

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 09-0265370

ENFORCEMENT ACTION AGAINST SHAWVER & SHAWVER (OPERATOR NO. 772595) FOR VIOLATIONS OF STATEWIDE RULES ON THE PORTWOOD -R- (LEASE NO. 01399) LEASE, WELL NO. 14, BAYLOR COUNTY REGULAR FIELD, BAYLOR COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by a Commission Administrative Law Judge on October 15, 2015 and that the respondent, Shawver & Shawver (Operator No. 772595), 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. Shawver & Shawver (Operator No. 772595), (“Respondent”), was given Notice of Opportunity for Hearing by certified and first class mail, addressed to the most recent Form P-5 (Organization Report) address. Herschel Lee Shawver was given Notice of Opportunity for Hearing by certified and first class mail, addressed to the most recent Form P-5 (Organization Report) address. Paula Shawver was given Notice of Opportunity for Hearing by certified and first class mail, addressed to the most recent Form P-5 (Organization Report) address.
2. The certified mail envelope containing the Original Complaint and the Notice of Opportunity for Hearing, was received by Respondent on August 27, 2015. The certified mail envelope containing the Original Complaint and the Notice of Opportunity for Hearing, was received by Herschel Lee Shawver on August 27, 2015. The certified mail envelope containing the Original Complaint and the Notice of Opportunity for Hearing, was received by Paula Shawver on August 27, 2015.
3. On January 14, 2016, Respondent, a joint venture, filed a Form P-5 (Organization Report) with the Commission reporting that its officers consisted of the following individuals: Herschel Lee Shawver, Co-Joint Venturer; and Paula Shawver, Co-Joint Venturer.
4. Herschel Lee Shawver, was in a position of ownership or control of Respondent, as defined in section 91.114 of the Texas Natural Resources Code, during the time period of the violations of Commission rules committed by Respondent.

5. Paula Shawver, was in a position of ownership or control of Respondent, as defined in section 91.114 of the Texas Natural Resources Code, during the time period of the violations of Commission rules committed by Respondent.
6. Respondent's P-5 (Organization Report) is active-extended. Respondent has a \$50,000 letter of credit as its financial assurance.
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 the Portwood -R- (01399) Lease, Well No. 14, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective December 1, 2004, approved January 11, 2005.
9. A Commission District inspection report made on March 17, 2009, and either reports filed by Respondent with the Commission reflecting zero injection, or the absence of injection reports being filed by the Commission, show that the Portwood -R- (01399) Lease, Well No. 14 has been inactive for a period greater than one year. Injection into the subject well ceased in November 1992.
10. No work-overs, re-entries, or subsequent operations have taken place on the subject well within the last twelve months; the subject well has not been properly plugged in accordance with Statewide Rule 14 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE § 3.14]; no plugging extension are in effect for the subject well as allowed by Statewide Rule 14 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE § 3.14]. The subject well is not otherwise in compliance with Statewide Rule 14 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE § 3.14].
11. Usable quality groundwater in the area may become 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 potential of pollution.
12. The subject well was plugged on January 12, 2011. The plugging extension for the subject well as allowed by Statewide Rule 14 was cancelled based on Respondent's failure to file a successful Commission Form H-5. Respondent had not requested a hearing on the matter.
13. Commission records reflect that on June 22, 2005, the Commission gave Respondent notice by certified mail of the alleged facts or conduct of Respondent in the operation, or production, of oil or gas from the Portwood -R- (01399) Lease, that appeared to violate the oil and gas conservation laws of this state, or rules or orders of the Commission adopted under those laws, to warrant the cancellation of the certificate of compliance. Said notice gave Respondent an opportunity to show compliance with all requirements of law for retention of the certificate of compliance.

14. Commission records reflect that Respondent did not timely show compliance with all requirements of law for retention of the certificate of compliance and, as a result, the certificate of compliance for the Portwood -R- (01399) Lease, was cancelled, and Respondent given notice of such cancellation, on July 22, 2005.
15. Production reports filed by Respondent with the Commission for the Portwood -R- (01399) Lease, from January 2007 to November 2009, show Respondent produced an approximate total of 1,150 barrels from the Portwood -R- (01399) Lease, after the certificate of compliance had been cancelled and before a new certificate of compliance had been issued.
16. Respondent has no prior history of violations of Commission rules.

CONCLUSIONS OF LAW

1. Proper notice was issued by the Railroad Commission to Respondent and 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 responsible for maintaining the subject lease in compliance with all applicable Commission rules and chapters 89 and 91 of the Texas Natural Resources Code.
4. Respondent is in violation of Statewide Rules 14(b)(2) and 73(i), and TEX. NAT. RES. CODE § 85.166.
5. The documented violations committed by Respondent constitute acts deemed serious, and a hazard to the public health, and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE § 81.0531(c).
6. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 14(b)(2), which requires that plugging operations on each dry or inactive well shall be commenced within a period of one year after drilling or operations cease and shall proceed with due diligence until completed.
7. Respondent is responsible for maintaining the subject well in compliance with Statewide Rule 73(i) and TEX. NAT. RES. CODE § 85.166, which require the operator, upon notice from the Commission that a certificate of compliance has been cancelled, to not produce oil, gas, or geothermal resources until a new certificate of compliance has been issued by the Commission.
8. An assessed administrative penalty in the amount of TWENTY-ONE THOUSAND DOLLARS (\$21,000.00) is justified by the facts and violations at issue.

9. As persons in a position of ownership or control of Respondent at the time Respondent violated Commission rule related to safety and the control of pollution, both Herschel Lee Shawver and Paula Shawver, and any other organization in which either or both may hold a position of ownership or control, are subject to the restriction of section 91.114(a)(2) of the Texas Natural Resources Code.

IT IS ORDERED THAT within 30 days from the day immediately following the date this order becomes final Shawver & Shawver (Operator No. 772595), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of TWENTY-ONE THOUSAND DOLLARS (\$21,000.00).

It is further **ORDERED** that as persons in a position of ownership or control of Respondent at the time Respondent violated Commission rule related to safety and the control of pollution, both Herschel Lee Shawver and Paula Shawver, and any other organization in which either or both may hold a position of ownership or control, shall be subject to the restriction of section 91.114(a)(2) of the Texas Natural Resources Code 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.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 25 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 of 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 this order in accordance with TEX. GOV'T CODE § 2001.144.

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 3rd day of May 2016.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated
May 3, 2016)

JNC / rnf