

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
HEARINGS SECTION**

OIL AND GAS DOCKET NO. 7B-0242579

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY WIGINGTON, FLOYD M., SOLE PROPRIETOR, DOC'S TANK TRUCKS (221875), AS TO THE JOHNSTON (23795) LEASE, WELL NO. 1, MEEKER (CONGLOMERATE 4800) FIELD, PARKER COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on August 4, 2005, and that the respondent, Wigington, Floyd M., Sole Proprietor, Doc's Tank Trucks (221875), 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. Wigington, Floyd M., Sole Proprietor, Doc's Tank Trucks (221875), ("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 Opportunity for Hearing mailed to Respondent's most recent P-5 address was signed and returned to the Commission on June 15, 2005. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. Floyd M. Wigington, as sole proprietor, was a person in a position of ownership or control of respondent, as defined by Texas Natural Resources Code Section 91.114, during the time period of the violations of Commission rules committed by respondent.
4. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
5. Respondent designated itself to the Commission as the operator of Well No. 1 on the Johnston (23795) Lease ("subject well"/"subject lease") by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on June 1, 1986.

6. According to Commission records the Respondent's Form P-5 (Organization Report) is active. Respondent has a \$25,000.00 Letter of Credit as its financial assurance.
7. Commission district office inspections were conducted on August 12, 2004, September 13, 2004, October 12, 2004 and January 28, 2005 for the Johnston (23795) Lease. The casing pressure and tubing pressure on Well No. 1 were the same, thus indicating a downhole integrity problem in the well. On September 21, 2004 the Commission notified Respondent of the equal pressure on the casing and tubing and directed Respondent to conduct an H-5 pressure test on the well on or before October 6, 2004. Respondent has failed to conduct the H-5 pressure test.
8. Commission district office inspections were conducted on September 13, 2004, October 12, 2004 and January 28, 2005 for the Johnston (23795) Lease. There was a 30' x 80' area of oil and produced water pollution inside the firewall. A Commission follow up inspection conducted on March 3, 2005 showed the 30' x 80' area of oil and produced water pollution inside the dikes at the tank battery had not been cleaned. Also, there was a 27' x 20' area of oil pollution at the load valve outside the dikes at the tank battery.
9. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
10. 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 or can leach into the ground and percolate through soils into groundwater supplies.
11. Commission district office inspections were conducted on September 13, 2004, October 12, 2004 and January 28, 2005 for the Johnston (23795) Lease. An open pit containing fluids and measuring approximately 30' x 15' was inside the firewall. A March 3, 2005 followup inspection estimated the pit contained approximately twenty barrels of produced water. Commission records reveal that no permit has been issued to Respondent to use and maintain a pit for storage or disposal of oil and gas wastes.
12. Respondent did not have a permit to dispose of or store oilfield fluids or oil and gas wastes in a pit on the subject lease.
13. 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 well. Unplugged well bores constitute a cognizable threat to the public health and safety because of the probability of pollution.
14. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject lease and subject well 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 was in violation of Commission Statewide Rules 8(d)(1), 8(d)(2) and 46(j).
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 Rule 8(d)(2), which prohibits a person from maintaining or using any pit for storage of oilfield fluids without a permit.
6. Respondent is responsible for maintaining the subject lease in compliance with all applicable Commission rules according to Statewide Rules 14, 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).
8. As a person in a position of ownership or control of respondent at the time respondent violated Commission rules related to safety and the control of pollution, Wigington, Floyd M., and any other organization in which he may hold a position of ownership or control, shall be subject to the restrictions of Texas Natural Resource Code Section 91.114(a)(2) for a period of no more than seven years from the date the order entered in this matter becomes final, or until the conditions that constituted the violations herein are corrected or are being corrected in accordance with a schedule to which the Commission and the organization have agreed; and all administrative, civil, and criminal penalties and all cleanup and plugging costs incurred by the State relating to those conditions are paid or are being paid in accordance with a schedule to which the Commission and the organization have agreed, whichever is earlier.

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

1. Wigington, Floyd M., Sole Proprietor, Doc's Tank Trucks (221875), shall place the Johnston (23795) Lease, Well No. 1, Meeker (Conglomerate 4800) Field, Parker County, Texas in compliance with applicable Commission rules and regulations; and
2. Wigington, Floyd M., Sole Proprietor, Doc's Tank Trucks (221875), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SIX THOUSAND ONE HUNDRED DOLLARS (\$6,100.00)**.

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 parties are notified of the order.

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 October 2005.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated October 25, 2005)

ME/sa