

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL AND GAS DOCKET NO. 06-0286745**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY DOWDEN, TALMADGE L., SOLE PROPRIETOR, DOWDEN, T.L. (227545) FOR VIOLATIONS OF STATEWIDE RULES ON THE WHITE, F. F. (03912) LEASE, WELL NO. 1, PONE (BASAL PETTIT KING ZONE) FIELD, RUSK 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 June 11, 2015 and that the respondent, Dowden, Talmadge L., Sole Proprietor, Dowden, T.L. (227545), 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. Dowden, Talmadge L., Sole Proprietor, Dowden, T. L. (227545), ("Respondent"), was given Notice of 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 Hearing, was signed for on April 10, 2015. The certified electronic 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 March 20, 2013, Respondent filed an Organization Report (Form P-5) with the Commission reporting that its sole proprietor consisted of the following individual(s): Dowden, Talmadge L.
4. Talmadge L. Dowden, as sole proprietor, was a person 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.
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 White, F. F. (03912) Lease ("subject well"/"subject lease") by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) effective on March 1, 2007.

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7. Respondent's P-5 (Organization Report) became delinquent on March 20, 2013. Respondent had a \$25,000 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
8. The subject well has not been properly plugged in accordance with, and is not otherwise in compliance with, Statewide Rule 14.
9. Well No. 1 on the White, F.F. (03912) Lease ceased production in August 2006.
10. No plugging extensions are in effect for any of the subject wells as allowed by 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 wells. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
12. A Commission District inspection was conducted on July 20, 2012 for the White, F.F. (03912) Lease. Well No. 1 is seeping saltwater from the casing flange. A followup inspection conducted on October 2, 2012 shows that although the well head is no longer leaking, the flow line from the casing to the choke valve is open and leaking saltwater. A inspection conducted on December 6, 2012 shows that the leaking flange has salted over and the ground around the well is saturated. A July 30, 2013 inspection indicates the well continues to seep saltwater. An inspection conducted on October 29, 2013 shows that there has been no clean-up of the affected area at the well. The February 2, 2015 inspection showed no pollution.
13. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
14. 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.
15. Commission District inspections were conducted on July 20, 2012, October 2, 2012, December 6, 2012, July 30, 2013 and October 29, 2013 for the White, F.F. (03912) Lease. The surface casing on Well No. 1 is not piped above-ground thereby making the surface casing valve inaccessible for monitoring pressure.
16. The Respondent has not demonstrated good faith since it failed to properly plug otherwise place the subject lease and subject well in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.

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

Docket No. 06-0262370; final Order Served: September 21, 2010.

### **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 8(d)(1), 14(b)(2) and 17(a).
4. 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.
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 14(b)(2), which requires that plugging operations on each dry or inactive well shall be commenced within a period of one year after drilling or operations cease and shall proceed with due diligence until completed.
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 17(a) which requires that all wells shall be equipped with an operable bradenhead, this is a serious and hazard to public health and safety because wells that have bradenhead may result in a discharge of oil and gas waste into ground water and contamination of surface or subsurface waters, thereby resulting in pollution.
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, Dowden, Talmadge L. 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.

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**IT IS ORDERED THAT** within 30 days from the day immediately following the date this order becomes final:

1. Dowden, Talmadge L., Sole Proprietor, Dowden, T.L. (227545), shall plug the White, F. F. (03912) Lease, Well No. 1, Pone (Basal Pettit King Zone) Field, Rusk County, Texas in compliance with applicable Commission rules and regulations; and
2. Dowden, Talmadge L., Sole Proprietor, Dowden, T.L. (227545), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **THIRTEEN THOUSAND FOUR HUNDRED SIXTY EIGHT DOLLARS (\$13,468.00)**.

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 12th of January 2016.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order  
dated January 12, 2016)

MFE/sja