

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 10-0298140

ENFORCEMENT ACTION AGAINST KEN LOSURE (OPERATOR NO. 509289) FOR VIOLATIONS OF TEX. NAT. RES. CODE 91.143 ON THE C. R. "A" GARNER (01269) LEASE, WELL NOS. 5, 6, 7, 8, 18, 21, 22, 25, 32, 33, 38, 39, AND 42, PANHANDLE HUTCHINSON COUNTY FIELD, HUTCHINSON AND CARSON COUNTIES, TEXAS

FINAL ORDER

The Railroad Commission of Texas ("Commission") finds that after statutory notice the captioned enforcement proceeding was heard by a Commission Administrative Law Judge on February 4, 2016 and that the respondent, Ken Losure, 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, 16 TEX. ADMIN. CODE § 1.49, and after being duly submitted to the Commission at a conference held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Ken Losure (Operator No. 509289), ("Respondent"), was given Notice of Opportunity for Hearing by certified and first class mail, addressed to the most recent Commission Form P-5 (Organization Report) address.
2. The certified mail envelope containing the Original Complaint and the Notice of Opportunity for Hearing was delivered on November 17, 2015. The first class mail was not return. Record of the delivery of certified mail has been on record with the Commission for more than 15 days, exclusive of the day of receipt and day of issuance.
3. On September 22, 2015, Respondent, a sole proprietorship, filed a Form P-5 (Organization Report) with the Commission reporting that its officers consist of the following individual: Ken Losure, Owner.
4. Ken Losure 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. Respondent's P-5 (Organization Report) is delinquent. Respondent had a \$50,000 cash deposit as its financial assurance at the time of its last P-5 annual renewal submittal.
6. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.

7. Respondent designated itself to the Commission as the operator of the C. R. "A" Garner (01269) Lease, Well Nos. 5, 6, 7, 8, 18, 21, 22, 25, 32, 33, 38, 39, and 42, Panhandle Hutchinson County Field, Hutchinson and Carson Counties, Texas by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective November 1, 2006, approved November 13, 2006.
8. Commission records and a Commission inspection report made on August 25, 2015, for the C. R. "A" Garner (01269) Lease, show that between August 2011 and July 2014, Respondent filed thirteen Commission Form W-3Cs (Certification of Surface Equipment Removal for an Inactive Well)—one each for Well Nos. 5, 6, 7, 8, 18, 21, 22, 25, 32, 33, 38, 39, and 42—certifying that for each well, the electricity had been disconnected, flow lines and tanks had been emptied and surface equipment removed, all of which was false. The inspection report shows that on or about August 25, 2015, none of the subject wells had the electricity disconnected, flow lines and tanks emptied, or the surface equipment removed. Respondent knew these material facts were false when he certified them as true in the Form W-3Cs and then filed them with the Commission, in violation of TEX. NAT. RES. CODE § 91.143(a)(1).
9. Respondent has no prior history of violations of Commission rules.

CONCLUSIONS OF LAW

1. Proper notice was issued by the 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 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 TEX. NAT. RES. CODE § 91.143(a)(1).
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 lease in compliance with TEX. NAT. RES. CODE § 91.143(a)(1) which prohibits the filing of documents with the Commission knowing the documents are false or untrue in a material fact.

7. An assessed administrative penalty in the amount of THIRTEEN THOUSAND DOLLARS (\$13,000.00) is justified considering the facts and violations at issue.
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, Ken Losure, and any other organization in which he may hold a position of ownership or control, is subject to the restriction in 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:

1. Ken Losure (Operator No. 509289) shall place the C. R. "A" Garner (01269) Lease, Well Nos. 5, 6, 7, 8, 18, 21, 22, 25, 32, 33, 38, 39, and 42, Panhandle Hutchinson County Field, Hutchinson and Carson Counties, Texas in compliance with TEX. NAT. RES. CODE § 91.143(a)(1), and any other applicable Commission rules and statutes.
2. Ken Losure (Operator No. 509289) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **THIRTEEN THOUSAND DOLLARS (\$13,000.00)**.

It is further **ORDERED** that 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, Ken Losure, and any other organization in which he may hold a position of ownership or control, is subject to the restriction in 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 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 7th day of June, 2016.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated June 7, 2016)

JNC / rnf