

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

**OIL AND GAS DOCKET NO. 8A-0220019**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY BIOWASH SYSTEMS, INC. (071339), AS TO THE HUISE RECLAMATION PLANT (PERMIT NO. 8A-0286), ANTON, WEST FIELD, HOCKLEY COUNTY, TEXAS**

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**FINAL ORDER**

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on February 28, 2000 and that the respondent, Biowash Systems, inc. (071339), 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. Biowash Systems, Inc. (071339), ("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) address, which was returned to the Commission marked "forwarding order expired."
2. The returned certified receipt containing the Original Complaint and the Notice of Hearing Opportunity, was returned to the Commission marked "forwarding order expired" on January 18, 2000. 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 October 9, 1995, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individuals: Scott Duplay Eckert; President; Tyrone Stewart Boykins; Vice-President and Jeff Dale; Vice-President.
4. Respondent designated itself to the Commission as the operator of Huise Reclamation Plant by filing an application for a permit to operate a reclamation plant (Form R-9), which was issued on October 5, 1995. The facility consists of three 500 barrel tanks, one 210 barrel tank and a treater heater.

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5. A Commission district office inspection was conducted on March 18, 1996 for the Huise Reclamation Plant (Permit No. 8A-0286) Lease. Respondent has caused or allowed the discharge of basic sediment and water from the west tank at the facility, affecting an area measuring 2' x 8'.
6. A Commission district office inspection on July 18, 1997 indicated that a discharge of oil and gas wastes from a 500 barrel tank described as the west tank, was affecting an area measuring 15' x 50'.
7. A Commission district office inspection conducted on August 11, 1997, indicated that a discharge of oil and gas wastes from all four of the tanks located at the facility, and the leak at the west tank had saturated the soil in an area measuring 15' x 50' with oil. The facility was also abandoned.
8. A Commission inspection report conducted on September 4, 1997, indicated that there were discharges of oil and gas wastes from two 500 barrel tanks, which were seeping or leaking fluids from holes near the base of the tanks. A 4" x 6" hole was found in what was described as Tank No. 3. Photographs of the discharges and affected areas were taken during this inspection.
9. Commission district office inspections were conducted on December 8, 1997, December 11, 1997 and April 7, 1998, indicating that a discharge of oil and gas wastes, was affecting an area measuring 2' x 2'.
10. A Commission district office inspection report conducted on May 29, 1998 indicated the following discharges: leaks from the west tank had affected an area measuring 12' x 12' x 1" with oil, produced water and basic sediment and one barrel of standing oil and water was observed southwest of the tank; at the northwest side of the tank an area measuring 12' x 9' x 1" contained oil and water with one barrel of standing oil and water; at the third tank, by the 4" valve, a discharge resulted in an oil-soaked area measuring 3' x 2' x 1" as well as a seep of oil resulting in a 2' x 2' x 1" of oil-soaked soil. Photographs were taken of the discharges and affected areas during this inspection.
11. A Commission district office inspection conducted on July 13, 1998 indicated that although some cleanup had occurred north of the 4" valve, discharged oil had soaked an area measuring 4' x 2' x 1", and in front of the tank an oil soaked area measured 2' x 1' x 1". Photographs of the cited discharges were taken during this inspection.
12. Commission district office inspections conducted on September 21, 1998, December 11, 1998 and April 14, 1999 indicated continued effects of discharges affecting areas measuring 4' x 2' x 1", 2' x 1' x 1" and 4' x 1' x 1". No standing fluids were noted since the oil and water had soaked into the ground.
13. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
14. The unpermitted discharges of oil and gas wastes or other substances or materials on the

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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.

15. The respondent did not demonstrate good faith since it failed to place the subject reclamation plant 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 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 reclamation plant in compliance with all applicable Statutes and Commission rules, specifically Statewide Rules 8, 14, 58, and 79 and Chapters 89 and 91, 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 1993).

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

1. Biowash Systems, Inc. (071339), shall place in compliance the Huise Reclamation Plant (Permit No. 8A-0286), Anton, West Field, Hockley County, Texas in compliance with applicable Commission rules and regulations; and
2. Biowash Systems, Inc. (071339), 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

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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 2nd day of May, 2000.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated May 2, 2000)

MFE/sa