

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

**OIL AND GAS DOCKET NO. 09-0236203**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY FMW CO., A PARTNERSHIP (274949), AS TO THE W.A. RUSHING (07113) LEASE, WELL NOS. 2, 3, 4, 8, 9, 10, 11, 12B, 14 AND 14WS, YOUNG COUNTY REGULAR FIELD, YOUNG 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 November 20, 2003, and that the respondent, FMW Co., A Partnership (274949), 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. FMW Co., A Partnership (274949), ("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 signed and returned to the Commission.
2. The returned certified receipt (green card) that was attached to the Original Complaint and the Notice of Hearing was signed and returned to the Commission on October 31, 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, 4, 8, 9, 10, 11, 12B, 14 and 14WS on the W.A. Rushing (07113) Lease ("subject wells"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on November 1, 1998.
4. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on January 1, 1999. Respondent paid a fee of \$100.00 as its Financial Assurance at the time of its last Form P-5 renewal.
5. Well Nos. 2, 3, 4, 8, 9, 10, 11 and 12B ceased production on or before April 30, 1998. Well Nos. 14 and 14WS ceased injection on or before October 31, 1994.

6. The subject wells have not been 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 \$16,000.00.
9. Commission district office inspections were conducted on October 14, 2002, November 18, 2002, January 3, 2003 and May 19, 2003 for the W.A. Rushing (07113) Lease. The signs or identification required to be posted at the lease entrance, tank battery and Well Nos. 3, 4, 9, 10, 11, 12B, 14 and 14WS were missing. The signs or identification required to be posted at Well Nos. 2 and 8 displayed incorrect information.
10. Failure to properly identify a well by the posting of the sign required by Statewide Rule 3 has the potential for causing confusion and delay in remedying a violation or emergency and poses a threat to the public health and safety.
11. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject lease and 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 Rules 3(a) 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 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.
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 2001).

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

1. FMW Co., A Partnership (274949), shall plug the W.A. Rushing (07113) Lease, Well Nos. 2, 3, 4, 8, 9, 10, 11, 12B, 14 and 14WS, Young County Regular Field, Young County, Texas in compliance with applicable Commission rules and regulations; and
2. FMW Co., A Partnership (274949), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWENTY THREE THOUSAND DOLLARS (\$23,000.00)**.

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 23rd day of January 2004.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated January 23, 2004)

SP/sa