

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 8A-0295335

ENFORCEMENT ACTION AGAINST JAMES DAWSON, SOLE PROPRIETOR OF D & D OIL CO. #2 (OPERATOR NO. 195932) FOR VIOLATIONS OF STATEWIDE RULES ON THE WILSON, C.R. (01911) LEASE, WELL NOS. 1, 3 AND 4, GARZA FIELD, GARZA 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 11, 2016 and that the respondent, James Dawson, sole proprietor of D & D Oil Co. #2, 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. James Dawson, sole proprietor of D & D Oil Co. #2, (Operator No. 195932), (“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 delivered on March 16, 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, 2014, Respondent, a sole proprietorship, filed a Form P-5 (Organization Report) with the Commission reporting that its officers consist of the following individual: James Dawson, Owner.
4. James Dawson was in a position of ownership or control of Respondent, as defined by 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 \$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 to the Commission as the operator of the Wilson, C.R. (01911) Lease, Well Nos. 1 and 3, Garza Field, Garza County, Texas by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective July 23, 2002, approved July 30, 2002. Respondent designated itself to the Commission as the operator of the Wilson, C.R. (01911) Lease, Well No. 4, Garza Field, Garza County, Texas by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), received July 9, 2009, issued July 21, 2009.
8. Commission inspection reports dated August 20, 2014, August 21, 2014, September 3, 2014, November 12, 2014 and December 2, 2014, for the Wilson, C.R. (01911) Lease, show that Respondent caused or allowed an unauthorized discharge of oil and produced water to affect an area near the wellhead of Well No. 1 measuring approximately 16,000 square feet. The investigation reports further show Respondent caused or allowed unauthorized discharges of oil and produced water to affect areas near Well No. 3 measuring approximately 800 square feet, 7,200 square feet, and 400 square feet. The investigation reports additionally show that near Well No. 4, Respondent caused or allowed unauthorized discharges of oil and produced water to affect areas measuring approximately 400 square feet and 30,000 square feet.
9. 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.
10. Unpermitted discharges, in violation of Statewide Rule 8(d)(1), of oil and gas waste can contaminate the land surface, affect the health of humans and animals, and may eventually be discharged to surface or subsurface waters, causing pollution.
11. Commission inspection reports made on August 20, 2014, August 21, 2014, September 3, 2014, November 12, 2014 and December 2, 2014, for the Wilson, C.R. (01911) Lease, Well No. 3, show Respondent was using and maintaining two unauthorized pits measuring approximately 800 square feet and 400 square feet respectively.
12. Continued maintenance of unpermitted pits, in violation of Statewide Rules 8(d)(2), may result in unpermitted discharges of oil and gas waste, which 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. Commission inspection reports made on August 20, 2014, August 21, 2014, September 3, 2014, November 12, 2014 and December 2, 2014, for the Wilson, C.R. (01911) Lease, Well No. 4 show that the well had been completed but Respondent has not filed the required completion report. Commission records show that the subject well was completed on or about February 17, 2010.
14. Should a well need to be re-entered for any reason, the wellbore documentation provided in completion reports as set forth in Statewide Rule 16(b) is necessary to safely and efficiently carry out the replugging, recompletion, reworking, or other action.
15. Commission records reflect that on December 28, 2013, 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 Wilson, C.R. (01911) 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.
16. 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 Wilson, C.R. (01911) Lease was cancelled, and Respondent given notice of such cancellation, on January 28, 2013.
17. Production reports filed by Respondent with the Commission for the Wilson, C.R. (01911) Lease, from January 2013 to February 2015, show Respondent produced an approximate total of 2,998 barrels from the Wilson, C.R. (01911) Lease, after the certificate of compliance had been cancelled and before a new certificate of compliance had been issued.
18. 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 8(d)(1), 8(d)(2), 16(b), and 73(i), (16 TEX. ADMIN. CODE §§ 3.8(d)(1), 3.8(d)(2), 3.16(b), and 3.73(i)), and TEX. NAT. RES. CODE § 91.706.
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. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(2), which requires that pits be maintained, emptied and backfilled.
8. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 16(b), which requires completion reports to be filed timely.
9. Respondent is responsible for maintaining the subject well in compliance with Statewide Rule 73(i) and TEX. NAT. RES. CODE § 91.706, which requires 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.
10. Pursuant to TEX. NAT. RES. CODE § 81.0531, the Commission may assess administrative penalties against Respondent for violations of Statewide Rules 8(d)(1), 8(d)(2) and 16(b) of up to \$10,000 per day for each violation, with each day such violations continued constituting a separate violation.
11. Pursuant to TEX. NAT. RES. CODE § 85.3855, the Commission may assess administrative penalties against Respondent for violations of Statewide Rule 73(i) and TEX. NAT. RES. CODE § 91.706 of up to \$10,000 per day for each violation, with each day such violations continued constituting a separate violation.
12. An assessed administrative penalty in the amount of FORTY-THREE THOUSAND EIGHT HUNDRED SIXTY DOLLARS (\$43,860.00) is justified considering the facts and violations at issue.
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, James Dawson, 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. James Dawson, sole proprietor of D & D Oil Co. #2, (Operator No. 195932), shall place the Wilson, C.R. (01911) Lease, Well Nos. 1, 3 and 4, Garza Field, Garza County, Texas in compliance with Statewide Rules 8(d)(1), 8(d)(2), 16(b), and 73(i), and TEX. NAT. RES. CODE § 91.706, and any other applicable Commission rules and statutes.
2. James Dawson, sole proprietor of D & D Oil Co. #2, (Operator No. 195932), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of FORTY-THREE THOUSAND EIGHT HUNDRED SIXTY DOLLARS (\$43,860.00).

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