

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

OIL AND GAS DOCKET NO. 09-0234257

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY JIMS TANK TRUCKS, INC. (432945), AS TO THE PEDEN (21693) LEASE, WELL NO. 1, CLAY COUNTY REGULAR FIELD, CLAY COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on August 14, 2003, and that the respondent, Jims Tank Trucks, Inc. (432945), 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. Jims Tank Trucks, Inc. (432945), ("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 "return to sender, moved left no address."
2. The returned certified receipt containing the Original Complaint and the Notice of Hearing was returned to the Commission marked "return to sender, moved left no address" on July 16, 2003. The returned certified receipt (green card) that was attached to the Notice of Hearing, sent to the President; Rickie Glenn Bagwill, was signed and returned to the Commission on July 23, 2003. The certified receipts have been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On July 2, 2001, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Rickie Glenn Bagwill; President.
4. Respondent designated itself to the Commission as the operator of Well No. 1 on the Peden (21693) Lease ("subject well"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on August 1, 1995.
5. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on June 1, 2002. Respondent paid a fee of \$100.00 as its Financial Assurance at the time of its last Form P-5 renewal.

6. The subject well ceased production on or before June 30, 2001.
7. The subject well has not been properly plugged in accordance with, and is not otherwise in compliance with, Statewide Rule 14.
8. Usable quality groundwater in the area is likely to be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject well. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
9. The estimated cost to the State of plugging the subject well is \$8,000.00.
10. Commission district office inspections were conducted on October 11, 2002, November 22, 2002, January 2, 2003, January 30, 2003 and April 23, 2003 for the Peden (21693) Lease. The signs or identification required to be posted at the lease entrance, at Well No. 1 and at the tank battery were missing.
11. A Commission district office inspection was conducted on October 11, 2002 for the Peden (21693) Lease. Respondent had caused or allowed an unauthorized discharge of fluids, affecting an area measuring 35' x 35' x 2" - 8", in the east end inside the northern firewall, with free standing fluid and skim of oil on top of fluid. This inspection report further indicated oil-stained soil scattered throughout the inside of this firewall, in amounts undetermined.
12. A Commission district office inspection was conducted on November 22, 2002 for the Peden (21693) Lease. Respondent had caused or allowed an unauthorized discharge of free standing fluids affecting an area measuring 5' x 5' x 4" in the southeast corner inside the northern firewall.
13. A Commission district office inspection was conducted on January 2, 2003 for the Peden (21693) Lease. Respondent had caused or allowed an unauthorized discharge of free standing fluids affecting an area measuring 20' x 20' x 1" - 6" in the east end of the northern firewall.
14. A Commission district office inspection was conducted on January 30, 2003 for the Peden (21693) Lease. Respondent had caused or allowed an unauthorized discharge of free standing fluids affecting as area measuring 4' x 4' x 4" in the southeast corner of the northern firewall.
15. A Commission district office inspection was conducted on April 23, 2003 for the subject lease indicating that there was no remediation at any of the discharge sites.
16. No permit has been issued to the Respondent for the discharge of oil and gas wastes from the subject lease.
17. 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.
18. Commission district office inspections were conducted on October 11, 2002, November 22, 2002, January 2, 2003, January 30, 2003 and April 23, 2003 for the Peden (21693) Lease.

Respondent had caused or allowed an earthen workover pit located on the north side of Well No. 1 to remain open although Well No. 1 has been inactive since June 30, 2001. This open pit measures 25' x 9' x 6' and is dry.

19. Unfilled pits constitute a to public health and safety because of the potential for illegal dumping in the pits and the potential for surface run-off to collect in the pit and seep into subsurface waters.
20. Well No. 1 on the Peden (21693) Lease is permitted as a disposal well by Permit No. 02769, dated November 23, 1983. A Commission district inspection report dated February 7, 2002 indicated that the packer in this disposal well was set at 346 feet. Commission records indicate that the permitted disposal zone for this well is from 1013 feet to 1040 feet. Therefore, the packer must be set no more than 100 feet above the top of the permitted interval of 1013 feet.
21. Commission district office inspections were conducted on November 22, 2002, January 2, 2003, January 30, 2003 and April 23, 2003 for the Peden (21693) Lease. Well No. 1 has pressure in the tubing/production casing annulus. The operator failed to report the pressure data to the district office and failed to take any corrective measures to repair the wellbore.
22. Disposal Well Permit No. 02769, dated November 23, 1983, for Well No. 1, on the Peden (21693) Lease, requires that an annual annulus pressure test must be performed on the well. Commission records indicate that Well No. 1 was successfully tested on July 21, 2000. Commission records reflect that Respondent conducted the H-5 pressure test on October 19, 2001 and Well No. 1 failed that test. Respondent unsuccessfully retested the well on November 9, 2001. Commission records fail to reveal any further testing of Well No. 1 by Respondent.
23. 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 3(a), 8(d)(1), 8(d)(4)(G)(i)(III), 9(9)(A), 9(11)(D), 9(12)(C)(iii) and 14(b)(2).
4. Respondent is responsible for maintaining the subject lease in compliance with Rule 3(a), which requires that each property that produces oil, gas or geothermal resources and each oil, gas or geothermal resource well and tank, or other approved crude oil measuring facility shall post signs or identification.
5. 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.

6. 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.
7. 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 feet above the top of the permitted interval.
8. Respondent is responsible for maintaining the subject lease in compliance with Rule 9(11)(D), which requires that the operator shall report to the appropriate District Office within 24 hours any significant pressure changes or other monitoring data indicating the presence of leaks in the well.
9. Respondent is responsible for maintaining the subject lease in compliance with Rule 9(12)(C)(iii), requires that a disposal well that is completed without surface casing set and cemented through the entire interval of protected usable quality ground water shall be tested at the frequency prescribed in the disposal well permit.
10. Respondent is responsible for maintaining the subject lease in compliance with all applicable Commission rules and for properly plugging the subject well according to Statewide Rules 14, 58, and 79 and Chapters 89 and 91 of the Texas Natural Resources Code.
11. 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).

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

1. Jims Tank Trucks, Inc. (432945), shall plug or otherwise place the Peden (21693) Lease, Well No. 1, Clay County Regular Field, Clay County, Texas in compliance with applicable Commission rules and regulations; and
2. Jims Tank Trucks, Inc. (432945), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **EIGHT THOUSAND SIX HUNDRED FIFTY DOLLARS (\$8,650.00)**.

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 7th day of October 2003.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated October 7, 2003)

MH/sa