

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

**OIL AND GAS DOCKET NO. 09-0278479**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY HARDROCK OPERATING COMPANY, INC. (356779), AS TO THE CHOAT LEASE, WELL NOS. 20 (714816) AND 22 (714818), 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 January 31, 2013, 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 P-5 address on the Form P-5 Organization Report, which was returned to the Commission.
2. The returned certified receipt attached to Original Complaint and the Notice of Opportunity for Hearing mailed to Respondents, most recent P-5 address, was delivered on November 5, 2012 and notice was left; however, the Commission has not received any additional information from the Post Office.
3. On October 4, 2011, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Shane Willingham, President.
4. Shane Willingham, 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 Nos. 20 (714816) and 22 (714818) on the Choat Lease ("subject wells"/"subject lease") by filing Forms W-1 (Application to Drill, Deepen, Plug Back or Re-Enter) with the Commission on April 22, 2011, issued May 4, 2011 and May 5, 2011.
7. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on January 1, 2012. Respondent had \$50,000.00 cash as its financial assurance at the time of its last P-5 renewal.
8. Commission District inspections were conducted on July 6, 2012, July 23, 2012 and December 13, 2012 for the Choat Lease, Well Nos. 20 (714816) and 22 (714818). The signs or identification required to be posted at the wells were missing.
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 Nos. 20 (71486) and 22 (714818) on the Choat Lease have never produced.
11. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
12. 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.
13. The total estimated cost to the State of plugging the subject wells is \$3,000.00 each for a total of \$6,000.00.
14. According to Commission records, drilling operations on the Choat Lease, Well No. 20 (714816), commenced on June 24, 2011. The inspection conducted on July 6, 2012, found the well to be equipped for injection, with open reserve pits, one measuring approximately 48' x 40' x 3' and another measuring approximately 9' x 48' x 48' x 9' x 3' and containing about 10" of water next to the well.
15. According to Commission records, drilling operations on the Choat Lease, Well No. 22 (714818), commenced on July 7, 2011. The inspection conducted on July 6, 2012, found the well to be equipped to pump. In addition, there were open reserve pits, one measuring approximately 48' x 40' 4' and another measuring approximately 9' x 48' x 48' x 9' x 3' and containing about 8" of water next to the well. Follow up inspections conducted on July 23, 2012 and December 13, 2012 found the pits remain as previously reported.
16. Unfilled pits constitute a hazard 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.

17. Commission District inspections were conducted on July 6, 2012 and July 23, 2012 for the Choat Lease. Well No. 20 (714816) is equipped for injection and has casing open to the atmosphere. The inspection conducted on December 12, 2012 no longer states the well is open to the atmosphere.
18. Maintenance of surface control by wellhead assemblies is necessary to prevent the discharge of oil and gas wastes on the subject lease constituting a hazard to public health and safety because the discharges of oil and gas wastes onto land surface can migrate into surface or subsurface waters.
19. According to Commission records, drilling operations on the Choat Lease, Well No. 20 (714816), commenced on June 24, 2011 and Well No. 22 (714818), commenced on July 7, 2011. Based on the depth of the wells, which are a total of 1,000 feet, drilling operations most likely would have been completed within 2-3 days. An inspection of the wells conducted on July 6, 2012, found the wells to be equipped to pump. A review of Commission records; however, reveals Respondent has failed to file the required completion report.
20. The Respondent has not demonstrated good faith since it failed to timely 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.
21. Respondent has a prior history of Commission rule violations including the following docket(s):  
  
Docket No. 09-0248905; Final Order Served: January 23, 2007;  
Docket No. 09-0251221; Final Order Served: June 13, 2007; and  
Docket No. 09-0260378; Final Order Served: June 18, 2009.

### **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, 8(d)(4)(G)(i)(I), 13(b)(1)(B), 14(b)(2) and 16(b).
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 8(d)(4)(G)(i)(I), which requires reserve pits and mud circulation pits to be dewatered, backfilled and compacted within one year of cessation of drilling operations.
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 13(b)(1)(B), which requires that surface control of all wells be maintained with wellhead assemblies.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 16(b), which requires that the owner, or operator of an oil, gas or geothermal resource well, must within thirty (30) days after the completion of such well, or the plugging of such well, if the well is a dry hole, shall file with the Commission the appropriate completion or plugging report.
8. Respondent is responsible for maintaining the subject lease 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.
9. 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.
10. 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, Shane Willingham, 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 Choat Lease, Well Nos. 20 (714816) and 22 (714818), 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 **TWENTY SEVEN THOUSAND THREE HUNDRED NINETY TWO DOLLARS (\$27,392.00)**.

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 24<sup>th</sup> day of May 2013.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated May 24, 2013)

TJJ/sa