

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 10-0298780

ENFORCEMENT ACTION AGAINST KEN LOSURE (OPERATOR NO. 509289) FOR VIOLATIONS OF STATEWIDE RULES ON THE C. R. "A" GARNER (01269) LEASE, WELL NOS. 3, 5, 6, 7, 8, 18, 21, 22, 25, 32, 33, 38, 39 AND 42, PANHANDLE HUTCHINSON COUNTY FIELD, HUTCHINSON AND CARSON COUNTIES, TEXAS

FINAL ORDER

The Railroad Commission of Texas ("Commission") finds that after statutory notice the captioned enforcement proceeding was heard by a Commission Administrative Law Judge on February 4, 2016 and that the respondent, Ken Losure, 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, 16 TEX. ADMIN. CODE § 1.49, and after being duly submitted to the Commission at a conference held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Ken Losure (Operator No. 509289), ("Respondent"), was given Notice of Opportunity for Hearing by certified and first class mail, addressed to the most recent Commission Form P-5 (Organization Report) address.
2. The certified mail envelope containing the Original Complaint and the Notice of Opportunity for Hearing was delivered on December 17, 2015. The first class mail was not returned. Record of the delivery of certified mail has been on record with the Commission for more than 15 days, exclusive of the day of receipt and day of issuance.
3. On September 22, 2015, Respondent, a sole proprietorship, filed a Form P-5 (Organization Report) with the Commission reporting that its officers consist of the following individual: Ken Losure, Owner.
4. Ken Losure was in a position of ownership or control of Respondent, as defined in section 91.114 of the Texas Natural Resources Code, during the time period of the violations of Commission rules committed by Respondent.
5. Respondent's P-5 (Organization Report) is delinquent. Respondent had a \$50,000 cash deposit as its financial assurance at the time of its last P-5 annual renewal submittal.
6. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.

7. Respondent designated itself to the Commission as the operator of the C. R. "A" Garner (01269) Lease, Well Nos. 3, 5, 6, 7, 8, 18, 21, 22, 25, 32, 33, 38, 39 and 42, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective November 1, 2006, approved November 13, 2006.
8. Commission inspection reports made on August 25, 2015 and October 1, 2015, for the C. R. "A" Garner (01269) Lease, show that the sign or identification required to be posted at Well No. 3 was missing.
9. The lack of legible signs and identification displaying correct information as required in Statewide Rule 3(2) may cause confusion as to the responsible operator to be contacted and the actual location of a violation or emergency, which can result in delays in remedying a violation or emergency.
10. Commission inspection reports made on August 25, 2015 and October 1, 2015, for the C. R. "A" Garner (01269) Lease, show that Well No. 5 was open to the atmosphere through the tubing, Well No. 39 was open to the atmosphere through the casing, and Well No. 7 was open to the atmosphere through the tubing.
11. Wells left uncontrolled or open to the atmosphere in violation of Statewide Rules 13(a)(6)(A) may discharge oil and gas waste onto the land surface and affect the health of humans and animals; these discharges may eventually make their way to surface or subsurface waters, causing pollution.
12. Commission inspection reports made on August 25, 2015 and October 1, 2015, and zero production reports filed by Respondent with the Commission from December 2006 to March 2015, and May 2015 to July 2015, with no production reports filed thereafter, show the C. R. "A" Garner (01269) Lease, Well Nos. 3, 5, 6, 7, 8, 18, 21, 22, 25, 32, 33, 38, 39 and 42 have been inactive for a period greater than one year. Production from the subject wells ceased in or before December 2006.
13. No work-overs, re-entries, or subsequent operations have taken place on any of the subject wells within the last twelve months; none of the subject wells have been properly plugged in accordance with Statewide Rule 14, 16 TEX. ADMIN. CODE § 3.14; and no plugging extensions are in effect for any of the subject wells as allowed by Statewide Rule 14. The subject wells are not otherwise in compliance with Statewide Rule 14.
14. Usable quality groundwater in the area may become contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject wells. Unplugged wellbores in violation of Statewide Rules 14(b)(2) constitute a cognizable threat to the public health and safety because of the potential of pollution.
15. The total estimated cost to the State for plugging the C. R. "A" Garner (01269) Lease,

Well Nos. 3, 5, 6, 7, 8, 18, 21, 22, 25, 32, 33, 38, 39 and 42 is \$260,400.00.

16. Respondent has no prior history of violations of Commission rules.

CONCLUSIONS OF LAW

1. Proper notice was issued by the Commission to Respondent and all other appropriate persons legally entitled to notice.
2. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties have been performed or have occurred.
3. Respondent is responsible for maintaining the subject lease in compliance with all applicable Commission rules and chapters 89 and 91 of the Texas Natural Resources Code.
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3(2), which requires that each well site that produces oil, gas, or geothermal resources shall post signs or identification.
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 13(a)(6)(A), which requires that surface control of all wells be maintained with wellhead assemblies.
6. Respondent is responsible for maintaining the subject leases 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.
7. Respondent is in violation of Statewide Rules 3(2), 13(a)(6)(A), and 14(b)(2). 16 TEX. ADMIN. CODE §§ 3.3(2), 3.13(a)(6)(A) and 3.14(b)(2).
8. The documented violations committed by Respondent constitute acts deemed serious, and a hazard to the public health, and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE § 81.0531(c).
9. An assessed administrative penalty in the amount of SEVENTY-THREE THOUSAND FIVE HUNDRED DOLLARS (\$73,500.00) is justified considering the facts and violations at issue.
10. 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, Ken Losure, and any other organization in which he may hold a position of ownership or control, is subject to the restriction in section 91.114(a)(2) of the Texas Natural Resources Code.

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

1. Ken Losure (Operator No. 509289) shall place the C. R. "A" Garner (01269) Lease, Well Nos. 3, 5, 6, 7, 8, 18, 21, 22, 25, 32, 33, 38, 39 and 42 in compliance with Statewide Rules 3(2), 13(a)(6)(A) and 14(b)(2), and any other applicable Commission rules and statutes.
2. Ken Losure (Operator No. 509289) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SEVENTY-THREE THOUSAND FIVE HUNDRED DOLLARS (\$73,500.00)**.

It is further **ORDERED** that 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, Ken Losure, and any other organization in which he may hold a position of ownership or control, is subject to the restriction in section 91.114(a)(2) of the Texas Natural Resources Code 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.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 25 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 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 this order in accordance with TEX. GOV'T CODE § 2001.144.

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 7th day of June, 2016.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated June 7, 2016)

JNC/rmf