

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 09-0284271

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY D.J. PULLING, P.C. (196211), AS TO THE CRESCENT SWD SERVICES, LP (30710) LEASE, WELL NO. 1, NEWARK, EAST (BARNETT SHALE) FIELD, PARKER 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, D.J. Pulling, P.C. (196211), 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. D.J. Pulling, P.C. (196211), ("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 January 3, 2014, marked "unclaimed." 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 August 24, 2010, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officer(s) consisted of the following individual(s): David J. Pulling President.
4. David J. Pulling, 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. 1 on the Crescent SWD Services, LP (30710) Lease ("subject well"/"subject lease") by filing a P-4 Form (Producers Transportation Authority and Certificate of Compliance) effective on October 25, 2007.
7. Respondent's P-5 (Organization Report) became delinquent on October 1, 2011. Respondent had a \$25,000 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
8. Production from Well No. 1 on the Crescent SWD Services, LP (30710) Lease ceased in August 2008.
9. The Statewide 14b2 plugging extension for Well No. 1 on the Crescent SWD Services, LP (30710) Lease was denied on August 21, 2009 for an H-5 issue.
10. The subject well has not been properly plugged in accordance with, and is not otherwise in compliance with, Statewide Rule 14.
11. 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.
12. The total estimated cost to the State for plugging Well No. 1 on the Crescent SWD Services, LP (30710) Lease is \$60,000.00.
13. Commission District inspections were conducted on June 28, 2013 and August 2, 2013 for the Crescent SWD Services, LP (30710) Lease. The signs or identification required to be posted at the lease entrance and Well No. 1 were missing from the and failed to display all the required information by omitting the name of the lease. The inspection report of December 30, 2013 indicates the sign violations have been corrected, making time out of compliance for this violation from June 28, 2013 to December 30, 2013.
14. 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.

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15. A Commission District inspection was conducted on June 28, 2013 for the Crescent SWD Services, LP (30710) Lease. There are approximately 300 barrels of produced water inside the firewall, which field-tested at an estimated 187,000 mg/L chlorides. A followup inspection conducted on August 2, 2013 shows the produced water remains and the chloride levels have increased to approximately 200,000. The inspection conducted on December 30, 2013 shows an approximate area of 120' x 80' x 1" of standing fluid remains inside the firewall.
16. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
17. 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.
18. Commission District inspections were conducted on June 28, 2013 and August 2, 2013 for the Crescent SWD Services, LP (30710) Lease, Well No. 1. The casing valve is frozen shut and inoperable. The inspection of December 20, 2013 doesn't address if the valve is operational or not, only that the inspector did not attempt to verify the pressure, which may indicate the valves are still not operational.
19. 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.
20. Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 09-0275654: Final Order Served: September 1, 2009; and
Docket No. 09-0261832: Final Order Served: September 1, 2009.

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)(1), 9(9)(B) and 14(b)(2).

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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)(1), which prohibits the discharge of oil and gas wastes without a permit.
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 9(9)(B), which requires that the wellhead shall be equipped with a pressure observation valve on tubing and for each annulus of the well.
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, David J. Pulling, 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. D.J. Pulling, P.C. (196211), shall plug the Crescent SWD Services, LP (30710) Lease, Well No.1, Newark, East (Barnett Shale) Field, Parker County, Texas in compliance with applicable Commission rules and regulations; and
2. D.J. Pulling, P.C. (196211), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SEVENTEEN THOUSAND SIX HUNDRED DOLLARS (\$17,600.00)**.

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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 12th day of August 2014.

RAILROAD COMMISSION OF TEXAS

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

LMV/sa