. 1, 2, 3 and 7W, and the Keith, E.C. (07301) Lease, Well Nos. 6, 7, 8, 9, 11, 12, 14, 15, 17 and 19W, Young County Regular Field, Young County, Texas in compliance with applicable Commission rules and regulations; and
2. Hardrock Operating Company, Inc. (356779), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SIXTY ONE THOUSAND ONE HUNDRED FIFTY THREE DOLLARS (\$61,153.00)**.

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.

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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 12th day of August 2014.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated August 12, 2014)

LMV/sa