

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

OIL AND GAS DOCKET NO. 08-0250764

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY O.G. ELLIOTT CORPORATION (247890), AS TO THE J.B. LECK (15795) LEASE, WELL NO. 2 AND TANK BATTERY, SCARBOROUGH FIELD, WINKLER COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on April 5, 2007, and that the respondent, O.G. Elliott Corporation (247890), 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. O.G. Elliott Corporation (247890), ("Respondent") was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent address for the President 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 the Respondent's, most recent P-5 address was signed and returned to the Commission on March 12, 2007. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On August 8, 2006, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Gene Orville Elliott; President.
4. Gene Orville Elliott, 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.

5. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
6. Respondent designated itself to the Commission as the operator of Well No. 2 and Tank Battery on the J.B. Leck (15795) Lease ("subject well"/"subject lease") by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on September 23, 2005.
7. 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.
8. A Commission district office inspection was conducted on January 16, 2007 for the J.B. Leck (15795) Lease. Respondent had caused or allowed an unauthorized discharge of oil, affecting an area measuring 15' x 15' x 1', from a leak at stuffing box at Well No. 2. This inspection report further indicated that Respondent had caused or allowed an unauthorized discharge of produced water, affecting areas measuring 35' x 12', 80' x 2' and 30' x 20' at the 750 barrel produced water separator (gunbarrel) at the Tank Battery. Chlorides tested at 60,440 ppm at the produced water discharge site.
9. A Commission district office inspection was conducted on January 22, 2007 for the J.B. Leck (15795) Lease. Respondent had caused or allowed the previous unauthorized discharge of produced water from the gunbarrel to migrate downhill 40 yards (soil saturation 25' x 225' x 1") to an unlined, unpermitted pit at the Tank Battery. This inspection report further indicated that Respondent had caused or allowed an unauthorized discharge of oil, affecting an area measuring 40' x 130', at the 210 barrel production tank at the Tank Battery and no remediation of previous discharge sites.
10. A Commission district office inspection report dated February 5, 2007, for the J.B. Leck (15795) Lease, indicated some remediation of produced water at the leaking gunbarrel, some remediation of oil at the production tank, and no remediation at Well No. 2.
11. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.
12. 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.
13. A Commission district office inspection report was conducted on January 22, 2007 for the J.B. Leck (15795) Lease. Respondent had been using and maintaining an unauthorized unlined pit, measuring 15' x 40' x 2', at the Tank Battery. Followup district inspection reports dated January 23, 2007 and February 5, 2007, for the Tank Battery, indicated that some remediation of the pit had been done.
14. 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.

15. On or before January 20 and 21, 2007 Respondent constructed an unauthorized and unpermitted pit to facilitate the illegal dumping of oil and gas wastes from the gunbarrel vessel. Respondent was advised by the Commission to immediately cease the unauthorized discharge of oil and gas wastes and properly close the unpermitted pit.
16. On January 22, 2007 Commission personnel witnessed backfilling operations of the unpermitted pit which were commenced without first removing all oil and gas wastes in the form of produced fluids from the pit. The backfilling of the pit before removal of all oil and gas wastes in the form of produced fluids caused additional pollution through the discharge of the oil and gas wastes into a new area.
17. By backfilling the above-mentioned unpermitted pit without first emptying it of all oil and gas wastes in the form of produced fluids as required under Statewide Rule 8, respondent acted recklessly and with conscious indifference to the impact of its actions as it was aware that the failure to remove any produced fluids from the pit prior to backfilling would result in the unauthorized discharge of the fluids in further violation of Commission rules and the Texas Natural Resources Code.
18. The Respondent did not demonstrate 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.
19. The J.B. Leck (15795) Lease was in violation of Commission rules from January 15, 2007 until March 30, 2007.
20. The Commission spent State Funds in the amount of \$14,046.40, cleaning up the J.B. Leck (15795) Lease.

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) and 8(d)(2).
4. Respondent was responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(1), which prohibits the discharge of oil and gas wastes without a permit.
5. Respondent was responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(2), which prohibits a person from maintaining or using any pit for storage of oilfield fluids without a permit.

6. Respondent was 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. Respondent engaged in conduct which was reckless and in conscious indifference to the impact of its actions as it was aware that the failure to remove any oil and gas wastes in the form of produced fluids from the pit prior to backfilling would result in the further unauthorized discharge of oil and gas wastes in the form of produced fluids in violation of Commission rules and 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).
9. 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, Gene Orville Elliott, 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. O.G. Elliott Corporation (247890), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TEN THOUSAND FIVE HUNDRED FIFTY DOLLARS (\$10,550.00)**.

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 17th day of July 2007.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated July 17, 2007)

MH/sa