

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

OIL AND GAS DOCKET NO. 09-0260378

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY HARDROCK OPERATING COMPANY, INC. (356779), AS TO THE A.C. CASEY (15263) LEASE, WELL NO. 1A, AND THE VIOLA (23382) LEASE, WELL NOS. 5, 6 AND 13, YOUNG COUNTY REGULAR FIELD, YOUNG COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on March 5, 2009, and that the respondent, Hardrock Operating Company, Inc. (356779), failed to appear or respond to the Notice of Opportunity for Hearing. 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. Hardrock Operating Company, Inc. (356779), ("Respondent"), was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent Form P-5 (Organization Report) address, 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 Opportunity for Hearing, was signed and returned to the Commission on January 30, 2009. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On March 14, 2008, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Saul Ortega, Jr.; President.
4. Saul Ortega, Jr., 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.1A on the A.C. Casey (15263) Lease and Well Nos. 5, 6 and 13 on the Viola (23382) Lease ("subject wells"/"subject leases") by filing Form P-4's (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on May 1, 2004.
7. Respondent's P-5 (Organization Report) is active. Respondent has a \$50,000.00 Letter of Credit as its financial assurance.
8. A Commission District inspection was conducted on October 10, 2008 for the Viola (23382) Lease. The sign or identification required to be posted at the Well No. 5 displayed incorrect information.
9. 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.
10. Well No. 1A on the A.C. Casey (15263) Lease ceased production on or before April 30, 2007.
11. Well Nos. 5, 6 and 13 on the Viola (23382) Lease ceased production on or before April 30, 2007.
12. The Statewide 14(b)(2) plugging extension for the Well No. 1A on the A.C. Casey (15263) Lease was denied on August 11, 2007 for failure to file an H-15.
13. The Statewide 14(b)(2) plugging extensions for the Well Nos. 5, 6 and 13 on the Viola (23382) Lease were denied on June 21, 2005 due to other well violations.
14. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with Statewide Rule 14.
15. Usable quality groundwater 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 potential for pollution.
16. The estimated cost to the State of plugging Well No. 1A on the A.C. Casey (15263) Lease is \$2,700.00.
17. The estimated cost to the State of plugging Well Nos. 5, 6 and 13 on the Viola (23382) Lease is \$8,100.00.
18. Commission records indicate that no Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the A.C. Casey (15263) Lease, Well No. 1A. Commission records further show that the A.C. Casey (15263) Lease, Well No. 1A was completed on February 1, 1981, that an H-15 test was due in May 2007, and that the well has not been plugged.

19. The Viola (23382) Lease, Well Nos. 5 and 6 were permitted as secondary recovery injection wells on May 9, 1985 (Permit No. 10281). A Commission District inspection was conducted on October 24, 2008 for the Viola (23382) Lease, indicating that Well No. 5 was not equipped for injection activity or production, and Well No. 6 was equipped for injection and connected to the injection line with the valve closed. Commission records indicate the most recent Commission Form H-5 (Mechanical Integrity Test) for the subject wells was performed on April 7, 2003, that an H-5 test was due July 30, 2008, and that the wells have not been tested.
20. Injection wells must pass a pressure test once every five years or with the frequency required by the wells permit to show that the well is not leaking, that waste is being confined to the permitted injection interval, and that useable quality water zones are properly isolated. Any injection of fluid down a wellbore could be a potential source of pollution. Without testing and supporting documentation, the Commission cannot determine if a well poses a threat to natural resources.
21. The Respondent has not demonstrated good faith since it failed to timely plug or otherwise place the subject leases 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.
22. Respondent has a prior history of Commission rule violations including the following docket(s):

09-0248905 and 09-0251221; Agreed Orders Served.

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, 14(b)(2), 14(b)(3) and 46(j).
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3, 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 Statewide Rule 14(b)(3), which requires that the operator of any well more than 25 years old that becomes inactive shall plug or test such well to determine whether the well poses a potential threat of harm to natural resources, including surface and subsurface water, oil and gas.

6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 46(j), which requires that the mechanical integrity of an injection well shall be evaluated by conducting pressure tests to determine whether the well tubing, packer, or casing have sufficient mechanical integrity to meet performance standards.
7. Respondent is responsible for maintaining the subject leases and subject wells in compliance with all applicable Commission rules according to Statewide Rules 14, 58, and 79 and Chapters 89 and 91 of the Texas Natural Resources Code.
8. 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).
9. 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, Saul Ortega, Jr., 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. Hardrock Operating Company, Inc. (356779), shall plug or otherwise place the A.C. Casey (15263) Lease, Well No. 1A, and the Viola (23382) Lease, Well Nos. 5, 6 and 13, Young County Regular Field, Young County, Texas in compliance with applicable Commission rules and regulations; and
2. Hardrock Operating Company, Inc. (356779), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FOURTEEN THOUSAND TWO HUNDRED FIFTY DOLLARS (\$14,250.00)**.

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 28th day of April 2009.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated April 28, 2009)

MH/sa