

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 08-0297869

ENFORCEMENT ACTION AGAINST HARLAN HOPPER, SOLE PROPRIETOR (OPERATOR NO. 399651) FOR VIOLATIONS OF A STATEWIDE RULE ON THE WHEAT -A- (07950) LEASE, WELL NOS. 1 AND 2, WHEAT FIELD, LOVING COUNTY; AND WHEAT -B- (07951) LEASE, WELL NOS. 2 AND 3, WHEAT FIELD, LOVING 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 November 5, 2015 and that the respondent, Harlan Hopper, Sole Proprietor, 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 Railroad Commission of Texas 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. Harlan Hopper, Sole Proprietor, (Operator No. 399651) (“Respondent”), was sent the Original Complaint and 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 received on September 15, 2015. The first class mail was not returned. 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. 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 March 13, 2012, Respondent, a sole proprietorship, filed a Form P-5 (Organization Report) with the Commission reporting that its officers consisted of the following individual: Harlan Hopper, Sole Proprietor.
4. Harlan Hopper 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 currently delinquent. Respondent had a \$25,000 bond 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 as the Operator of the Wheat -A- (07950) Lease, Well Nos. 1 and 2, Wheat Field, Loving County by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective January 1, 1995, approved April 5, 1995. Respondent designated itself as the operator of Wheat -B- (07951) Lease, Well Nos. 2 and 3, Wheat Field, Loving County by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective January 1, 1995, approved April 5, 1995.
8. Commission inspection reports made on October 3, 2014, November 25, 2014, May 29, 2015, and July 8, 2015, for the Wheat -A- (07950) Lease, Well Nos. 1 and 2, show that the casingheads were not equipped with connections and valves accessible at the surface.
9. Commission inspection reports made on October 3, 2014, November 25, 2014, May 29, 2015, and July 8, 2015, for the Wheat -B- (07951) Lease, Well Nos. 2 and 3, show that the casingheads were not equipped with connections and valves accessible at the surface.
10. Wells in which the casingheads have lost integrity due to violations of Statewide Rule 13(a)(6)(E)(i) may discharge oil and gas waste onto the land surface or into useable quality groundwater, causing pollution.
11. 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 leases 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 13(a)(6)(E)(i). 16 TEX. ADMIN. CODE § 3.13(a)(6)(E)(i).
5. The documented violations committed by the 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 13(a)(6)(E)(i), which requires wells to be equipped with casingheads that have connections and valves accessible at the surface.

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 **FOUR THOUSAND DOLLARS (\$4,000.00)** is justified considering the facts and violations at issue.
9. As a person in a position of ownership or control of Harlan Hopper, Sole Proprietor, at the time Harlan Hopper, Sole Proprietor, violated Commission rules related to safety and the control of pollution, Harlan Hopper, 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. Harlan Hopper, Sole Proprietor (Operator No. 399651), shall place the Wheat -A- (07950) Lease, Well Nos. 1 and 2 and the Wheat -B- (07951) Lease, Well Nos. 2 and 3, in compliance with Statewide Rule 13(a)(6)(E)(i), and any other applicable Commission rules and statutes.
2. Harlan Hopper, Sole Proprietor (Operator No. 399651), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FOUR THOUSAND DOLLARS (\$4,000.00)**.

It is further **ORDERED** that as a person in a position of ownership or control of Harlan Hopper, Sole Proprietor, at the time Harlan Hopper, Sole Proprietor, violated Commission rules related to safety and the control of pollution, Harlan Hopper, and any other organization in which he 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