

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 04-0286085

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY ASHLEY SHARP, SOLE PROPRIETOR, DAKOTA OIL COMPANY (197406), ON THE FLORES, DANIEL LEASE, WELL NO. 1 (083467), SCHWARZ (8700) FIELD, AND FLORES, DANIEL LEASE, WELL NO. 2 (084021), SCHWARZ (8700-A) FIELD, WEBB COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on March 27, 2014, and that the respondent, Ashley Sharp, Sole Proprietor, Dakota Oil Company (197406), 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. Ashley Sharp, Sole Proprietor, Dakota Oil Company (197406), ("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.
2. The electronic certified signature receipt containing the Original Complaint and the Notice of Opportunity for Hearing, was signed and returned to the Commission on February 20, 2014. The certified signature receipt is included in the file and has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On August 6, 2013, Respondent, filed an Organization Report (Form P-5) with the Commission reporting that its owner(s) consisted of the following individual(s): Ashley Sharp; Owner.
4. Ashley Sharp, as sole proprietor, 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.

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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 (083467) on the Flores, Daniel Lease and Well No. 2 (084021) on the Flores, Daniel Lease ("subject wells"/"subject leases") by filing P-4 Forms (Producers Transportation Authority and Certificate of Compliance) effective on January 1, 2011 for both of the subject wells and subject leases.
7. Respondent's P-5 (Organization Report) became delinquent on August 6, 2013. Respondent had \$25,000 cash as its financial assurance at the time of its last P-5 renewal.
8. Production from Well No. 1 (083467) on the Flores, Daniel Lease ceased in September 2011.
9. Production from Well No. 2 (084021) on the Flores, Daniel Lease ceased production in February 2011.
10. The Statewide 14b2 plugging extension for Well No. 1 (083467) on the Flores, Daniel Lease was denied on March 1, 2011 for failure to file an H-15 (Test on an Inactive Well More Than 25 Years Old).
11. The Statewide 14b2 plugging extension for Well No. 2 (084021) on the Flores, Daniel Lease was denied on March 1, 2011 for failure to file an H-15 (Test on an Inactive Well More Than 25 Years Old).
12. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
13. 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 well. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
14. The total estimated cost to the State for plugging Well No. 1 (083467) on the Flores, Daniel Lease is \$23,100.00.
15. The total estimated cost to the State for plugging Well No. 2 (084021) on the Flores, Daniel Lease is \$35,700.00.
16. Commission District inspections were conducted on July 17, 2012 and June 5, 2013 for the Flores, Daniel Lease, Well No. 1 (083467). The sign or identification required to be posted at the well displayed incorrect information.
17. Commission District inspections were conducted on July 17, 2012 and June 5, 2013 for the Flores, Daniel Lease. The sign or identification required to be posted at the tank was missing.

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18. 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.
19. Commission District inspections were conducted on July 17, 2012 and June 5, 2013 for the Flores, Daniel Lease. A 2" valve near the bottom of Tank No. 4488-G is dripping produced water approximately ½ gallon per hour. The inspection report indicated an area approximately 4' x 4' x 6" has been impacted by produced water.
20. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
21. 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.
22. 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.
23. Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 04-0261957; Final Order Served: February 22, 2011; and
Docket No. 04-0268182; Final Order served: October 2, 2012.

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)(1) and 14(b)(2).
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.

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5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(1), which prohibits the discharge of oil and gas wastes without a permit.
6. 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.
7. 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.
8. 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, Ashley Sharp, 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. Ashley Sharp, Sole Proprietor, Dakota Oil Company (197406), shall plug or otherwise place in compliance the Flores, Daniel Lease, Well No. 1 (083467), Schwarz (8700) Field, and the Flores, Daniel Lease, Well No. 2 (084021), Schwarz (8700-A) Field, Webb County, Texas in compliance with applicable Commission rules and regulations; and
2. Ashley Sharp, Sole Proprietor, Dakota Oil Company (197406), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWENTY SIX THOUSAND TWO HUNDRED EIGHTY SIX DOLLARS (\$26,286.00)**.

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.

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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 22nd day of April 2014.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated April 22, 2014)

TJJ/sa