

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

**OIL AND GAS DOCKET NO. 03-0252453**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY SAXET OPERATING CO., INC. (749525), AS TO THE L.P. THOMPSON LEASE, WELL NO. 1 (097109), MADISONVILLE (SUB-CLARK, GAS) FIELD, MADISON 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 February 7, 2008, and that the respondent, Saxet Operating Co., Inc. (749525), failed to appear or respond to the Notice of Hearing. 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. Saxet Operating Co., Inc. (749525), ("Respondent") was given Notice of Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 Organization Report, which was returned to the Commission marked "unclaimed."
2. The returned certified receipt containing the Original Complaint and the Notice of Hearing mailed to Respondent's most recent P-5 address was returned to the Commission marked "unclaimed" on January 8, 2008. 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 December 14, 2006, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Whitney T. Smith, President; and Lilly T. Smith, Secretary
4. Whitney T. Smith, was a person in a position of ownership or control of respondent, as defined by Texas Natural Resources Code Section 91.114, during the time period of the violations of Commission rules committed by respondent.
5. Lilly T. Smith, was a person in a position of ownership or control of respondent, as defined by Texas Natural Resources Code Section 91.114, during the time period of the violations of Commission rules committed by respondent.

6. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
7. Respondent designated itself to the Commission as the operator of Well No. 1 (097109) on the L.P. Thompson Lease ("subject well"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on October 1, 1997.
8. According to Commission records the Respondent's Form P-5 (Organization Report) is active. Respondent has a \$25,000.00 Letter of Credit as its financial assurance.
9. A Commission District inspection was conducted on August 2, 2007 for the L.P. Thompson Lease. There was a continued drip of crude oil from a 4" PVC load line connected to the oil tanks. This leak has resulted in one barrel of free oil observed in a 20' x 30' area in the firewall.
10. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.
11. 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.
12. A Commission District inspection was conducted on January 5, 2007 for the L.P. Thompson Lease. There was insufficient freeboard in the pit. There was approximately 6" of freeboard, when there should have been according to Pit Permit #00010952, a minimum of 2' of freeboard. Additionally, the back section of the pit was approximately half covered with oil, and was not sufficiently protected with bird deterrent. Follow up inspections conducted on February 6, 2007, March 23, 2007, April 17, 2007 April 25, 2007, May 11, 2007 and August 2, 2007 showed no material change in the pit conditions, with the exception of the freeboard level, which varied from 2" on March 23, 2007, 1" on April 17, 2007, slight overflow on April 25, 2007, 4" of freeboard on May 11, 2007, and no (zero inches) freeboard on August 2, 2007. Additionally, the pit was never properly identified. The bird deterrent was never remedied, and is still out of compliance. Finally, as of August 2, 2007 the pit was 95% covered with oil in the back section, contained a dead cow, and 5% covered with oil in the front section of the pit.
13. Commission District inspections were conducted on January 5, 2007, January 11, 2007, February 6, 2007, March 23, 2007, April 17, 2007, April 25, 2007 and August 2, 2007 for the L.P. Thompson Lease. Respondent had failed to properly screen the subject saltwater disposal pit.
14. The Respondent has not demonstrated good faith since it failed to timely place the subject lease and 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 Rules 38(d)(1), 8(d)(6)(E)(iii) and 22(b).
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide 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 Statewide Rule 8(d)(6)(E)(iii), the terms and conditions of the permit have been violated by the permittee.
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 22(b), which requires that an operator must screen, net, cover, or otherwise render harmless to birds all open top tanks, and pits associated with the exploration, development, and production of oil and gas.
7. Respondent is responsible for maintaining the subject lease and subject well 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.
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).
9. 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, Whitney T. Smith, 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 until the conditions that constituted the violations herein are corrected or are being 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, whichever is earlier.

10. 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, Lilly T. Smith, and any other organization in which she 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 until the conditions that constituted the violations herein are corrected or are being 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, whichever is earlier.

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

1. Saxet Operating Co., Inc. (749525), shall place the L.P. Thompson Lease, Well No. 1 (097109), Madisonville (Sub-Clark, Gas) Field, Madison County, Texas in compliance with applicable Commission rules and regulations;
2. Saxet Operating Co., Inc.'s (749525), Pit Permit #P00010952 has been revoked for failure to adhere to Permit rules and regulations; and
3. Saxet Operating Co. Inc., (749525), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FIVE HUNDRED DOLLARS (\$500.00) less THREE HUNDRED SEVENTY FIVE DOLLARS (\$375.00) already received.**

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 parties are notified of the order.

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 15<sup>th</sup> day of July 2008.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated July 15, 2008)

ME/sa