

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 04-0286103

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY AGAINST KARON SMITH, SOLE PROPRIETOR OF SMITH, KARON (793085) FOR VIOLATIONS OF STATEWIDE RULES ON THE SMITH DISPOSAL FACILITY (PIT PERMIT NO. 009559), HIDALGO COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on December 11, 2014 and that the respondent, Karon Smith, Sole Proprietor of Smith, Karon (793085) 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. Karon Smith, Sole Proprietor of Smith, Karon (793085), ("Respondent"), was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent Form P-5 (Organization Report) address.
2. The certified envelope containing the Original Complaint and the Notice of Opportunity for Hearing, was returned to the Commission on November 21, 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 July 23, 2009, Respondent, filed an Organization Report (Form P-5) with the Commission reporting that its sole proprietor consisted of the following individual(s): Karon Smith.
4. Karon Smith, was a officer in a position of ownership or control of respondent, as defined by Texas Natural Resource 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 the Smith Disposal Facility (Pit Permit No. 009559) ("subject facility") by filing an application for and receiving Permit No. P009559 "Permit to Maintain and Use A Pit" on November 7, 2007, superseding the permit for said facility issued June 9, 2004.
7. Respondent's P-5 (Organization Report) became delinquent on May 1, 2010. Respondent had a \$25,000 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
8. The subject wells has not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
9. Commission District inspections were conducted on August 14, 2013, May 13, 2014, June 5, 2014 and November 21, 2014 for the Smith Disposal Facility indicated Respondent was using and maintaining unauthorized fresh and saltwater pits at the Smith Disposal Facility after the cancellation of Pit Permit No. 009559. According to District Inspection Reports, Cell 1 (140' x 110'), Cell 2 (110' x 110'), Cell 3 (120' x 100'), Cell 4 (30' x 100"), Cell 6 (80' x 80'), and Cell 7 (an "L" -shaped pit measuring 202,000 square feet) all remained open. Cells 4 and 7 contained chlorides. Respondent failed timely to close these pits following cancellation of the permit on March 26, 2013.
10. Respondent did not have a permit to dispose of or store oilfield fluids or oil and gas wastes in a pit on the subject lease.
11. The Respondent has not demonstrated good faith since it failed to properly place the subject facility 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 in violation of Commission Statewide Rule 8(d)(2).
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(2), which prohibits a person from maintaining or using any pit for storage of oilfield fluids without a permit.

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5. Respondent is responsible for maintaining the subject facility 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.
6. 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.
7. 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, Karon Smith, 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. Karon Smith, Sole Proprietor of Smith, Karon (793085), shall place the Smith disposal Facility (Pit Permit No. 009559), Hidalgo County, Texas in compliance with applicable Commission rules and regulations; and
2. Karon Smith, Sole Proprietor of Smith, Karon (793085), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **ONE HUNDRED EIGHTY THOUSAND TWO HUNDRED TWENTY FIVE DOLLARS (\$180,225.00)**.

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 6th of October 2015.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated October 6, 2015)

TJJ/sa