

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
OIL AND GAS SECTION**

OIL AND GAS DOCKET NO. 01-0223816

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY AUSTIN OPERATING, LLC (037252), AS TO THE DINGES, W.E. (01899) LEASE, WELL NOS. 2B, 2D AND 5, BUCHANAN FIELD, CALDWELL COUNTY; AND THE WARNCKE-JOSLIN -B- (13306) LEASE, WELL NOS. 8 AND 9, DUNLAP FIELD, GUADALUPE COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on April 20, 2000 and that the respondent, Austin Operating, LLC (037252), 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. Austin Operating, LLC (037252), ("respondent") was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 (Organization Report) address, 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 Hearing Opportunity, was signed and returned to the Commission on March 24, 2000. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. Respondent designated itself to the Commission as the operator of Well Nos. 2B, 2D and 5 on the Dinges, W.E. (01899) Lease and Well Nos. 8 and 9 on the Warncke-Joslin -B- (13306) Lease ("subject wells"/"subject leases") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance), with the Commission effective on January 1, 1998 for all of the subject wells and subject leases.
4. The subject wells have been dry or inactive for a period in excess of one year. Commission inspection reports and/or lack of production reports indicate that the subject wells ceased production on or before July 31, 1997 for Well Nos. 2B, 2D and 5 on the Dinges, W.E. (01899) Lease and October 31, 1998 for Well Nos. 8 and 9 on the Warncke-Joslin -B- (13306) Lease.
5. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.

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6. Usable quality water 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 public health and safety because of the probability of pollution.
7. The estimated cost to the State of plugging the subject wells is \$8,900.00 for Well Nos. 2B, 2D and 5 on the Dinges, W.E. (10899) Lease and \$5,600.00 for Well Nos. 8 and 9 on the Warncke-Joslin -B- (13306) Lease.
8. A Commission district office inspection was conducted on December 13, 1999 for the Dinges, W.E. (01899) Lease. Well No. 2B did not have a wellhead assembly and had casing open to the atmosphere.
9. Maintenance of surface control by wellhead assemblies is necessary to prevent the discharge of oil and gas wastes on the subject lease constituting a hazard to public health and safety because the discharges of oil and gas wastes onto land surface can migrate into surface or subsurface waters.
10. The respondent did not demonstrate good faith since it failed to plug or otherwise place the subject wells and subject leases 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 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 13(b)(1)(B) and 14(b)(2).
4. Respondent is responsible for maintaining the subject lease in compliance with Rule 13(b)(1)(B), which requires that surface control of all wells be maintained with wellhead assemblies.
6. Respondent is responsible for maintaining the subject wells and the subject leases in compliance with all applicable Statutes and Commission rules, specifically Statewide Rules 14, 58, and 79 and Chapters 89 and 91, Texas Natural Resources Code.
7. 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) (Vernon 1993).

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

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1. Austin Operating, LLC (037252), shall plug and/or place the Dinges, W.E. (01899) Lease, Well Nos. 2B, 2D and 5, Buchanan Field, Caldwell County; and the Warncke-Joslin -B- (13306) Lease, Well Nos. 8 and 9, Dunlap Field, Guadalupe County, Texas in compliance with applicable Commission rules and regulations; and
2. Austin Operating, LLC (037252), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SIX THOUSAND DOLLARS (\$6,000.00)**.

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 order is served on the parties.

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 otherwise 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 22nd day of June, 2000.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated June 22, 2000)

MT/sa