

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

OIL AND GAS DOCKET NO. 04-0221513

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY N. NICHOLAS COWELL, SOLE PROPRIETOR, OFFSPRING WELL SALVAGE (618934), AS TO THE SMITH, F.D. LEASE, WELL NO. B3 (129184), HIBERNIA (4530 FRIO) FIELD, THE SMITH F.D. -B- (11258) LEASE, WELL NO. 1, HIBERNIA (5300 FRIO) FIELD, AND THE SMITH, F.D. -C- LEASE, WELL NO. 1 (127261), HIBERNIA (4390 FRIO) F I E L D , S A N P A T R I C I O C O U N T Y , T E X A S

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on June 3, 1999, and that the respondent, N. Nicholas Cowell, Sole Proprietor, Offspring Well Salvage (618934), 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. N. Nicholas Cowell, Sole Proprietor, Offspring Well Salvage (618934), ("respondent") was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent Form P-5 (Organization Report) address, which was signed and returned to the Commission.
2. The returned certified receipt containing the Original Complaint and the Notice of Opportunity for Hearing, was signed and returned to the Commission on May 3, 1999 and 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. B3 (129184) on the Smith, F.D. Lease, Well No. 1 on the Smith, F.D. -B- (11258) Lease and Well No. 1 (127261) on the Smith, F.D. -C- Lease ("subject wells"/"subject leases") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission, effective on December 1, 1998 for all of the subject wells and leases.
4. The subject wells have been dry or inactive for a period in excess of one year. Commission inspection and/or production reports indicate that the subject wells ceased production on or before May 31, 1997 for Well No. B3 (129184) on the Smith, F.D. Lease and Well No. 1 (127261) on the Smith, F.D. -C- Lease and January 1, 1993 for Well No. 1 on the Smith, F.D. -B- (11258) Lease.
5. The subject wells have not been properly plugged in accordance with, and are 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 saltwater and other oil and gas wastes from the subject wells. Unplugged wellbores constitute a cognizable threat to public health and safety because of the probability of pollution.
7. The estimated cost to plugging the subject wells is \$7,800.00 for Well No. B3 (129184) on the Smith, F.D. Lease, \$9,100.00 for Well No. 1 on the Smith, F. D. -B- (11258) Lease and \$6,200.00 for Well No. 1 (127261) on the Smith, F.D. -C- Lease.

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8. A Commission district office inspection was conducted on the Smith, F.D. -B- (11258) Lease. The tank battery on the lease had been cleaned out and that two piles of basic sediment had been left on the ground. A follow-up inspection on February 24, 1999 indicated that three piles of basic sediment were on the ground. A final inspection conducted on March 19, 1999 indicated that two piles of basic sediment, each measuring approximately 6' in diameter and 30" in height, remained on the ground. A third pile had been spread over an area approximately 15' in diameter and 4" high. A sample analysis performed indicated the material contained a total petroleum hydrocarbon level of 3%.
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 discharge of oil and gas wastes or other substance 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. The respondent has not demonstrated good faith since it failed to plug or otherwise place 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.

CONCLUSIONS OF LAW

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) and 14(b)(2).
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 wells and leases 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.
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 1993).

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

1. N. Nicholas Cowell, Sole Proprietor, Offspring Well Salvage (618934), shall plug and or otherwise place the Smith, F.D. Lease Well No. B3 (129184), Hibernia (4530 Frio) Field, the Smith, F.D. -B- (11258) Lease, Well No. 1, Hibernia (5300 Frio) Field, and the Smith, F.D. -C- Lease, Well No. 1 (127261), Hibernia (4390 Frio) Field, San Patricio County, Texas

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2. N. Nicholas Cowell, Sole Proprietor, Offspring Well Salvage (618934), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **NINE THOUSAND DOLLARS (\$9,000.00)**.

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 13th day of July, 1999.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated July 13, 1999)

MFE/sa