

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

OIL AND GAS DOCKET NO. 09-0234734

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY KENNETH R. WESTBROOK D/B/A K&J OIL & GAS (448730), AS TO THE UNIT #1 (02375) LEASE, WELL NOS. 2, 3 AND 4, KIMBELL-SIMS (SHARELENE SAND) FIELD, COOKE COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on September 11, 2003, and that the respondent, Kenneth R. Westbrook d/b/a K&J Oil & Gas (448730), 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. Kenneth R. Westbrook d/b/a K&J Oil & Gas (448730), ("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 August 15, 2003. 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. 2, 3 and 4 on the Unit #1 (02375) Lease ("subject wells"/"subject lease") by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on March 1, 1996.
4. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on January 1, 2002. Respondent paid a fee of \$100.00 as its Financial Assurance at the time of its last Form P-5 renewal.
5. The subject wells ceased production on or before August 31, 2001.
6. The subject wells have not properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.

7. 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 wells. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
8. The estimated cost to the State of plugging the subject wells is \$11,400.00.
9. The Respondent has not demonstrated good faith since it failed to plug or otherwise place 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.

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 Rule 14(b)(2).
4. 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.
5. 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. Kenneth R. Westbrook d/b/a K&J Oil & Gas (448730), shall plug or otherwise place the Unit #1 (02375) Lease, Well Nos. 2, 3 and 4, Kimbell-Sims (Sharelene Sand) Field, Cooke County, Texas in compliance with applicable Commission rules and regulations; and
2. Kenneth R. Westbrook d/b/a K&J Oil & Gas (448730), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SIX THOUSAND DOLLARS (\$6,000.00)**.

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 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 25th day of November 2003.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated November 25, 2003)

MH/sa