

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 09-0298260

**ENFORCEMENT ACTION AGAINST JAY LEE DBA JAY LEE OIL COMPANY
(OPERATOR NO. 430369) FOR VIOLATIONS OF STATEWIDE RULES ON THE
ZIPPERLE (DRILLING PERMIT NO. 737188) LEASE, WELL NO. 1, WILBARGER
COUNTY REGULAR FIELD, WILBARGER COUNTY, 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 January 14, 2016 and that the respondent, Jay Lee dba Jay Lee Oil Company, 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. Jay Lee dba Jay Lee Oil Company (Operator No. 430369), (“Respondent”), was sent the Original Complaint and 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 received on November 27, 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. Respondent was given more than 30 days’ notice of the Original Complaint and Notice of Opportunity for Hearing. Respondent has not entered into an agreed settlement order, filed an answer, or requested a hearing
3. On September 14, 2015, Respondent, a sole proprietorship, filed a Form P-5 (Organization Report) with the Commission reporting that its officers consist of the following individual: Jay Lee, Owner.
4. Jay Lee 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 \$25,000 bond as its financial assurance at the time of its delinquency.

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 Zipperle (Drilling Permit No. 737188) Lease, Well No. 1, Wilbarger County Regular Field, Wilbarger County, Texas by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), submitted March 29, 2012, approved April 28, 2012.
8. Commission inspection reports, made on May 3, 2012, May 11, 2012, August 4, 2015 and September 8, 2015, for the Zipperle (Drilling Permit No. 737188) Lease, show that the sign or identification required to be posted at the lease entrance was missing.
9. Commission inspection reports made on May 3, 2012, May 11, 2012, August 4, 2015 and September 8, 2015, for the Zipperle (Drilling Permit No. 737188) Lease, show that the sign or identification required to be posted at Well No. 1 was missing.
10. The lack of legible signs and identification displaying correct information as set forth in Statewide Rules 3(1) and 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.
11. Commission inspection reports made on May 3, 2012, May 11, 2012, August 4, 2015 and September 8, 2015, and no production reports filed by the Respondent with the Commission, show that the Zipperle (Drilling Permit No. 737188) Lease, Well No. 1 has been inactive for a period greater than one year. Commission records show Respondent reported a spud date of May 3, 2012, surface casing set on May 10, 2012, and production casing set on April 27, 2014 for the well. Commission inspection reports made on August 4 and September 8, 2015 show the well was completed at surface with 4½ inch casing with a valve and gauge.
12. No work-overs, re-entries, or subsequent operations have taken place on the subject well within the last twelve months; the subject well has not been properly plugged in accordance with Statewide Rule 14, 16 TEX. ADMIN. CODE § 3.14; and no plugging extensions are in effect for the subject well as allowed by Statewide Rule 14. The subject well is not otherwise in compliance with Statewide Rule 14.
13. Usable quality groundwater in the area may become contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject well. Unplugged wellbores in violation of Statewide Rule 14(b)(2) constitute a cognizable threat to the public health and safety because of the potential of pollution.
14. The total estimated cost to the State for plugging the Zipperle (Drilling Permit No. 737188) Lease, Well No. 1 is \$13,776.00.

15. Commission inspection reports made on August 4, 2015 and September 8, 2015, for the Zipperle (Drilling Permit No. 737188) Lease show that Respondent has failed to backfill three drilling pits: one pit measuring 20 x 45 x 4 feet, one pit measuring 10 x 10 x 3 feet, and one pit measuring 45 x 30 x 5 feet.
16. Pits that are not maintained, emptied and backfilled as required by Statewide Rule 8(d)(4)(H)(i)(I) may result in unpermitted discharges of oil and gas waste which can contaminate the land surface, affect the health of humans and animals, and may eventually be discharged to surface or subsurface waters, causing pollution.
17. Commission inspection reports made on May 3, 2012, May 11, 2012, August 4, 2015 and September 8, 2015, for the Zipperle (Drilling Permit No. 737188) Lease, show that Well No. 1 has been completed but Respondent has not filed the required completion report. Commission records show Respondent reported a spud date of May 3, 2012, surface casing set on May 10, 2012, and production casing set on April 27, 2014 for the well. Commission inspection reports made on August 4 and September 8, 2015 show the well was completed at surface with 4½ inch casing with a valve and gauge.
18. Should a well need to be re-entered for any reason, the wellbore documentation provided in those reports required in Statewide Rule 16(b) is necessary to safely and efficiently carry out replugging, recompletion, reworking, or other action.
19. 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 in violation of Statewide Rules 3(1), 3(2), 14(b)(2), 8(d)(4)(H)(i)(I) and 16(b). 16 TEX. ADMIN. CODE §§ 3.3(1), 3.3(2), 3.14(b)(2), 3.8(d)(4)(H)(i)(I) and 3.16(b)
5. 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).

6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3(1), which requires that each property that produces oil, gas, or geothermal resources shall post proper signs or identification.
7. 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.
8. 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.
9. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(4)(H)(i)(I), which requires that pits be maintained, emptied and backfilled.
10. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 16(b), which requires completion reports to be filed timely.
11. Pursuant to TEX. NAT. RES. CODE § 81.0531, the Commission may assess administrative penalties against Respondent for the subject violations of up to \$10,000 per day for each violation, with each day such violations continued constituting a separate violation.
12. An assessed administrative penalty in the amount of SIXTEEN THOUSAND EIGHT HUNDRED EIGHTY-EIGHT DOLLARS (\$16,888.00) is justified considering the facts and violations at issue.
13. 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, Jay Lee, 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. Jay Lee dba Jay Lee Oil Company (Operator No. 430369) shall place the Zipperle (Drilling Permit No. 737188) Lease, Well No. 1, Wilbarger County Regular Field, Wilbarger County, Texas in compliance with Statewide Rules 3(1), 3(2), 14(b)(2), 8(d)(4)(H)(i)(I) and 16(b), and any other applicable Commission rules and statutes.
2. Jay Lee dba Jay Lee Oil Company (Operator No. 430369) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SIXTEEN THOUSAND EIGHT HUNDRED EIGHTY-EIGHT DOLLARS (\$16,888.00)**.

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, Jay Lee, and any other organization in which he may hold a position of ownership or control, shall be 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 21st day of June, 2016.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated June 21, 2016)

JNC / rnf