

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

OIL AND GAS DOCKET NO. 04-0229737

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY ALLEN, MABEL F., SOLE PROPRIETOR (013953), AS TO THE SMITH, F.J. (03218) LEASE, WELL NOS. 1 AND 2, TURKEY CREEK (4000 SAND) FIELD, NUECES COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on February 27, 2003, and that the respondent, Allen, Mabel F., Sole Proprietor (013953), 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. Allen, Mabel F., Sole Proprietor (013953), ("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) the was attached to the Original Complaint and the Notice of Opportunity for Hearing was signed and returned to the Commission on April 4, 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 Nos. 1 and 2 on the Smith, F.J. (03218) Lease ("subject wells"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on May 1, 1996.
4. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on May 1, 2003. Respondent paid a fee of \$100.00 as financial assurance at the time of its last Form P-5 renewal.
5. Commission district office inspections were conducted on July 20, 2001 and December 13, 2001 for the Smith, F.J. (03218) Lease. The sign and or identification required to be posted at Well No. 2 was missing.

6. Commission district office inspections were conducted on June 28, 2001 and July 20, 2001 for the Smith, F.J. (03218) Lease. The compressor was leaking oil and affecting an estimated 600 square feet of soil. A buried bucket of oil was overflowing, the drain line at the salt water disposal pump had leaked oil and contaminated approximately 50 square feet of soil and there was approximately 20 barrels of standing salt water and approximately 1000 square feet of oil contaminated soil at the tank battery. On the northeast side of the tank battery the salt water disposal pump was leaking produced water onto the ground and on the south side produced water was pooling inside the firewall. A load line was leaking oil onto the ground and the hose connected to Well No. 1 was leaking produced water. A Commission district office inspection conducted on September 17, 2001 revealed that the compressor was leaking oil and three 55 gallon drums containing spent oil had overflowed and saturated an area 6' in diameter. An inspection conducted on December 13, 2001 showed the compressor had leaked oil affecting an approximate 6' wide area around the compressor and the 3 leaking barrels had now saturated an approximate 10' diameter area with oil to a depth of about ½ inch.
7. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.
8. 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, leaching into the ground and percolation through soils into groundwater supplies.
9. On August 27, 1999, Respondent was issued a permit to maintain and use an emergency saltwater storage pit (unlined), Permit No. P007790, on the Smith, F.J. (03218) Lease. Authority to maintain and use the pit was granted and subject to numerous conditions including the following: (1) Condition No. 5: The pit may not be used for more than 72 hours at a time unless authorization from the District Director is obtained in writing for a longer period; (2) Condition No. 6: The pit must be pumped completely dry after each use. The pit must have a sump at one end so that it can be pumped completely dry; (3) Condition No. 7: The District Office must be notified in writing each time the pit is in use and again when the pit is emptied. Each report filed with the District Office must state the pit permit number; and (4) Condition No. 11: This permit does not authorize the discharge of any oil and gas wastes from the pit. Pursuant to the permit, authorization to maintain and use the pit was subject to review and cancellation should investigation show that such authorization is being abused.
10. A Commission district office inspection was conducted on June 28, 2001 for the Smith, F.J. (03218) Lease. The emergency saltwater pit was full with approximately 3800 barrels of saltwater. The dikes of the pit were also found to be seeping. In addition, the District Office had not been notified of Respondent's use of the pit. A July 20, 2001 inspection showed the pit was approximately 3/4 full of produced water with a slight oil sheen visible in the northwest corner of the pit. A subsequent inspection conducted on December 13, 2001 indicated the pit contained approximately 500 barrels of rainwater which tested at a chloride level of 4900 ppm. Also, the pit's dikes were again found to be seeping.

11. By using the pit without notifying the District Office; using the pit for more than 72 hours at a time without obtaining authorization from the District Office to use it for a longer period; failing to pump the pit completely dry after each use; and discharging oil and gas wastes from the pit, Respondent has violated the terms and conditions of Pit Permit No. P007790.
12. Respondent's violations of the terms and conditions of Pit Permit No. P007790 are serious and a hazard to the public's health and safety in that continued maintenance and use of the pit may result in unpermitted storage and or discharges of hydrocarbon liquids and other associated wastes which may contaminate surface or subsurface waters thereby causing pollution.
13. A District office inspection was conducted on January 22, 2003 on the Smith, F.J. (03218) Lease. The subject pit had been backfilled.
14. The Respondent did not demonstrate good faith since it failed to place the subject lease and the subject pit 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 3(a) and 8(d)(1).
4. Respondent is responsible for maintaining the subject lease 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.
5. 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.
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. 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. Allen, Mabel F., Sole Proprietor (013953), shall place the Smith, F. J. (03218) Lease, Well Nos. 1 and 2, Turkey Creek (400 Sand) Field, Nueces County, Texas in compliance with applicable Commission rules and regulations; and
2. Allen, Mabel F., Sole Proprietor (013953), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FIVE THOUSAND TWO HUNDRED FIFTY DOLLARS (\$5,250.00)**.

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 6th day of May 2003.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated May 6, 2003)

SP/sa