

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

OIL AND GAS DOCKET NO. 01-0262692

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY ROCKLAND OIL COMPANY (723453), AS TO THE JESSE ELKINS (06908) LEASE, WELL NOS. 3 AND 9, ACLETO CREEK (POTH A) FIELD, AND JESSE ELKINS (06938) LEASE, WELL NOS. 1, 2, 4, 5 AND 7, ACLETO CREEK (POTH B) FIELD, WILSON COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on October 15, 2009, and that the respondent, Rockland Oil Company (723453), 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. Rockland Oil Company (723453), ("Respondent") was given Notice of Opportunity for Hearing by certified mail, addressed to Respondent's most recent P-5 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 mailed to Respondent's most recent P-5 address, was signed and returned to the Commission on October 25, 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 October 14, 2008, Respondent, a Corporation, filed its most recent Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Myron J. Palmero, President; Sam E. Nicholson, Controller; and Jaime A. Eakins; Corporate Secretary.
4. Myron J. Palmero, 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. Sam E. Nicholson, 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.
6. Jaime A. Eakins, 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.
7. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
8. Respondent designated itself to the Commission as the operator of Well Nos. 3 and 9 on the Jesse Elkins (06908) Lease and Well Nos. 1, 2, 4, 5 and 7 on the Jesse Elkins (06938) Lease ("subject wells"/"subject leases") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on October 1, 2007, for both of the subject leases and subject wells.
9. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on October 1, 2009. Respondent had a \$50,000.00 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
10. Commission District inspections were conducted on June 3, 2009 and June 29, 2009 for the Jesse Elkins (06908) Lease. The signs or identification required to be posted at the lease entrance and Well Nos. 3 and 9 displayed incorrect information. The signs or identification required to be posted at the tank displayed incorrect information and did not display a commingling permit number.
11. Commission District inspections were conducted on June 3, 2009 and June 20, 2009 for the Jesse Elkins (06938) Lease. The signs or identification required to be posted at Well Nos. 1, 2, 4, 5 and 7 displayed incorrect information, the signs or identification required to be posted at the tank did not display a commingling permit number.
12. 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.
13. A Commission District inspection was conducted on June 3, 2009 for the Jesse Elkins (06938) Lease. There are three discrete spills on the subject lease, The first spill was an area of heavy oil saturated soil, approximately 8' x 8'. Around the well identified as Well No. 1. The second spill was an area of heavy oil saturated soil, approximately 7' x 7' around the well identified as Well No. 7. The third spill was an area of live oil and water, approximately 45' x 25' located directly behind the three 200 barrel production tanks. The spill contains a total of approximately 5 barrels of fluid, 1-2 barrels of that being live oil.
14. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.

15. 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.
16. Commission District inspections were conducted on June 3, 2009 and June 29, 2009 on the Jesse Elkins (06938) Lease. There is a large tank battery that consists of the following: three 200 barrel oil production tanks, one 210 barrel welded silver water tank, one 210 barrel rust colored (not in use - contents unknown), one 180 barrel welded gun-barrel, and one 180 barrel bolted gun barrel (not in use, contents unknown), the entire tank battery facility should have been enclosed with a firewall. The tank battery's size, and the fact that it is on top of a hill make it an objectionable hazard, which requires a firewall around the entire battery facility.
17. Commission District inspections were conducted on June 3, 2009 and June 29, 2009 on the Jesse Elkins (06908) Lease. Respondent had failed to properly screen an open top storage tank, which contained salt water with an oil cap.
18. Commission District inspections were conducted on June 3, 2009 for the Jesse Elkins (06908) Lease. The injection permit requires an annual pressure test, and that the last test was performed on April 17, 2007, and that there was pressure/fluid on the tubing/casing annulus.
19. 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.
20. The Respondent has a history of Commission rule violations including the following docket(s):

Docket No. 01-0259876; Final Order Served: March 11, 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, 21(j), 22(b) 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 8, which prohibits the discharge of oil and gas wastes without a permit.
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 21(j), which requires that firewalls must be erected and kept around all permanent oil tanks, or battery of tanks, where such tanks are so located as to be deemed by the Commission to be an objectionable hazard.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 22(b), which requires that an operator must screen, net, cover or otherwise render harmless to birds, open top tanks and pits associated with exploration, development and production of oil and gas, including transportation of oil and gas by pipeline.
8. 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.
9. 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.
10. 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).
11. 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, Myron J. Palmero, 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.

12. 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, Sam E. Nicholson, 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.
13. 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, Jaime A. Eakins, and any other organization in which he/she 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. Rockland Oil Company (723453), shall place the Jesse Elkins (06908) Lease, Well Nos. 3 and 9, Aceto Creek (Poth A) Field, and Jesse Elkins (06938) Lease, Well Nos. 1, 2, 4, 5 and 7, Aceto Creek (Poth B) Field, Wilson County, Texas in compliance with applicable Commission rules and regulations; and
2. Rockland Oil Company (723453), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SEVEN THOUSAND FOUR HUNDRED DOLLARS (\$7,400.00)**.

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 15th day of December 2009.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated December 15, 2009)

ME/sa