

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

**OIL AND GAS DOCKET NO. 7B-0235960**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY SPHERIC PETROLEUM INC. (809649), AS TO THE MCELMURRAY, C.L. -A- (23429) LEASE, WELL NOS. 1, 2, AND 3, WHITE FLAT (STRAWN) FIELD, NOLAN COUNTY, TEXAS**

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**FINAL ORDER**

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on December 15, 2003, and that the respondent, Spheric Petroleum Inc. (809649), 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. Spheric Petroleum Inc. (809649), ("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 returned to the Commission marked "unclaimed."
2. The returned certified receipt containing the Original Complaint and the Notice of Opportunity for Hearing was returned to the Commission marked "unclaimed" on November 5, 2003. The returned certified (green card) that was attached to the Original Complaint and the Notice of Opportunity for Hearing sent to the Resident Agent, Margaret H. Davis, was signed and returned to the Commission on October 13, 2003. 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 May 8, 2000, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Barry M. Wasserman; President.
4. Respondent designated itself to the Commission as the operator of Well Nos. 1, 2 and 3 on the McElmurray, C.L. -A- (23429) Lease ("subject wells"/"subject lease") by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on May 1, 1994.
5. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on June 1, 2001. Respondent paid a fee of \$100.00 as its Financial Assurance at the time of its last Form P-5 renewal.

6. The subject wells ceased production on or before January 31, 2001.
7. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
8. 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 wells. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
9. The total estimated cost to the State of plugging the subject wells is \$19,200.00.
10. Commission district office inspections were conducted on September 6, 2002, October 21, 2002, December 4, 2002, April 8, 2003 and May 27, 2003 for the McElmurray, C.L. -A- (23429) Lease. The signs or identification required to be posted at the lease entrance and the wells were missing. The signs or identification required to be posted at the tank displayed incorrect information.
11. 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.
12. Commission district office inspections were conducted on April 8, 2003 and May 27, 2003 for the McElmurray, C.L. -A- (23429) Lease. The heater treater was leaking produced water affecting an area approximately 8' x 6' x 3" in diameter.
13. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
14. 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.
15. Commission district office inspections were conducted on September 6, 2002, October 21, 2002, December 4, 2002, April 8, 2003 and May 27, 2003 for the McElmurray, C.L. -A- (23429) Lease. The tank battery was within 50' of a county road and not equipped with a firewall.
16. The Respondent has not demonstrated good faith since it failed to 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.

## 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 3(a), 8(d)(1), 14(b)(2) and 21(j).
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)(1), which prohibits the discharge of oil and gas wastes without a permit.
6. Respondent is responsible for maintaining the subject lease 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' of any highway.
7. Respondent is responsible for maintaining the subject lease in compliance with all applicable Commission rules and for properly plugging the subject wells 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(c) (Vernon 2001).

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

1. Spheric Petroleum Inc. (809649), shall plug or otherwise place the McElmurray. C.L. -A- (23429) Lease, Well Nos. 1, 2 and 3, White Flat (Strawn) Field, Nolan County, Texas in compliance with applicable Commission rules and regulations; and
2. Spheric Petroleum Inc. (809649), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **EIGHT THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$8,750.00)**.

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 11<sup>th</sup> day of March 2004.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated March 11, 2004)

JD/sa