

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

OIL AND GAS DOCKET NO. 06-0238915

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY SCS ENERGY SERVICES, LTD. (740161), AS TO THE SOUTHWEST LEASE, WELL NO. 1H (535084), WILDCAT FIELD, SHELBY COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on September 9, 2004, and that the respondent, SCS Energy Services, Ltd. (740161), 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. SCS Energy Services, Ltd. (740161), ("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 not returned to the Commission.
2. The returned certified receipt containing the Original Complaint and the Notice of Opportunity for Hearing mailed to Respondent's most recent P-5 address, was not returned to the Commission. The returned certified receipt (green card) that was attached to the Original Complaint and the Notice of Opportunity for Hearing, sent to the Vice-President, Kelly James Mower, was signed and returned to the Commission on July 23, 2004. The certified receipts have been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On August 6, 2003, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individuals: Charles Norman Russell, Jr.; President, and Kelly James Mower; Vice-President.
4. Charles Norman Russell, Jr., 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. Kelly James Mower, 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. 1H (535084) on the Southwest Lease ("subject well"/"subject lease") by filing a Form W-1 (Application for Permit to Drill) with the Commission on August 7, 2003.
8. According to Commission records the Respondent's Form P-5 (Organization Report) became inactive on August 6, 2003. Respondent paid a fee of \$3,125.00 as its financial assurance at the time of its last P-5 renewal.
9. A Commission district office inspection was conducted on December 9, 2003 for the Southwest Lease. There was a 12' x 20' x 5' deep blowdown pit containing approximately 100 barrels of saltwater. A follow up inspection conducted on February 11, 2004 revealed the blowdown pit was running over into a reserve pit which was also full and running over onto the ground, affecting the surrounding pine tree farm.
10. No permit had 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 office inspection was conducted on December 9, 2003 for the Southwest Lease. There was a open blowdown workover pit measuring approximately 12' x 20' x 5' deep and containing approximately 100 barrels of saltwater. The inspection further found the well to have been completed as evidenced by the existence of the blowdown line and pit and the absence of a rig or any other activity. Follow up inspections conducted on February 11, 2004, March 12, 2004 and April 9, 2004 show the pit had not been dewatered or backfilled and compacted.
13. 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.
14. The Respondent did not demonstrate good faith since it failed to 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.
15. Commission district office inspections conducted on June 17, 2004 for the Southwest Lease showed that the pit is in compliance and there is no pollution.

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 8(d)(1) and 8(d)(4)(G)(i)(III).
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. Respondent was responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(4)(G)(i)(III), which requires reserve pits and mud circulation pits to be dewatered, backfilled and compacted within one year of cessation of drilling operations.
6. Respondent was 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).
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, Charles Norman Russell, Jr., 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.
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, Kelly James Mower, 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. SCS Energy Services, Ltd. (740161), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FOUR THOUSAND DOLLARS (\$4,000.00)**.

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 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 21st day of December 2004.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated December 21, 2004)

JD/sa