

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

OIL AND GAS DOCKET NO. 8A-0222091

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY JIMMIE J. KEY, SOLE PROPRIETOR, KEY, J.J. (458655), AS TO THE SMITH, C.J. (61516) LEASE, WELL NOS. 1W AND 2, VAREL (GLORIETA) FIELD, THE SHANNON, M.A. (61010) LEASE, WELL NOS. 1, 3, 4 AND 4B, REVILO (GLORIETA) FIELD, AND THE JOYCE, ET AL (62900) LEASE, WELL NO. 3, TONTO (CANYON SAND) FIELD, SCURRY COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on March 20, 2000 and that the respondent, Jimmie J. Key, Sole Proprietor, Key, J.J. (458655), 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. Jimmie J. Key , Sole Proprietor, Key, J.J. (458655), ("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 "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 February 22, 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. Respondent designated itself to the Commission as the operator of Well Nos. 1W and 2 on the Smith, C.J. (61516) Lease, Well Nos. 1, 3, 4 and 4B on the Shannon, M.A. (61010) Lease and Well No. 3 on the Joyce, Et Al (62900) Lease ("subject wells"/"subject leases") by filing Form P-4's (Producer's Transportation Authority and Certificate of Compliance), effective on May 1, 1983 for the Smith, C.J. (61516) Lease, Well Nos. 1W and 2, December 1, 1988 for the Shannon, M.A. (61010) Lease, Well Nos. 1, 3 4 and 4B and April 1, 1989 for the Joyce, Et Al (62900) Lease, Well No. 3.
4. The subject wells have been dry or inactive for a period in excess of one year. Commission

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inspection and/or production reports indicate that the subject wells ceased production on or before January 31, 1998 for Well No. 2 and injection into Well No. 1W ceased on or before June 30, 1996 on the Smith, C.J. (61516) Lease, January 31, 1998 for Well Nos. 1, 3 and 4, and injection into Well No. 4B ceased on or before June 30, 1996 on the Shannon, M.A. (61010) Lease and January 1, 1993 for Well No. 3 on the Joyce, Et Al (62900) Lease.

5. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
6. Usable quality water in the area is likely to be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject wells. Unplugged wellbores constitute a cognizable threat to public health and safety because of the probability of pollution.
7. The estimated cost to the State of plugging the subject wells is \$23,000.00 for Well Nos. 1W and 2 on the Smith, C.J. (61516) Lease, \$46,000.00 for Well Nos. 1, 3, 4 and 4B on the Shannon, M.A. (61010) Lease and 11,500.00 for Well No. 3 on the Joyce, Et Al (62900) Lease.
8. Commission district office inspections were conducted on July 1, 1997, August 6, 1997, September 8, 1997, November 5, 1997, January 26, 1998, March 26, 1998, May 19, 1998, September 23, 1998, November 5, 1998, January 6, 1999 and May 10, 1999 for the Smith, C.J. (61516) Lease. An oil spray from an undetermined source affected an area measuring approximately 50' in diameter near the tank battery and spreading down the lease road affecting an area measuring approximately 2' x 200 yards. on June 25, 1999 a follow up inspection was conducted indicating that a tank overflowed increasing the affected area at the tank battery to approximately 60' x 8' and the area at the lease road increased in size to approximately 4' x 600'.
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. The Commission spent a total of \$415.50 in State Funds cleaning up the Smith, C.J. (61516) Lease on or about June 25, 1999.
12. The respondent did not demonstrate good faith since it failed to plug or otherwise place the subject wells and subject leases in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
13. The Respondent has a prior history of Commission rule violations including the following docket(s):

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Docket No. 8A-0219699; Rules 8, 9 & 14; Final Order Served: January 29, 1999;
Docket No. 8A-0220657; Rules 8 & 14; Final Order Served: July 16, 1999.

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 Rules 8(d)(1) and 14(b)(2).
4. Respondent was 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 wells and the subject leases in compliance with all applicable Statutes and Commission rules, specifically Statewide Rules 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. Jimmie J. Key, Sole Proprietor, Key, J.J. (458655), shall plug or otherwise lace in compliance the Smith, C.J. (61516) Lease, Well Nos. 1W and 2, Varel (Glorieta) Field, the Shannon, M.A. (61010) Lease, Well Nos. 1, 3, 4 and 4B, Revilo (Glorieta) Field, and shall plug the Joyce, Et Al (62900) Lease, Well No. 3, Tonto (Canyon Sand) Field, Scurry County, Texas in compliance with applicable Commission rules and regulations; and
2. Jimmie J. Key, Sole Proprietor, Key, J.J. (458655), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **EIGHTEEN THOUSAND FIVE HUNDRED DOLLARS (\$18,500.00)** and **REIMBURSE** State Funds in the amount of **FOUR HUNDRED FIFTEEN DOLLARS AND FIFTY CENTS (\$415.50)**.

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.

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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 23rd day of May, 2000.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated May 23, 2000)

MFK/sa