

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

OIL AND GAS DOCKET NO. 7B-0235234

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY COCHISE ENERGY INC. (163079), AS TO THE BARBARA (20041) LEASE, WELL NOS. 1 AND 2W, EWALT (MISS.) FIELD, THROCKMORTON COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on August 28, 2003, and that the respondent, Cochise Energy Inc. (163079), 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. Cochise Energy Inc. (163079), ("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 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 August 7, 2003. The returned certified receipt (green card) that was attached to the Original Complaint and the Notice of Opportunity for Hearing, sent to Randall Logan Capps, Vice-President, was signed and returned on July 25, 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 October 26, 2000, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Jimmy Craig Porter; President, and Randall Logan Capps; Vice-President.
4. Respondent designated itself to the Commission as the operator of Well Nos. 1 and 2W on the Barbara (20041) Lease ("subject wells"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on November 1, 1997.

5. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on November 1, 2001. Respondent paid a fee of \$100.00 as its Financial Assurance at the time of its last Form P-5 renewal.
6. Commission district office inspections were conducted on January 30, 2003, March 18, 2003 and May 2, 2003 for the Barbara (20041) Lease. Well Nos. 1 and 2W showed that Respondent had caused or allowed several 5 gallon buckets, grease tubes, a 55 gallon drum containing trash, two cement pads, surface piping, bird netting and several pieces of connectors to remain on lease, although subject wells have been plugged and abandoned for more than 120 days. Well Nos. 1 and 2W were plugged and abandoned on May 9, 2000.
7. Commission district office inspections were conducted on January 30, 2003, March 18, 2003 and May 2, 2003 for the Barbara (20041) Lease. Respondent had caused or allowed an unauthorized discharge of oil, affecting an area measuring 35' x 35' with an unknown depth, near the site where the tank battery had been located.
8. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the lease.
9. 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.
10. The Respondent has not demonstrated 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 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 14(d)(12).
4. 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.
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 14(d)(12), which requires an operator within 120 days of plugging a well, to remove all loose junk and trash from the location.
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 2001).

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

1. Cochise Energy, Inc. (163079), shall place the Barbara (20041) Lease, Well Nos. 1 and 2W, Ewalt (Miss.) Field, Throckmorton County, Texas in compliance with applicable Commission rules and regulations; and
2. Cochise Energy, Inc. (163079), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **ONE THOUSAND EIGHT HUNDRED DOLLARS (\$1,800.00)**.

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 13th day of November 2003.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated November 13, 2003)

MT/sa