

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

OIL AND GAS DOCKET NO. 03-0230363

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY MCKEE, SAM, SOLE PROPRIETOR, CIRCLE M VACUUM SERVICE (153685), AS TO THE BARNHART, W.T. UNIT LEASE, WELL NO. 1 (130114), GIDDINGS (AUSTIN CHALK, GAS) FIELD, BURLESON COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on April 1, 2002, and that the respondent, McKee, Sam, Sole Proprietor, Circle M Vacuum Service (153685), 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. McKee, Sam, Sole Proprietor, Circle M Vacuum Service (153685), ("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 Hearing Opportunity was signed and returned to the Commission on February 7, 2002. 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 (130114) on the Barnhart, W.T. Unit Lease ("subject well"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on July 1, 1994.
4. According to Commission records the Respondent's Form P-5 (Organization Report) is active.
5. The subject well ceased production on or before June 30, 1994.

6. The subject well has not been properly plugged in accordance with, and is not otherwise in compliance with, Statewide Rule 14.
7. 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 well. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
8. The estimated cost to the State for plugging the subject well is \$18,204.00.
9. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject lease and the 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.

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 Rule 14(b)(2).
4. Respondent is responsible for maintaining the subject lease in compliance with all applicable Commission rules and for properly plugging the subject well according to Statewide Rules 14, 58, and 79 and Chapters 89 and 91 of the Texas Natural Resources Code.
5. 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 2001).

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

1. McKee, Sam, Sole Proprietor, Circle M Vacuum Service (153685), shall plug the Barnhart, W.T. Unit Lease, Well No. 1 (130114), Giddings (Austin Chalk, Gas) Field, Burleson County, Texas in compliance with applicable Commission rules and regulations; and
2. McKee, Sam, Sole Proprietor, Circle M Vacuum Service (153685), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWO THOUSAND DOLLARS (\$2,000.00)**.

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 25th day of June 2002.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated June 25, 2002)

SP/sa