

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

OIL AND GAS DOCKET NO. 09-0232598

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY AMERICAN WEST RESOURCES, INC. (019739), AS TO THE DAISY SLOPANSKY (00142) LEASE, WELL NOS. 6, 34, 28, 38 AND 48, ARCHER COUNTY REGULAR FIELD, ARCHER COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on May 22, 2003, and that the respondent, American West Resources Inc. (019739), 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. American West Resources, Inc. (019739), ("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 was returned to the Commission marked "unclaimed" on May 14, 2003. The receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On September 8, 2000, Respondent, a Corporation, filed with the Commission an Organization Report (Form P-5) reporting that its officers consisted of the following individual(s): Alan Stricklin; President and Clovis H. Stricklin; Vice-President.
4. Respondent designated itself to the Commission as the operator of Well Nos. 6, 34, 28, 38 and 48 on the Daisy Slopansky (00142) Lease ("subject wells"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on August 1, 2000.
5. According to Commission records the Respondent's Form P-5 (Organization Report)

became delinquent on August 1, 2001. Respondent paid a fee of \$1,500.00 as its financial assurance at the time of its last Form P-5 renewal.

6. Commission district inspections were conducted on January 2, 2002, February 13, 2002, March 11, 2002 and July 12, 2002 for the Daisy Slopansky (00142) Lease. At Well No. 28, Respondent had caused or allowed oil to leak from around the base of the wellhead and drain into the workover pit which was estimated to be approximately 15 to 20 gallons on January 1, 2002 and increased to approximately 1 barrel by February 13, 2002.
7. Commission district office inspections were conducted on February 13, 2002 for the Daisy Slopansky (00142) Lease. At Well No. 34, Respondent had caused or allowed oil to leak from the base of the wellhead affecting an area of ground measuring approximately 2' x 9' with 1/4" of standing oil. A follow up inspection report made on March 11, 2002 showed that oil continued to leak from the base of the wellhead, now affecting an area of ground measuring approximately 21' x 21' x 1" to 3" of oil and water (tested at 82,000 ppm). A follow up inspection report made on July 12, 2002 indicated that there was standing oil and water around the wellhead affecting an area of ground measuring approximately 4' x 4' with approximately 1' x 2' of standing oil and water.
8. A Commission district office inspection was conducted on March 11, 2002 indicating that at Well No. 48, Respondent had caused or allowed oil to leak from the wellhead affecting an area of ground measuring approximately 2' x 6' with standing oil in cow tracks.
9. No permit has been issued to the 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, leaching into the ground, and percolation through soils into groundwater supplies.
11. Commission district office inspections were conducted on January 2, 2002 for the Daisy Slopansky (00142) Lease. At Well No. 28, Respondent, had caused or allowed a workover pit measuring approximately 8' x 12' x 4' containing 15 to 20 gallons of oil to remain open. At Well No. 6, Respondent, had caused or allowed a dry workover pit measuring approximately 8' x 15' x 5' to remain open and at Well No. 38, Respondent had caused or allowed a dry workover pit measuring approximately 8' x 12' x 5' to remain open. Also, at Well No. 48, Respondent had caused or allowed a workover pit measuring approximately 8' x 15' x 5' containing several inches of water to remain open.
12. Commission district office inspections were conducted on February 13, 2002, March 11, 2002 and July 12, 2002 for the Daisy Slopansky (00142) Lease. The workover pit at Well No. 28 remained open and contained approximately 1 barrel of oil. The inspection reports also indicated that the dry workover pit at Well No. 6 remained open. The inspection reports further indicated that the dry workover pit at Well No. 38 remained open. The inspection reports also indicated that the workover pit containing several inches of rainwater at Well No. 48 remained open.
13. Unfilled pits constitute a hazard to public health and safety because of the potential for

OIL AND GAS DOCKET NO. 09-0232598

illegal dumping in the pits and the potential for surface run-off to collect in the pit and seep into subsurface waters.

14. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject lease and the subject wells in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
15. The Commission spent a total of \$1,344.50 in State Funds to abate the pollution caused by Respondent on the subject 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 is in violation of Commission Statewide Rules 8(d)(1) and 8(d)(4)(G)(i)(III).
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)(4)(G)(i)(III), which requires workover pits to be dewatered, filled and compacted within 120 days from completion of workover operations.
6. Respondent is responsible for maintaining the subject lease in compliance with all applicable Commission rules and for properly plugging the subject wells 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. The Commission is entitled to recover from Respondent a total of \$1,344.50 in State Funds used to abate pollution on the subject lease pursuant to TEX. NAT. RES. CODE §91.113(f)

OIL AND GAS DOCKET NO. 09-0232598

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

1. American West Resources, Inc. (019739), shall place the Daisy Slopansky (00142) Lease, Well Nos. 6, 34, 28, 38 and 48, Archer County Regular Field, Archer County, Texas in compliance with applicable Commission rules and regulations; and
2. American West Resources, Inc. (019739), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FOUR THOUSAND NINE HUNDRED DOLLARS (\$4,900.00)** and **REIMBURSE** State Funds in the amount of **ONE THOUSAND THREE HUNDRED FORTY FOUR DOLLARS (\$1,344.00)**.

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 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 19th day of August 2003.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated August 19, 2003)

MT/sa