

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

**OIL AND GAS DOCKET NO. 03-0230552**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY D&P OPERATING & PROD. CORP. (196802), AS TO THE E.A. "A" SWEET LEASE, WELL NO. 4 (142125), RATTLESNAKE MOUND (5260) FIELD, AND THE E.A. "A" SWEET (16370) LEASE, WELL NO. 3, RATTLESNAKE MOUNT (5200) FIELD, BRAZORIA 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 July 18, 2002, and that the respondent, D&P Operating & Prod. Corp. (196802), 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. D&P Operating & Prod. Corp. (196802), ("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 containing the Original Complaint and the Notice of Hearing Opportunity was signed and returned to the Commission on May 10, 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. On June 16, 2000, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Paul T. Cothran; President.
4. Respondent designated itself to the Commission as the operator of Well No. 4 (142125) on the E.A. "A" Sweet Lease and Well No. 3 on the E.A. "A" Sweet (16370) Lease ("subject wells"/"subject leases") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on February 1, 1999 for Well No. 4 (142125) on the E.A. "A" Sweet Lease and June 15, 1998 for Well No. 3 on the E.A. "A" Sweet (16370) Lease.

5. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on May 1, 2001. Respondent paid a fee of \$1,500.00 as financial assurance at the time of its last Form P-5 renewal.
6. The subject wells ceased production on or before March 31, 1994 for Well No. 4 (142125) on the E.A. "A" Sweet Lease and January 1, 1993 for Well No. 3 on the E.A. "A" Sweet (16370) Lease.
7. The subject wells were not been properly plugged in accordance with, and were not otherwise in compliance with, Statewide Rule 14.
8. 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.
9. The estimated cost to the State of plugging the subject wells is \$8,010.00 for Well No. 4 (142125) on the E.A. "A" Sweet Lease and \$7,522.50 for Well No. 3 on the E.A. "A" Sweet (16370) Lease.
10. Commission district office inspections were conducted on November 2, 2001, November 26, 2001 and December 18, 2001 for the E.A. "A" Sweet Lease. The sign and or identification required to be posted at Well No. 4 was missing.
11. Commission district office inspections were conducted on November 2, 2001, November 26, 2001 and December 18, 2001 for the E.A. "A" Sweet (16370) Lease. The sign and or identification required to be posted at Well No. 3 was missing.
12. The Respondent did not demonstrate good faith since it failed to plug or otherwise place the subject leases and the 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.
13. The E.A. "A" Sweet Lease, Well No. 4 (142125) and the E.A. "A" Sweet (16370) Lease, Well No. 3 have been transferred by the Commission to Nance Engineering, Inc. effective on January 1, 2002.

### **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(a) and 14(b)(2).
4. Respondent was responsible for maintaining the subject leases in compliance with Rule 3(a), which requires that each property that produces oil, gas or geothermal resources and each oil, gas or geothermal resource well and tank, or other approved crude oil measuring facility shall post signs and or identification.

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5. Respondent was 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.
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) (Vernon 2001).

**IT IS ORDERED THAT** D&P Operating & Prod. Corp. (196802), is hereby assessed an administrative penalty in the amount of **FOUR THOUSAND FIVE HUNDRED DOLLARS (\$4,500.00)**.

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 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 3rd day of December 2002.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated December 3, 2002)

MT/sa