

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
HEARINGS SECTION**

OIL AND GAS DOCKET NO. 7B-0249440

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY LARRY JOE WINDHAM D/B/A WINDHAM RESOURCES (931583), AS TO THE NEVINS (21803) LEASE, WELL NO. 1 AND TANK BATTERY, SAXON-GUION (MORRIS) FIELD, TAYLOR COUNTY AND THE JONES RANCH (25237) LEASE, WELL NOS. 1WW, 7, 18, 22, 23 AND TANK BATTERY, GRAND OLD OPLIN (GRAY) FIELD, CALLAHAN COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on December 7, 2006, and that the respondent, Larry Joe Windham d/b/a Windham Resources (931583), failed to appear or respond to the notice. 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. Larry Joe Windham d/b/a Windham Resources (931583), ("Respondent") was given a Notice of Opportunity for Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 (Organization Report), the receipt for which was signed and returned to the Commission.
2. The returned certified receipt (green card) that was attached to the Original Complaint and the Notice of Opportunity for Hearing mailed to Respondent's most recent P-5 address was signed and returned on November 13, 2006. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. Larry Joe Windham, as sole proprietor, 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.
4. Tammy Lynn Windham, 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.

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 and Tank Battery on the Nevins (21803) Lease and Well Nos. 1WW, 7, 18, 22, 23 and Tank Battery on the Jones Ranch (25237) Lease ("subject wells"/"subject leases") by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on March 1, 2004 for subject leases and wells.
7. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on January 1, 2007. Respondent had a \$50,000.00 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
8. Commission district office inspections were conducted on June 5, 2006, July 10, 2006 and July 31, 2006 for the Nevins (21803) Lease. The signs or identification required to be posted at the lease entrance, at Well No. 1 and the Tank Battery were missing.
9. Commission district office inspections were conducted on June 29, 2006, July 31, 2006 and August 29, 2006 for the Jones Ranch (25237) Lease. The sign or identification required to be posted at Well No. 1WW was missing, the sign at Well No. 7 was illegible and the sign at Well No. 18 displayed incorrect information.
10. Commission district office inspections were conducted on June 5, 2006, July 10, 2006 and July 31, 2006 for the Nevins (21803) Lease. Respondent had caused or allowed an unauthorized discharge of oil and produced water, affecting an area measuring approximately 25' x 3-7' x 1" of standing fluid and 3' of saturated soil depth, at the tank battery.
11. Commission district office inspections were conducted on June 29, 2006, July 31, 2006 and August 29, 2006 for the Jones Ranch (25237) Lease. Respondent had caused or allowed unauthorized discharges of oil, affecting areas measuring approximately 4' x 2' x 3", 7' x 5' x 4" and 3' x 1' x 3", from the 210 tank and the 300 barrel tank at the Tank Battery. The inspection further showed that Respondent had caused or allowed an unauthorized discharge of produced water, affecting an area measuring approximately 20' x 15' x 1" at the water storage tank at the Tank Battery.
12. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.
13. 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.

14. Commission district office inspections were conducted on June 5, 2006, July 10, 2006 and July 31, 2006 for the Nevins (21803) Lease. Respondent had caused or allowed a workover pit measuring 18' x 9' x 5' to remain open at Well No. 1.
15. Unfilled pits constitute a hazard to public health and safety because of the potential for illegal dumping in the pits and the potential for surface run-off to collect in the pit and seep into subsurface waters.
16. Commission district office inspections were conducted on June 5, 2006, July 10, 2006 and July 31, 2006 for the Nevins (21803) Lease. The Tank Battery is located within 500' of Taylor County Road 174 East, and is not equipped with the required firewall.
17. Commission district office inspections were conducted on June 29, 2006, July 31, 2006 and August 29, 2006 for the Jones Ranch (25237) Lease. Respondent had caused or allowed gaps "wide enough for a truck to drive through" to be cut in the firewall at the Tank Battery, on its east and west side.
18. Well Nos. 22 and 23 on the Jones Ranch (25237) Lease, are permitted saltwater injection wells by Permit No. 13061, dated August 14, 1991. Permit No. 13061 requires pressure tests on the wells, with the test results reported to the Commission. Further, Commission rules require any significant pressure changes at the wells to be reported to the Commission. If a wellhead is not equipped with a pressure observation valve on the tubing and for each annulus of a well, an accurate pressure test cannot be made and the well cannot be monitored for any significant pressure changes that might indicate the presence of leaks in the well.
19. Commission district office inspections were conducted on June 29, 2006, July 31, 2006 and August 29, 2006 for the Jones Ranch (25237) Lease. The wellhead of Well No. 22 was not equipped with a Bradenhead, and the wellhead of Well No. 23 did not have the required pressure valve on the tubing and was not equipped with a Bradenhead.
20. The Respondent has not demonstrated good faith since it failed to 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.

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), 8(d)(4)(G)(i)(III), 21(j) and 46(g)(2).
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 8(d)(4)(G)(i)(III), which requires workover pits to be dewatered, filled and compacted within 120 days from completion of workover operations.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 21(j), which requires that a firewall must be erected and kept around all permanent oil tanks, or battery of tanks, where such tanks are closer than 500' to any highway.
8. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 46(g)(2), which requires that the wellhead shall be equipped with a pressure observation valve on the tubing and for each annulus of the well.
9. Respondent is responsible for maintaining the subject leases and 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.
10. 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(c).
11. 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, Larry Joe Windham, 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.

12. 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, Tammy Lynn Windham, and any other organization in which she 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. Larry Joe Windham d/b/a Windham Resources (931583), shall place the Nevins (21803) Lease, Well No. 1 and Tank Battery, Saxon-Guion (Morris) Field, Taylor County; and the Jones Ranch (25237) Lease, Well Nos. 1WW, 7, 18, 22, 23 and Tank Battery, Grand Old Oplin (Gray) Field, Callahan County, Texas in compliance with Commission rules and regulations;
2. Larry Joe Windham d/b/a/ Windham Resources (931583), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **NINE THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$9,750.00)**.

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 23rd day of January 2007.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated January 23, 2007)

MH/sa