

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

OIL AND GAS DOCKET NO. 02-0261101

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY QNK ENERGY, INC. (684473), AS TO THE HUDDLESTON LEASE, WELL NO. 1 (DRILLING PERMIT NUMBER 607893), THE RACKLEY LEASE, WELL NO. 2 (DRILLING PERMIT NUMBER 607894), HUDDLESTON LEASE, WELL NO. 3 (DRILLING PERMIT NUMBER 608498), RACKLEY (FRIO) FIELD, LIVE OAK COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on January 7, 2010, and that the respondent, QNK Energy, Inc., 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. QNK Energy, Inc. (684473), ("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 returned to the Commission marked "unclaimed."
2. The returned certified receipt containing the Original Complaint and the Notice of Opportunity for Hearing mailed to Respondent's most recent P-5 address, was returned to the Commission marked "unclaimed" on April 24, 2009. 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 January 22, 2009, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Ruben R. Smithwick, Jr.; President, and Debbie Kay Smithwick; Vice-President.
4. Ruben R. Smithwick, 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. Debbie Kay Smithwick, 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.
6. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
7. Respondent designated itself to the Commission as the operator of Well No. 1 (Drilling Permit No. 607893) on the Huddleston Lease and the Rackley Lease, Well No. 2 (Drilling Permit No. 607894) by filing a Form W-1 (Application to Drill, Deepen, Plug Back or Re-Enter) with the Commission on October 14, 2005.
8. Respondent designated itself to the Commission as the operator of Well No. 3 (Drilling Permit No. 608498) on the Huddleston Lease by filing a Form W-1 (Application to Drill, Deepen, Plug Back or Re-Enter) with the Commission on October 26, 2005.
9. According to Commission records the Respondent's Form P-5 (Organization Report) is active. Respondent has \$25,000.00 cash as its financial assurance.
10. A Commission District inspection was conducted on January 20, 2009 for the Huddleston Lease. The signs or identification required to be posted at the lease entrance and Well Nos. 1 (607893) and 3 (608498) were missing.
11. A Commission District inspection was conducted on November 10, 2008 for the Rackley Lease. The signs or identification required to be posted at Well No. 2 (607894) was missing.
12. 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.
13. A Commission District inspection was conducted on January 20, 2009 on the Huddleston Lease, Well Nos. 1 (607893) and 3 (608498). The inspection disclosed that the wells were completed. Respondent failed to file the required completion report for these wells.
14. A Commission District inspection was conducted on November 10, 2008 on the Rackley Lease, Well No. 2 (607894). The inspection disclosed that the well was completed. Respondent failed to file the required completion report for this report.
15. The Respondent did not demonstrated good faith since it failed to timely plug or otherwise place the subject leases and subject well in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
16. A Commission District inspection conducted on September 15, 2009 for the Huddleston Lease, Well Nos. 1 (607893) and 3 (608498) and the Rackley Lease, Well No. 2 (607894) disclosed that Respondent had posted the required identification signs in compliance with Statewide Rule 3.

17. On April 3, 2009, Respondent filed a completion report for the Huddleston Lease, Well No. 1 (607893), which was assigned Gas Identification Number (249091).
18. On April 17, 2009, Respondent filed a completion report for the Rackley Lease, Well No. 2 (607894), which was assigned Gas Identification Number (249622).
19. On April 21, 2009, Respondent filed a completion report for the Huddleston Lease, Well No. 3 (608498), which was assigned Gas Identification Number (249619).

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 was in violation of Commission Statewide Rules 3 and 16(b).
4. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 3, which requires that each property that produces oil, gas or geothermal resources and each oil, gas or geothermal resources well and tank, or other approved crude oil measuring facility shall post signs or identification.
5. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 16(b), which requires that the owner, or operator of an oil, gas or geothermal resource well, must within thirty days after the completion of such well, or the plugging of such well, if the well is a dry hole, file with the Commission the appropriate completion or plugging report.
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, Ruben R. Smithwick, Jr., 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.
9. 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, Debbie Kay Smithwick, 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. QNK Energy, Inc. (684473), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWO THOUSAND TWO HUNDRED DOLLARS (\$2,250.00)**.

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 18th day of May 2010.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated May 18, 2010)

JMD/sa