

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

**OIL AND GAS DOCKET NO. 02-0256717**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY FRANK S. WARNER, SOLE PROPRIETOR, KEYSTONE OPERATING CO. (458800), AS TO THE WOLTERS, EDWIN (01929) LEASE, WELL NO. 1, DUNWOLTERS (SEG. C PETTUS SD.) FIELD, AND WOLTERS, EDWIN (01981) LEASE, WELL NO. 3, DUNWOLTERS (SEG. D) FIELD, KARNES COUNTY, TEXAS**

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**FINAL ORDER**

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on September 11, 2008, and that the respondent, Frank S. Warner, Sole Proprietor, Keystone Operating Co. (458800), failed to appear or respond to the First Amended 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. Frank S. Warner, Sole Proprietor, Keystone Operating Co. (458800), ("Respondent") was given First Amended 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 returned to the Commission marked "unclaimed."
2. The returned certified receipt containing the First Amended Original Complaint and the First Amended Notice of Opportunity for Hearing mailed to Respondents, most recent P-5 address, was returned to the Commission marked "unclaimed" on August 12, 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 7, 2007, Respondent, filed an Organization Report (Form P-5) with the Commission reporting that its sole proprietor consisted of the following individual: Frank S. Warner; Sole Proprietor.
4. Frank S. Warner, 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.

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 on the Wolters, Edwin (01929) Lease and Well No. 3 on the Wolters, Edwin (01981) Lease ("subject wells"/"subject leases") by filing Form P-4's (Producer's Transportation Authority and Certificate of Compliance) with the Commission that were approved on June 23, 1977 for both of the subject wells and leases.
7. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on June 1, 2008. Respondent had a \$50,000.00 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
8. Production from the Well No. 1 on the Wolters, Edwin (01929) Lease ceased in or before June 1998.
9. Production from Well No. 3 on the Wolters, Edwin (01981) Lease ceased in or before January 1998.
10. The Statewide Rule 14(b)(2) plugging extension for Well No. 1 on the Wolters, Edwin (01929) Lease was denied on August 1, 2007 for failure to file an H-15 test.
11. The Statewide Rule 14(b)(2) plugging extension for Well No. 3 on the Wolters, Edwin (01981) Lease was denied on August 1, 2007 for failure to file an H-15 test
12. The subject wells have not been properly plugged in accordance with, and are 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 constitute a cognizable threat to the public health and safety because of the probability of pollution.
14. The total estimated cost to the State of plugging Well No. 1 on the Wolters, Edwin (01929) Lease is \$15,100.00.
15. The total estimated cost to the State of plugging Well No. 3 on the Wolters, Edwin (01981) Lease is \$18,800.00.
16. On July 2, 2007, the Commission gave Respondent notice by certified mail of the alleged facts or conduct of the Respondent in the operation, or production, of oil or gas from the Wolters, Edwin (01981) Lease, that appeared to violate the oil and gas conservation laws of this state, or rules or orders of the Commission adopted under those laws, to warrant the cancellation of the certificate of compliance. Said notice gave Respondent an opportunity to show compliance with all requirements of law for retention of the certificate of compliance.

17. Respondent did not timely show compliance with all requirements of law for retention of the certificate of compliance and, as a result, the certificate of compliance for the Wolters, Edwin (01981) Lease, was cancelled, and Respondent given notice of such cancellation, on August 1, 2007.
18. Production reports filed by Respondent with the Commission for the Wolters, Edwin (01981) Lease, from August 2007, through February 2008, show Respondent produced an approximate total of 38 barrels of oil from the Wolters, Edwin (01981) Lease, after the certificate of compliance had been cancelled and before a new certificate of compliance had been issued.
19. By producing the Wolters, Edwin (01981) Lease, after notice from the Commission that the certificate of compliance had been cancelled and before a new certificate of compliance had been issued, Respondent violated Statewide Rule 73(i) and Tex. Nat. Res. Code Ann. §85.166.
20. 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.
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.

### **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 14, 73(i) and Tex. Nat. Res. Code Ann. §85.166.
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 73(i), which provides that upon cancellation of the certificate of compliance for a well, the operator of such well shall not produce oil, gas, or geothermal resources from that well until a new certificate of compliance with respect to the well has been issued by the Commission.
5. 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.

6. 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).
7. 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, Frank S. Warner, 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. Frank S. Warner, Sole Proprietor, Keystone Operating Co. (458800), shall plug Well No. 1, Wolters, Edwin (01929) Lease, Dunwolters (Seg. C Pettus Sd.) Field, and Well No. 3, Wolters, Edwin (01981) Lease, Dunwolters (Seg. D) Field, Karnes County, Texas in compliance with applicable Commission rules and regulations; and
2. Frank S. Warner, Sole Proprietor, Keystone Operating Co. (458800), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FIVE THOUSAND DOLLARS (\$5,000.00)**.

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 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 26<sup>th</sup> day of February 2009.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order  
dated February 26, 2009)

JD/sa