

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

OIL AND GAS DOCKET NO. 7B-0232251

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY CALVIN LAIRD D/B/A DODD, R.L. CO. (221928), A/K/A LAWN TANK CLEANING FOR VIOLATIONS ON THE LAWN RECLAMATION PLANT (PERMIT 7B-0182) AND LAWN TANK CLEANING YARD (WHP-1788), TAYLOR COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on December 9, 2002, and that the respondent, Calvin Laird d/b/a Dodd, R.L. Co. (221928) a/k/a Lawn Tank Cleaning, 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. Calvin Laird d/b/a Dodd, R.L. Co. (221928) a/k/a Lawn Tank Cleaning, ("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) that was attached to the Original Complaint and the Notice of Hearing Opportunity was signed and returned to the Commission on October 16, 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 the Lawn Reclamation Plant and the Lawn Tank Cleaning Yard by filing a Form R-2 (Reclamation Plant Application Permit 7B-0182) issued March 24, 1995, cancelled by the Commission on July 3, 2002, and a Form WH-1 (Waste Hauler's Permit WHP-1788) issued on February 14, 2001 which expired under its own terms on May 31, 2001.
4. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on April 1, 2002. Respondent paid a fee of \$100.00 as financial assurance at the time of its last Form P-5 renewal.

5. A Commission district office inspection was conducted on January 10, 2002 for the Lawn Reclamation Plant and Lawn Tank Cleaning Yard. The following unpermitted discharges were noted; a 22' x 15' pit contained oil, basic sediment, and saltwater (testing at 18,500 mg/1 chlorides) to a depth of 1.5'; at Tank #1 the hatch of the 500 barrel tank was leaking oil and saltwater (testing at 12,500 mg/1 chlorides) affecting an area measuring 6' x 4' to a depth of 3 to 5 inches; at Tank #2 the hatch and bottom seam of the 500 barrel tank was leaking oil and saltwater (testing at 9,600 mg/ 1 chlorides) affecting an area measuring 18' x 5' to a depth of 2 to 4", with a saturated soil depth of 3 to 6", and a pile of basic sediment was noted at the east end of the storage facility, affecting an area measuring 14' x 8', piled to a depth of 2 to 3'.
6. Commission district office inspections were conducted on March 4, 2002, May 2, 2002, June 21, 2002 and September 17, 2002 for the Lawn Reclamation Plant and Lawn Tank Cleaning Yard. At Tank #1 the hatch continued to leak and at Tank #2 the hatch and bottom seam continued to leak but was 50% remediated.
7. No permit has been issued to 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. Commission district office inspections were conducted on January 10, 2002, March 4, 2002, May 2, 2002, June 21, 2002 and September 17, 2002 for the Lawn Reclamation Plant and Lawn Tank Cleaning Yard. The firewall had not been constructed completely around the facility.
10. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject plant and the subject yard 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 8(d)(1) and 21(j).
4. Respondent is responsible for maintaining the subject plant and yard in compliance with Rule 8(d)(1), which prohibits the discharge of oil and gas wastes without a permit.
5. Respondent is responsible for maintaining the subject plant and yard in compliance with Rule 21(j), which requires that firewalls must be erected and kept around all permanent oil tanks, or battery of tanks, that are within 500 feet of any highway.

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6. Respondent is responsible for maintaining the subject plant and yard in compliance with all applicable Commission rules according to Statewide Rules 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. Calvin Laird d/b/a Dodd, R.L. Co. (221928) a/k/a Lawn Tank Cleaning, shall place the Lawn Reclamation Plant (Permit 7B-0182) and Lawn Tank Cleaning Yard (WHP-1788), Taylor County, Texas in compliance with applicable Commission rules and regulations;
2. Calvin Laird d/b/a Dodd, R.L. Co. (221928) a/k/a Lawn Tank Cleaning, shall cease and desist operating the Reclamation Plant and Tank Cleaning Yard, close and remove all equipment and waste, until a new reclamation plant permit and waste hauler's permit have been obtained; and,
3. Calvin Laird d/b/a Dodd, R.L. Co. (221928) a/k/a Lawn Tank Cleaning, 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)**.

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