

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

OIL AND GAS DOCKET NO. 7B-0235233

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY REXCOM, INC. (704231), AS TO THE CLEMMER, A.W. (26746) LEASE, WELL NO. 3, LINDA-LEIGH ANNE (SWASTIKA) FIELD, JONES COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on September 11, 2003, and that the respondent, Rexcom, Inc. (704231), 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. Rexcom, Inc. (704231), ("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 14, 2003. 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 Well No. 3 on the Clemmer, A. W. (26746) Lease ("subject well"/"subject lease") by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on September 1, 1999.
4. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on May 1, 2003. Respondent paid a fee of \$3,125.00 as its Financial Assurance at the time of its last Form P-5 renewal.
5. A Commission district office inspection report and photograph were made on December 17, 2002 of the Clemmer, A.W. (26746) Lease. Well No. 3 was seeping oil and produced water with an affected area of 20' long x 1' to 3' wide. A follow up district office inspection was conducted on February 4, 2003, indicating that Well No. 3 had oil and salt water seeping from around the production casing into an area approximately 10' x 10' with mud to a depth of 1 foot.

6. A Commission district office inspection report for the referenced lease and well together with photographs and a hand drawn map made on March 21, 2003, indicated that the tank battery had an area of fresh oil pollution on the east side of a 500 barrel steel oil tank approximately 60' x 40' and 6" deep. The soil is oil soaked, Well No. 3 continues to seep oil and produced water into an area 10' x 10' x 1 foot deep.
7. A Commission district office inspection was conducted on May 1, 2003, indicating that the pollution at the tank battery had been partially remediated and the pollution at the well was continuing.
8. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject 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 plug or otherwise place the 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 Rule 8(d)(1).
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 all applicable Commission rules and for properly plugging the subject well according to Statewide Rules 14, 58, and 79 and Chapters 89 and 91 of the 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 2001).

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

becomes final:

1. Rexcom, Inc. (704231), shall place the Clemmer, A.W. (26746) Lease, Well No. 3, Linda-Leigh Anne (Swastika) Field, Jones County, Texas in compliance with applicable Commission rules and regulations; and
2. Rexcom, Inc. (704231), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00)**.

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 25th day of November 2003.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated November 25, 2003)

MH/sa