

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

OIL AND GAS DOCKET NO. 01-0254496

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY FORTUNE OPERATING COMPANY (278766), AS TO THE SWEENEY, CAMILLE (12964) LEASE, WELL NOS. 1 AND 3, TOUCHSTONE (OLMOS -A-) FIELD, AND SWEENEY, CAMILLE (13240) LEASE, WELL NO. 2, PEARSALL (AUSTIN CHALK) FIELD, FRIO COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on February 7, 2008, and that the respondent, Fortune Operating Company (278766), 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 [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. Fortune Operating Company (278766), ("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, 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 to the Commission on January 7, 2008. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On June 13, 2007, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Russell L. Vera; President.
4. Russell L. Vera, 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 Nos. 1 and 3 on the Sweeney, Camille (12964) Lease, and Well No. 2 on the Sweeney, Camille (13240) Lease ("subject wells"/"subject leases") by filing Forms P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on April 17, 1996 for both of the subject leases and subject wells.
7. According to Commission records the Respondent's Form P-5 (Organization Report) is active. Respondent has a \$50,000.00 Bond as its financial assurance.
8. Commission District inspections were conducted on June 7, 2007, July 2, 2007, August 14, 2007, August 28, 2007 and January 17, 2008 for the Sweeney, Camille (12964) Lease. The signs or identification required to be posted at the lease entrance, at Well No. 1 and the tank were missing.
9. Failure to properly identify a well by the posting of the sign required by Statewide Rule 3 has the potential for causing confusion and delay in remedying a violation or emergency and poses a threat to the public health and safety.
10. Well No. 1 on the Sweeney, Camille (12964) Lease is a permitted saltwater disposal well. Injection into the subject well ceased on or before February 2001.
11. Well No. 3 on the Sweeney, Camille (12964) Lease ceased production on or before January 1999.
12. Well No. 2 on the Sweeney, Camille (13240) Lease ceased production on or before August 1999.
13. The Statewide Rule 14(b)(2) plugging extensions for Well Nos. 1 and 3 on the Sweeney, Camille (12964) Lease were denied on May 1, 2007 for Field Operations hold and an H-5 (Mechanical Integrity Test) issue.
14. The Statewide Rule 14(b)(2) plugging extensions for Well No. 2 on the Sweeney, Camille (13240) Lease was denied on May 1, 2007 for Field Operations hold.
15. 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 constitute a cognizable threat to the public health and safety because of the probability of pollution.
16. The total estimated cost to the State of plugging Well No. 1 and 3 on the Sweeney, Camille (12964) Lease is \$15,400.00 and \$13,100.00 for Well No. 2 on the Sweeney, Camille (13240) Lease.
17. A Commission District inspection was conducted on June 7, 2007 for the Sweeney, Camille (12964) Lease. There is a 2" hose located at Well No. 1 that was actively leaking. Oil is pooling around the tanks and the soil surrounding the tanks has become saturated with oil. Also, the shared tank battery between the two subject leases is leaking.

18. A Commission District inspection was conducted on August 14, 2007 for the Sweeney, Camille (13240) Lease. There is a 3' x 2' x 6" pile of BS & W.
19. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.
20. 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.
21. The Respondent has not demonstrated good faith since it failed to timely plug or otherwise 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.
22. The Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 10-0230216; Agreed Order Served: February 10, 2004; and
Docket No. 10-0233014; Final Order Served: January 10, 2006.

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) and 14(b)(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 leases and subject 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.
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).
8. 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, Russell L. Vera, 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.

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

1. Fortune Operating Company (278766), shall plug the Sweeney, Camille (12964) Lease, Well Nos. 1 and 3, and the Sweeney, Camille (13240) Lease, Well No. 2, Pearsall (Austin Chalk) Field, Frio County, Texas in compliance with applicable Commission rules and regulations; and
2. Fortune Operating Company (278766), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **NINE THOUSAND TWO HUNDRED FIFTY DOLLARS (\$9,250.00)**.

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 15th day of July 2008.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated July 15, 2008)

ME/sa