

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
HEARINGS SECTION**

OIL AND GAS DOCKET NO. 09-0250732

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY SADDLE CREEK ENERGY DEVELOPMENT (743065), AS TO THE WILSON LEASE, WELL NO. 1 (628399), EAST NEWARK (BARNETT SHALE) FIELD, WISE COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on July 12, 2007, and that the respondent, Saddle Creek Energy Development (743065), 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. Saddle Creek Energy Development (743065), ("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 mailed to Respondent's most recent P-5 address was signed and returned to the Commission on April 12, 2007. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. Charles Chandler Davis, was a person in a position of ownership or control of respondent, as defined by Texas Natural Resources Code Section 91.114, during the time period of the violations of Commission rules committed by respondent.
4. Alan Osenbaugh, was a person in a position of ownership or control of respondent, as defined by Texas Natural Resources Code Section 91.114, during the time period of the violations of Commission rules committed by respondent.
5. The violations of Commission rules committed by respondent are related to safety and the control of pollution.

6. Respondent designated itself to the Commission as the operator of Well No. 1 (628399) on the Wilson Lease (“subject well”/“subject lease”) by filing a Form W-1 (Application to Drill, Deepen, Plug Back or Re-Enter) with the Commission on November 1, 2006.
7. According to Commission records the Respondent’s Form P-5 (Organization Report) is delinquent. Respondent had a \$25,000 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
8. A Commission District inspection report dated December 30, 2006 for the Wilson Lease, Well No. 1 (628399), indicated that Respondent had caused or allowed an unauthorized discharge of drilling fluids, affecting an unknown area, from a 100' x 60' x 5' drilling pit whose bank had not washed out, allowing drilling fluids to migrate into a creek. A followup District inspection report dated January 2, 2007, for the lease and well, indicated that drilling fluids had migrated 3700' into Denton Creek and that Respondent had failed to initiate any cleanup of the site. A followup inspection report dated January 3, 2007, indicated that although Respondent had patched the west wall of the pit, no cleanup of the discharge in the creek had commenced. The inspector reported 400 ppm chlorides at the discharge site.
9. A Commission District inspection report dated January 4, 2007, for the subject lease, indicated that Respondent had a dozer service emptying the drilling reserve pit, but that Respondent had failed to begin any cleanup of the discharge in the creek. The inspector reported 500 ppm chlorides at the site. A followup District inspection report dated January 9, 2007, indicated that Respondent had begun cleanup of the discharge in the creek. Followup District inspection reports dated January 10 and January 11, 2007, indicated no ongoing cleanup.
10. A Commission District inspection report dated January 12, 2007, for the subject lease, indicated no ongoing cleanup, and further indicated, that the pit had not been emptied. The inspector also indicated that an area approximately 900' in length at the north end of Denton Creek had not been cleaned, an area approximately 180' south of the pit in the creek had not been cleaned, and an area approximately 120' x 40' between the pit and the creek had not been cleaned. Followup District inspection reports dated January 15 and January 16, 2007, indicated no ongoing cleanup.
11. A Commission District inspection report dated January 18, 2007, for the subject lease, indicated that Respondent’s dozer service was washing down a portion of the creek bed with fresh water. A followup District inspection report dated January 19, 2007, indicated no ongoing cleanup. Commission District inspection reports dated January 19, 2007, January 23, 2007, January 24, 2007, January 25, 2007, January 26, 2007, January 29, 2007, January 30, 2007, January 31, 2007, February 1, 2007 and February 5, 2007, indicated sporadic cleanup by Respondent. A Commission District inspection report dated February 7, 2007, indicated that Respondent had removed all drilling mud from the creek.
12. No permit was issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.

13. 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.
14. Respondent was notified by the Commission District office inspector by phone on several occasions between December 30, 2007 and January 8, 2007, advising him of the situation. Since Respondent failed to exhibit the urgency or need to clean up the spill during telephone conversations, a reckless enhancement has been recommended.
15. The Respondent did not demonstrate good faith since it failed to place the subject lease and 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 was in violation of Commission Statewide Rule 8(d)(1).
4. Respondent is responsible for maintaining the subject lease and well in compliance with all applicable Commission rules according to Statewide Rules 8, 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).
6. As a person in a position of ownership or control of respondent at the time respondent violated Commission rules related to safety and the control of pollution, Charles Chandler Davis, and any other organization in which he may hold a position of ownership or control, shall be subject to the restrictions of Texas Natural Resource Code Section 91.114(a)(2) for a period of no more than seven years from the date the order entered in this matter becomes final, or until the conditions that constituted the violations herein are corrected or are being corrected in accordance with a schedule to which the Commission and the organization have agreed; and all administrative, civil, and criminal penalties and all cleanup and plugging costs incurred by the State relating to those conditions are paid or are being paid in accordance with a schedule to which the Commission and the organization have agreed, whichever is earlier.

7. As a person in a position of ownership or control of respondent at the time respondent violated Commission rules related to safety and the control of pollution, Alan Osenbaugh, and any other organization in which he may hold a position of ownership or control, shall be subject to the restrictions of Texas Natural Resource Code Section 91.114(a)(2) for a period of no more than seven years from the date the order entered in this matter becomes final, or until the conditions that constituted the violations herein are corrected or are being corrected in accordance with a schedule to which the Commission and the organization have agreed; and all administrative, civil, and criminal penalties and all cleanup and plugging costs incurred by the State relating to those conditions are paid or are being paid in accordance with a schedule to which the Commission and the organization have agreed, whichever is earlier.

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

1. Saddle Creek Energy Development (743065), shall assess to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWENTY THREE THOUSAND FOUR HUNDRED DOLLARS (\$23,400.00)**.

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 parties are notified of the order.

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 11th day of September 2007.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated September 11, 2007)

ME/sa