

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 04-0281877

ENFORCEMENT ACTION AGAINST SAXUM OIL & GAS, LLC (OPERATOR NO. 749687) FOR VIOLATIONS OF STATEWIDE RULES ON THE ARMSTRONG LEASE (LEASE ID NO. 269599), WELL NO. 1, CANDELARIA (CONSOLIDATED) FIELD, KENEDY 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 December 10, 2015 and that the respondent, Saxum Oil & Gas, LLC, 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. Saxum Oil & Gas, LLC (Operator No. 749687), (“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. Robert Dougherty III was provided the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to his last known address. John Dougherty was provided the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to his last known address. Dougherty Brothers Oil and Gas was provided the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to its last known address.
2. All certified mail envelopes containing the Original Complaint and the Notice of Opportunity for Hearing were returned to the Commission between October 26, 2015 and November 13, 2015. The first class mail was not returned. Record of the return 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 November 21, 2014, Respondent, a limited liability company, filed a Form P-5 (Organization Report) with the Commission reporting that its officers consist of the following individuals: Robert Dougherty III and John Dougherty.

4. Robert Dougherty III 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. John Dougherty 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.
6. Respondent's P-5 (Organization Report) is active. Respondent has a \$50,000 cash deposit as its financial assurance.
7. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.
8. Respondent designated itself to the Commission as the operator of the Armstrong Lease (Lease ID No. 269599), Well No. 1 by filing an Application for Permit to Drill, Recomplete, or Re-Enter (Commission Form W-1), filed October 20, 2009.
9. Commission inspection reports made on September 1, 2010, for the Armstrong Lease show that the sign or identification required to be posted at the lease entrance was missing.
10. Commission inspection reports made on September 1, 2010, August 7, 2014, and October 14, 2014 for the Armstrong Lease show that the sign or identification to be posted at the well was missing.
11. 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.
15. Commission inspection reports made on September 1, 2010, August 7, 2014, and October 14, 2014, and either reports filed by Respondent with the Commission reflecting zero production, or the absence of production reports filed by the Respondent with the Commission since prior to August 2011, show that the Armstrong Lease, Well No. 1 has been inactive for a period greater than one year. Production from the subject well ceased prior to August 2011.
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 extension is 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 is likely to be 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.
14. The total estimated cost to the State for plugging the Armstrong Lease, Well No. 1 is \$54,535.00.
15. Commission records and inspection reports made on September 1, 2010, August 7, 2014, and October 14, 2014 on the Armstrong Lease show that Well No. 1 was completed with set production casing but Respondent failed to file the required completion report until June 2015.
16. Should a well need to be re-entered for any reason, the wellbore documentation provided in those reports as set forth in Statewide Rule 16(b) is necessary to safely and efficiently carry out the replugging, recompletion, reworking, or other action.
17. 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) and 16(b). 16 TEX. ADMIN. CODE §§3.3(1), 3.3(2), 3.14(b)(2) 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 for 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, a sign shall be posted at the principal entrance which shall show the name by which the property is carried on the records of the Commission, the name of the operator, and the number of acres in the property.

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 showing the name of the property, name of the operator and the well number.
8. 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, unless the operator is eligible for and obtains an extension of the plugging deadline.
9. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 16(b), which requires proper completion reports to be filed within ninety days after completion of the well or within one hundred fifty days after the date on which the drilling operation is completed, whichever is earliest, or within thirty days of plugging a dry hole.
10. 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.
11. An assessed administrative penalty in the amount of SIXTEEN THOUSAND SEVEN HUNDRED EIGHT DOLLARS (\$16,708.00) is justified considering the facts and violations at issue.
12. As persons in a position of ownership or control of Respondent at the time Respondent violated Commission rules related to safety and the control of pollution, Robert Dougherty III, John Dougherty, and any other organization in which either or both may hold a position of ownership or control, are 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. Saxum Oil & Gas, LLC shall place the Armstrong Lease, Well No. 1, in compliance with Statewide Rules 3(1), 3(2), 14(b)(2) and 16(b), and any other applicable Commission rules and statutes.
2. Saxum Oil & Gas, LLC shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SIXTEEN THOUSAND SEVEN HUNDRED EIGHT DOLLARS (\$16,708.00)**.

It is further **ORDERED** that as persons in a position of ownership or control of Respondent at the time Respondent violated Commission rules related to safety and the control of pollution, Robert Dougherty III, John Dougherty and any other organization in which either or both 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 9th day of August, 2016.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated August 9, 2016)

JNC / rnf