

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

OIL AND GAS DOCKET NO. 03-0219775

**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY EARL THOMAS
MACKEY D/B/A SUMMIT OIL CO. (829215), AS TO THE ROBINSON-BASHARA (00440)
LEASE, WELL NOS. 1, 2 AND 3, BLUE RIDGE FIELD, FORT BEND COUNTY, TEXAS**

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on December 16, 1999 and that the respondent, Earl Thomas Mackey d/b/a Summit Oil Co. (829215), 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. Earl Thomas Mackey d/b/a Summit Oil Co. (829215), ("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 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, was signed and returned to the Commission on October 1, 1999. 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. 1, 2 and 3 on the Robinson-Bashara (00440) Lease ("subject wells"/subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance), effective on May 23, 1996.
4. The subject wells have been dry or inactive for a period in excess of one year. Commission inspection and/or production reports indicate that all of the subject wells ceased production on or before January 1, 1993.
5. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
6. Usable quality water in the area is likely to be contaminated by migrations or discharges

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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 \$13,500.00.
8. Commission records indicate no Form H-15 (Test on An Inactive Well More Than 25 Years Old) has been filed and approved for the Robinson-Bashara (00440) Lease, Well No. 1 since May 31, 1995, and Well No. 2 since May 31, 1994.
9. Commission district office inspections were conducted on August 9, 1996 and September 3, 1996 for the Robinson-Bashara (00440) Lease. Approximately 5 barrels of oil had leaked from the tank piping manifold and firewall and oil and saltwater continued to seep from the bottom of the stock tank creating a 50' x 25' area of oil and saltwater saturated soil. On November 8, 1996 a Commission inspection report indicated that approximately 5 gallons of free oil remained on the ground.
10. Commission district office inspections were conducted on September 18, 1997, December 9, 1997 and May 4, 1998 for the Robinson-Bashara (00400) Lease. The westerly storage tank was slowly seeping oil at its corroded bottom. The oil soaked soil covered 60 - 70% of the total area of the firewall. There was also a small amount of saltwater in front of the leaking tank affecting an area approximately 20' x 20' x 4" deep.
11. No permit has been issued to the respondent for the discharge of oil and gas wastes on or from the subject lease.
12. 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.
13. The respondent did not demonstrate good faith since it failed to plug or otherwise place the subject wells and subject lease in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
14. The Commission's Enforcement staff requested the respondent be assessed an administrative penalty in the amount of \$10,500.00, which consist of \$2,500.00 for violations of Rule 8(d)(1), \$6,000.00 for violations of Rule 14(b)(2), and \$2,000.00 for violations of Rule 14(b)(2)(E).

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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 8(d)(1), 14(b)(2) and 14(b)(2)(E).
4. Respondent is responsible for maintaining the subject lease in compliance with Rule 8(d)(1), which prohibits the discharge of oil and gas wastes without a permit.
5. Respondent is responsible for maintaining the subject lease in compliance with Rule 14(b)(2)(E), which requires that the operator of any well more than 25 years old that becomes inactive and subject to the provisions of this paragraph shall plug or test such well to determine whether the well poses a potential threat of harm to natural resources, including surface and subsurface water, oil and gas.
6. Respondent is responsible for maintaining the subject wells and the subject lease 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:

1. Earl Thomas Mackey d/b/a Summit Oil Co. (829215), shall plug the Robinson-Bashara (00440) Lease, Well Nos. 1, 2 and 3, Blue Ridge Field, Fort Bend County, Texas and
2. Earl Thomas Mackey d/b/a Summit Oil Co. (829215), shall place in compliance with Statewide Rule 8, the Robinson-Bashara (00440) Lease.
3. Earl Thomas Mackey d/b/a Summit Oil Co. (829215), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TEN THOUSAND FIVE HUNDRED DOLLARS (\$10,500.00)**.

It is further **ORDERED** by the Commission that this order shall not be final and effective until

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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 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 21st day of March, 2000.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated March 21, 2000)

MT/sa