

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

OIL AND GAS DOCKET NO. 7B-0223040

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY HARWELL ENTERPRISES, INC. (364798), AS TO THE HOLT A LEASE, WELL NO. 2 (153605), CAMILLE (CONGL.) FIELD, PALO PINTO COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on December 30, 1999 and that the respondent, Harwell Enterprises, Inc. (364798), 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. Harwell Enterprises, Inc. (364798), ("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) address, which returned to the Commission marked "unclaimed."
2. The returned certified receipt containing the Original Complaint and the Notice of Hearing Opportunity was returned to the Commission on December 15, 1999. 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 May 5, 1999, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individuals: Jud L. Harwell; President and Tammy J. Harwell; Vice-President.
4. Respondent designated itself to the Commission as the operator of Well No. 2 (153605) on the Holt A Lease ("subject well"/subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance), effective on June 1, 1997.
5. Commission district office inspections were conducted on July 7, 1998, March 29, 1999, June 7, 1999, July 26, 1999 and August 30, 1999 for the Holt A Lease. Respondent was maintaining two dry drilling pits adjacent to Well No. 2. Each pit measured 120' x 180' x 4'. Commission records indicate that the drilling of Well No. 2 was completed on or about February 13, 1995 and the well was plugged in September 1997.

OIL AND GAS DOCKET NO. 7B-0223040

6. 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.
7. 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.

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 Rule 8(d)(4)(G)(i)(I).
4. 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.
5. Respondent is responsible for maintaining the subject lease 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. Harwell Enterprises, Inc. (364798), shall place the Holt A Lease, Well No. 2 (153605), Camille (Congl.) Field, Palo Pinto County, Texas in compliance with applicable Commission rules and regulations; and
2. Harwell Enterprises, Inc. (364798), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00)**.

OIL AND GAS DOCKET NO. 7B-0223040

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 21st day of March, 2000.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated March 21, 2000)

MFE/sa