

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

OIL AND GAS DOCKET NO. 6E-0266935

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY BENNY JOE ADKINSON D/B/A RED HOSS OIL CO. (697035), AS TO THE RANDLE CHRISTIAN (07512) LEASE, WELL NOS. 3, 6 AND TANK BATTERY, EAST TEXAS FIELD, GREGG COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on June 21, 2012, and that the respondent, Benny Joe Adkinson d/b/a Red Hoss Oil Co. (697035), failed to appear or respond to the Notice of Opportunity for 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. Benny Joe Adkinson d/b/a Red Hoss Oil Co. (697035), ("Respondent"), was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent Form P-5 (Organization Report) address, which was returned to the Commission.
2. The returned electronic certified receipt containing the Original Complaint and the Notice of Opportunity for Hearing, was returned to the Commission marked "unclaimed" on April 17, 2012. The electronic receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On September 18, 2009, Respondent, filed an Organization Report (Form P-5) with the Commission reporting that its owners consisted of the following individual(s): Benny Joe Adkinson; Sole Proprietor.
4. Benny Joe Adkinson, as sole proprietor, 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 Nos. 3 and 6 on the Randle Christian (07512) Lease ("subject wells"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on December 1, 2008.
7. Respondent's P-5 (Organization Report) became delinquent on July 1, 2010. Respondent had a \$50,000 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
8. Commission District inspections were conducted between May 11, 2010 and June 3, 2010 for the Randle Christian (07512) Lease. The sign or identification required to be posted at Well No. 6 did not reflect the current operator. The sign or identification required to be posted at the Tank Battery was missing.
9. Failure to properly identify a well by the posting of the sign required by Statewide Rule 3 has the potential for causing confusion and delay in remedying a violation or emergency and poses a threat to the public health and safety.
10. A Commission District inspection was conducted on May 11, 2010 for the Randle Christian Lease. Well No. 6 indicates oil saturated soil around the wellhead in addition to freestanding oil and oil saturated soil within the firewall of the Tank Battery. Followup inspections conducted on May 29, 2010, June 2, 2010 and June 3, 2010 indicate no changes.
11. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
12. 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.
13. Commission District inspections were conducted on May 11, 2010, May 28, 2010, June 2, 2010 and June 3, 2010 for the Randle Christian (07512) Lease. Well No. 3 indicates that the casing is open to the atmosphere with no control valves.
14. Commission District inspections were conducted on May 11, 2010, May 28, 2010, June 2, 2010 and June 3, 2010 for the Randle Christian (07512) Lease. Well No. 6 indicates that the wellbore is open to the atmosphere.
15. Maintenance of surface control by wellhead assemblies is necessary to prevent the discharge of oil and gas wastes on the subject lease constituting a hazard to public health and safety because the discharges of oil and gas wastes onto land surface can migrate into surface or subsurface waters.

16. The Respondent did not demonstrate good faith since it failed to timely plug or otherwise place the subject lease and 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.
17. On November 9, 2011, a P-4 transfer was approved for the Randle Christian (07512) Lease. Effective on November 9, 2011, Eastexas Oil and Gas Investment Co., LLC (239255) became the operator of Well Nos. 1, 3, 5, 6 and 8 on the Randle Christian (07512) Lease.

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, 8(d)(1), 14(b)(2) and 13(b)(1)(B).
4. Respondent was responsible for maintaining the subject lease in compliance with Statewide Rule 3, 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 was 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.
6. Respondent was responsible for maintaining the subject lease in compliance with Statewide Rule 13(b)(1)(B), which requires that surface control of all wells be maintained with wellhead assemblies.
7. Respondent was responsible for maintaining the subject lease and subject wells 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©.

9. Respondent was the person responsible for cleaning up the discharges on the subject lease under TEX. NAT. RES. CODE ANN. §91.113(b), and the Commission may recover from Respondent all costs incurred in cleaning up the subject lease pursuant to TEX. NAT. RES. CODE ANN. §91.113(f).
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, Benny Joe Adkinson, 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. Benny Joe Adkinson d/b/a Red Hoss Oil Co. (697035), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$8,500.00)** and **REIMBURSE** State Funds in the amount of **FIVE THOUSAND THREE HUNDRED SEVENTY SIX DOLLARS AND SIXTY NINE CENTS (\$5,376.69)**.

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 15th day of January 2013.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated January 15, 2013)

TJJ/sa