

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 8A-0295333

**ENFORCEMENT ACTION AGAINST D & D DAWSON ENTERPRISES L.L.C.
(OPERATOR NO. 195944) (WASTE HAULER'S PERMIT 4359) FOR VIOLATION OF
STATEWIDE RULES ON THE DAWSON PROPERTY, COUNTY ROAD 210, 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, D & D Dawson Enterprises L.L.C., 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. D & D Dawson Enterprises L.L.C. (Operator No. 195944), ("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. James Carl Dawson, President and Member of D & D Dawson Enterprises L.L.C., was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to his last known address. Jamie Carol Thomas, Secretary and Member of D & D Dawson Enterprises L.L.C., was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to her last known address. Joy Kay Dawson, Member of D & D Dawson Enterprises L.L.C., 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 envelope containing the Original Complaint and the Notice of Opportunity for Hearing, was delivered on February 6, 2015 to Respondent, James Carl Dawson, Jamie Carol Thomas, and Joy Kay Dawson. 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 January 21, 2015, Respondent, a corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consist of the following individuals: James Carl Dawson, President and Member; Jamie Carol Thomas, Secretary and Member; and Joy Kay Dawson, Member.
4. James Carl Dawson was in a position of ownership or control of Respondent, as defined by Texas Natural Resources Code Section 91.114, during the time period of the violations of Commission rules committed by Respondent.
5. Jamie Carol Thomas was in a position of ownership or control of Respondent, as defined by Texas Natural Resources Code Section 91.114, during the time period of the violations of Commission rules committed by Respondent.
6. Joy Kay Dawson was in a position of ownership or control of Respondent, as defined by Texas Natural Resources Code Section 91.114, during the time period of the violations of Commission rules committed by Respondent.
7. Respondent's P-5 (Organization Report) is currently active.
8. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.
9. Respondent is a person responsible for transportation of oil and gas waste in Texas under Oil and Gas Waste Hauler's Permit No. 4359, effective May 13, 2009.
10. Commission inspection reports made on May 5, 2014 and December 12, 2014, on the Dawson property, on County Road 201 in Garza County, show oil had been applied to the private dirt road, affecting an area of 26,850 square feet, and that mud and pit waste had been dumped into a ravine, affecting an area of 1,000 square feet along the dump trail and 4,600 square feet in the ravine.
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 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 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. 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.
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 THIRTY-FIVE THOUSAND FOUR HUNDRED FIFTY DOLLARS (\$35,450.00) 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, James Carl Dawson, Jamie Carol Thomas, and Joy Kay Dawson, and any other organization in which either or all 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. D & D Dawson Enterprises L.L.C.'s (Operator No. 195944) Waste Hauler Permit Number 4359 is cancelled.
2. D & D Dawson Enterprises L.L.C. (Operator No. 195944) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **THIRTY-FIVE THOUSAND FOUR HUNDRED FIFTY DOLLARS (\$35,450.00)**.

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, James Carl Dawson, Jamie Carol Thomas, and Joy Kay Dawson, and any other organization in which either or all 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