

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

OIL AND GAS DOCKET NO. 03-0221512

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY ROBBY TERRY D/B/A TERRY, R.K. (844053), AS TO THE MUNSON SUBDIVISION 5 ACRES LEASE, WELL NO. 1, DAMON MOUND FIELD, BRAZORIA COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on July 19, 1999, and that the respondent, Robby Terry d/b/a Terry, R.K. (844053), 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. Robby Terry d/b/a Terry, R.K. (844053), ("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 Opportunity for Hearing, was signed and returned to the Commission on June 11, 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 No. 1 on the Munson Subdivision 5 Acres Lease ("subject well"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission, effective on August 1, 1992.
4. The subject well has been dry or inactive for a period in excess of one year. Commission inspection and/or production reports indicate that the subject well ceased production on or before April 30, 1995.
5. The subject well has not been properly plugged in accordance with, and is not otherwise in compliance with, Statewide Rule 14.
6. Usable quality water in the area is likely to be contaminated by migrations or discharges of

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saltwater and other oil and gas wastes from the subject well. 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 well is \$3,571.50.
8. Commission district office inspections were conducted on November 5, 1998, December 14, 1998, February 11, 1999 and March 30, 1999 for the Munson Subdivision 5 Acres Lease. Oil was leaking from the casing valve of Well No. 1. The oil leaking from Well No. 1 had affected an area approximately 5' x 5' x 3" in diameter. In addition, oil had leaked from the bottom of a tank in the tank battery affecting an area approximately 80' x 10' x 4" in diameter. On December 14, 1998, inspections indicated that the oil leak at Well No. 1 had increased to 6' x 6' x 4" and that the oil leak at the tank battery had increased in some places up to 5" deep. On February 11, 1999, inspections indicated that some attempt had been made to remediate the oil soaked soil at the tank battery but additional cleanup was needed. A final inspection on March 30, 1999, indicated that an area approximately 50' x 10' x 6" in diameter of oil soaked soil was still sloping down hill from the tank battery and an area approximately 8' x 8' x 2' in diameter of oil soaked soil still remained in front of Well No. 1. An attempt to try and remediate the area had taken place.
9. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.
10. 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.
11. Commission records indicate that no Form H-15 (Test on An Inactive Well More Than 25 Years Old) has been filed and approved for the Munson Subdivision 5 Acres Lease, Well No. 1. The test report became delinquent on May 31, 1997.
12. The respondent has not demonstrated good faith since it failed to plug or otherwise place the subject well 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.
13. The Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 03-0217665; Rule 14; Final Order Served March 23, 1999.

CONCLUSIONS OF LAW

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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 all wells 25 years old that become inactive shall be plugged or tested annually 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 well and 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. Robby Terry d/b/a Terry, R.K. (844053), shall plug and or otherwise place the Munson Subdivision 5 Acres Lease, Well No. 1, Damon Mound Field, Brazoria County, Texas in compliance with applicable Commission rules and regulations; and
2. Robby Terry d/b/a Terry, R.K. (844053), 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)** less **TWO THOUSAND DOLLARS (\$2,000.00)** already received.

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It is further **ORDERED** by the Commission that this order shall not be final and effective until 20 days after it is actually mailed to the parties by the Commission; provided that if a motion for rehearing is filed by any party at interest within such 20-day period, this order shall not become final and effective until such motion is overruled, or if rehearing 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 19th day of October, 1999.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated October 19, 1999)

MFE/sa