

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

OIL AND GAS DOCKET NO. 03-0236499

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY JAMES DAVID ROGERS D/B/A ROGERS, J.D. ENTERPRISES (724995), AS TO THE UNITY-ROACH (09068) LEASE, WELL NOS. 1, 2, 3, A1, B1, B2 AND B3, SPINDLETOP FIELD, JEFFERSON COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on February 23, 2004, and that the respondent, James David Rogers d/b/a Rogers, J.D. Enterprises (724995), 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. James David Rogers d/b/a Rogers, J.D. Enterprises (724995), ("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 Opportunity for Hearing was signed and returned to the Commission on January 20, 2004. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. Pursuant to Texas Natural Resource Code Section 91.114, James David Rogers is a person who was in a position of ownership or control during the time period the violations of Commission rules were committed by respondent.
4. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
5. Respondent designated itself to the Commission as the operator of Well Nos. 1, 2, 3, B1, B2 and B3 on the Unity-Roach (09068) Lease ("subject wells"/"subject lease") by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the

Commission effective on May 1, 1997.

6. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on May 1, 2001. Respondent paid a fee of \$750.00 as its Financial Assurance at the time of its last Form P-5 renewal.
7. Commission district office inspections were conducted on July 21, 2003 and July 22, 2003 for the Unity-Roach (09068) Lease. These inspections indicate that the respondent had caused, or allowed, the discharge of oil from a 250 barrel tank into the firewall and surrounding ground through a drain pipe, affecting an area measuring 50' x 60' with oil, and then running into a ditch by Port Arthur Road.
8. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.
9. The unpermitted discharge of oil and gas wastes or other substances or materials on the subject lease constitutes a hazard to the public health and safety because said discharges can contaminate surface water or leach into groundwater supplies.
10. The Commission spent a total of \$2,186.46 cleaning up the discharge.
11. The Respondent has not demonstrated good faith since it failed to otherwise place the 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.

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 Rule 8(d)(1).
4. Respondent was 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. 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, James David Rogers 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 sooner, if the conditions that constituted the violations herein are 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.

6. Respondent is responsible for maintaining the subject lease 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. Respondent is the person responsible for remediating the discharges on this subject lease under TEX. NAT. RES. CODE ANN. §91.113(b), and the Commission may recover from Respondent all costs incurred in cleaning up the subject lease pursuant to TEX. NAT. RES. CODE ANN. §91.113(f).
8. 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. James David Rogers d/b/a Rogers, J.D. Enterprises (724995), shall place the Unity-Roach (09068) Lease, Well Nos. 1, 2, 3, A1, B1, B2 and B3, Spindletop Field, Jefferson County, Texas in compliance with applicable Commission rules and regulations; and
2. James David Rogers d/b/a Rogers, J.D. Enterprises (724995), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **ONE THOUSAND FOUR HUNDRED DOLLARS (\$1,400.00)** and **REIMBURSE State Funds in the amount of TWO THOUSAND ONE HUNDRED EIGHTY SIX DOLLARS AND FORTY SIX CENTS (\$2,186.46).**

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 11th day of May 2004.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated May 11, 2004)

SP/sa