

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

OIL AND GAS DOCKET NO. 08-0237499

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY GERALD RAY D/B/A DOS CICADAS, A SOLE PROPRIETORSHIP (224644), AS TO THE WINTERS (26514) LEASE, WELL NO. 1 AND TANK BATTERY, VAN GRIS (WOLFCAMP) FIELD, HOWARD COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on November 18, 2004, and that the respondent, Gerald Ray d/b/a Dos Cicadas, A Sole Proprietorship (224644), 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. Gerald Ray d/b/a Dos Cicadas, A Sole Proprietorship (224644), ("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 Hearing mailed to Respondent's most recent P-5 address was returned to the Commission marked "unclaimed" on October 20, 2004. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. Gerald Ray, 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 and the tank battery on the Winters (26514) Lease ("subject well"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on April 1, 2000.

6. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on December 1, 2004. Respondent had a \$25,000.00 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
7. Well No. 1 on the Winters (26514) Lease is permitted as a salt water disposal well by Permit No. 03325, dated August 2, 1982. A Commission district office inspection conducted on November 13, 2003, indicated that the packer in this disposal well had been set at 3150' - 3433.5', the permitted packer setting should be 6700', produced water had been disposed of in the well when the packer was 3550' too high, and the well was now set up to dispose of water with the packer at 3266.5' too high. A follow up district office inspection conducted on November 14, 2003, indicated that the District inspector that day sealed the well by sealing the main power supply box on the transformer pole with Commission seal #16970 and tagged for easy viewing. A district office inspection conducted on January 6, 2004, indicated that Respondent had caused or allowed the Commission seal to be broken at the power supply box.
8. Commission records reflect that a workover of Well No. 1 was performed by Respondent during September and October 2003. Respondent performed a mechanical integrity (pressure) test on Well No. 1 on November 24, 2003, but the well failed the mechanical integrity test on that date and Respondent has failed to retest the well.
9. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the 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 is in violation of Commission Statewide Rules 9(9)(A) and 9(12)(C)(ii).
4. Respondent is responsible for maintaining the subject lease in compliance with Rule 9(9)(A), which requires that wells drilled or converted for disposal shall be equipped with tubing set on a mechanical packer, packers shall be set no higher than 100' above the top of the permitted interval.
5. Respondent is responsible for maintaining the subject lease in compliance with Rule 9(12)(C)(ii), which requires that in addition each disposal well shall be tested for mechanical integrity after every workover of the well.
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, Gerald Ray, 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. Gerald Ray d/b/a Dos Cicadas, A Sole Proprietorship (224644), shall place the Winters (26514) Lease, Well No. 1 and the Tank Battery, Van Gris (Wolfcamp) Field, Howard County, Texas in compliance with applicable Commission rules and regulations; and
2. Gerald Ray d/b/a Dos Cicadas, A Sole Proprietorship (224644), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FOUR THOUSAND DOLLARS (\$4,000.00)**

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 January 2005.

RAILROAD COMMISSION OF TEXAS

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

ME/sa