

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 03-0296453

**ENFORCEMENT ACTION AGAINST R & S ENERGY, INC. (OPERATOR NO. 687485)
FOR VIOLATIONS OF STATEWIDE RULES ON THE ALTON OFCZARZAK (20358)
LEASE, WELL NO. 1, GIDDINGS (AUSTIN CHALK-3) FIELD, BURLESON COUNTY,
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, R & S Energy, Inc., 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. R & S Energy, Inc. (Operator No. 687485), (“Respondent”), was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to the most recent Form P-5 (Organization Report) address. Jack Edmon Rosinski, Jr., Respondent’s President, was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to his last known address. Sherri Beth Rosinski, Respondent’s Secretary, was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to her last known address. Ruth Ann Sebesta, Respondent’s Treasurer and CFO, was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to her last known address.
2. The certified mail envelopes containing the Original Complaint and the Notice of Opportunity for Hearing were returned to the Commission on December 14, 2015. The first class mail was not returned. Record of the return 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. Respondent was given more than 30 days’ notice of the Original Complaint and Notice of Opportunity for Hearing. Respondent has not entered into an agreed settlement order, filed an answer, or requested a hearing.
3. On January 25, 2012, Respondent, a corporation, filed a Form P-5 (Organization Report) with the Commission reporting that its officers consist of the following individuals: Jack

Edmon Rosinski, Jr., President; Sherri Beth Rosinski, Secretary; and Ruth Ann Sebesta, Treasurer and CFO.

4. Jack Edmon Rosinski, Jr. 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. Sherri Beth Rosinski 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. Ruth Ann Sebesta 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.
7. Respondent's P-5 (Organization Report) is delinquent. Respondent had a \$25,000 letter of credit as its financial assurance at the time of the last P-5 annual renewal submission.
8. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.
9. Respondent designated itself to the Commission as the operator of the Alton Ofczarzak (20358) Lease, Well No. 1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective March 1, 2004, approved March 15, 2004.
10. A Commission inspection report made on March 26, 2014, April 29, 2014, May 20, 2014, July 14, 2014, September 24, 2014 and April 24, 2015 for the Alton Ofczarzak (20358) Lease, show patches of oil saturated soil around the tank bottom of an area approximately 20 x 20 feet which has not been remediated.
11. Respondent did not have a permit for said discharges, nor were they authorized under Statewide Rules 8(d)(3), 8(e), 9, 46 or 98.
12. Unpermitted discharges of oil and gas waste, in violation of Statewide Rule 8(d)(1), can contaminate the land surface, affect the health of humans and animals, and may eventually be discharged to surface or subsurface waters, causing pollution.
13. Respondent has prior violations of Commission rules as shown in enforcement orders with the following Oil & Gas Docket Nos.: 03-0261783 and 03-0262239.

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 Statewide Rule 8(d)(1). 16 TEX. ADMIN. CODE § 3.8(d)(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 Statewide Rule 8(d)(1), which prohibits operators from discharging oil and gas waste without a permit.
7. Pursuant to TEX. NAT. RES. CODE § 81.0531, the Commission may assess administrative penalties against Respondent for the subject violations of up to \$10,000 per day for each violation, with each day such violations continued constituting a separate violation.
8. An assessed administrative penalty in the amount of TWO THOUSAND SIX HUNDRED THIRTEEN DOLLARS (\$2,613.00) is justified considering the facts and violations at issue.
9. As persons in a position of ownership or control of Respondent at the time Respondent violated Commission rules related to safety and the control of pollution, Jack Edmon Rosinski, Jr., Sherri Beth Rosinski, and Ruth Ann Sebesta, and any other organization in which all or any may hold a position of ownership or control, are 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. R & S Energy, Inc. (Operator No. 687485) shall place the Alton Ofczarzak (20358) Lease and Well No. 1 in compliance all Commission rules and regulations, including Statewide Rules 8.
2. R & S Energy, Inc. (Operator No. 687485) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWO THOUSAND SIX HUNDRED THIRTEEN DOLLARS (\$2,613.00)**.

It is further **ORDERED** that as persons in a position of ownership or control of Respondent at the time Respondent violated Commission rules related to safety and the control of pollution, Jack Edmon Rosinski, Jr., Sherri Beth Rosinski, and Ruth Ann Sebesta, and any other organization in which all or any may hold a position of ownership or control, shall be 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 21st day of June 2016.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated June 21, 2016)

JNC / rnf