

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

OIL AND GAS DOCKET NO. 04-0232634

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY EL TRES EXPLORATION, INC. (250714), AS TO THE STATE OF TEXAS LEASE, WELL NO. 2 (486893), WILDCAT FIELD, STARR COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on July 15, 2004, and that the respondent, El Tres Exploration, Inc. (250714), 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. El Tres Exploration, Inc. (250714), ("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 not returned to the Commission.
2. The returned certified receipt containing the Original Complaint and the Notice of Hearing, was not returned to the Commission and the regular mail sent to the P-5 address was not returned to the Commission. The certified receipt sent to the President, Everett Lawley, III, was returned to the Commission on June 28, 2004, marked "unable to forward, return to sender." 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 January 15, 2002, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Everett Lawley, III, President.
4. Everett Lawley, III, 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. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
6. Respondent designated itself to the Commission as the operator of Well No. 2 (486893) on the State of Texas Lease ("subject well"/"subject lease") by filing a Form W-1 (Application to Drill, Deepen, Plug Back or Re-Enter) with the Commission that was received and amended on March 13, 2000.
7. According to Commission records the Respondent's Form P-5 (Organization Report) became inactive on January 15, 2002. Respondent paid a fee of \$100.00 as its financial assurance at the time of its last P-5 renewal.
8. The subject well has never produced.
9. The subject well has not been properly plugged in accordance with, and is not otherwise in compliance with, Statewide Rule 14.
10. 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 well. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
11. The estimated cost to the State of plugging the subject well is \$100,000.00.
12. Commission district office inspections were conducted on July 12, 2002, August 14, 2002, November 14, 2002 and June 15, 2004 for the State of Texas Lease. The signs or identification required to be posted at the lease entrance and Well No. 2 (486893) were missing.
13. On March 21, 2000, Respondent filed an Amended Drilling Permit for Well No. 2 (486893) on the State of Texas Lease. On October 1, 2001, Respondent filed Commission Form W-3A giving notice of its intention to plug and abandon the subject well. Commission District inspections on the State of Texas Lease, conducted on July 12, 2002, August 14, 2002, November 14, 2002 and June 15, 2004 indicated that Well No. 2 was equipped with a well head and inactive. The inspections further revealed the presence of an open drilling pit at the well which had not been backfilled. As evidenced by the Form W-3A filed by Respondent as well as the Commission inspections, Respondent failed to backfill and compact the drilling pit within one year of the cessation of drilling operations on the subject lease.
14. Unfilled pits constitute a hazard to public health and safety because of the potential for illegal dumping in the pits and the potential for surface run-off to collect in the pit and seep into subsurface waters.
15. The Respondent has not demonstrated good faith since it failed to plug or otherwise 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 was in violation of Commission Statewide Rules 3(a), 8(d)(4)(G)(i)(I) and 14(b)(2).
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 or identification.
5. Respondent is responsible for maintaining the subject lease in compliance with Rule 8(d)(4)(G)(i)(I), which requires reserve pits and mud circulation pits to be dewatered, backfilled and compacted within one year of cessation of drilling operations.
6. Respondent is responsible for maintaining the subject lease and plugging of the 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.
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).
8. 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, Everett Lawley, III, 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.

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

1. El Tres Exploration, Inc. (250714), shall plug Well No. 2 (486893), State of Texas Lease, Wildcat Field, Starr County, Texas in compliance with applicable Commission rules and regulations;
2. El Tres Exploration, Inc. (250714), shall place the State of Texas Lease, Wildcat Field, Starr county, Texas in compliance with applicable Commission rules and regulations; and
3. El Tres Exploration, Inc. (250714), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **THREE THOUSAND FIVE HUNDRED DOLLARS (\$3,500.00)** less **TWO THOUSAND SIX HUNDRED TWENTY FIVE DOLLARS (\$2,625.00)** 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 24th day of August 2004.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated August 24, 2004)

JD/sa