

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL AND GAS DOCKET NO. 09-0295452**

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**ENFORCEMENT ACTION AGAINST DOLBERRY ENERGY RESOURCES CORP. (OPERATOR NO. 222162) FOR VIOLATIONS OF STATEWIDE RULES ON THE WILKINSON-STATE RIVER UNIT #1 (26443) LEASE, WELL NO. 1, PROFFITT (MISS) FIELD, YOUNG COUNTY, TEXAS**

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**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 19, 2015 and that the respondent, Dolberry Energy Resources Corp. 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. Dolberry Energy Resources Corp. (Operator No. 222162), (“Respondent”), was sent the Original Complaint and Notice of Hearing by certified and first class mail, addressed to the most recent Commission Form P-5 (Organization Report) address. Jennifer Moore, President and Resident Agent for Respondent, was provided a Notice of Hearing by certified and first class mail, addressed to her last known address.
2. The certified mail containing the Original Complaint and Notice of Hearing was received by the Respondent on October 8, 2015. The certified mail containing the Original Complaint and Notice of Hearing was received by Jennifer Moore on October 8, 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 January 17, 2013, Respondent, a corporation, filed a Form P-5 (Organization Report) with the Commission reporting that its officers consisted of the following individual: Jennifer Moore, President.
4. Jennifer Moore 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 delinquency.
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 Wilkinson-State River Unit #1 (26443) Lease, Well No. 1, Proffitt (Miss) Field, Young County, Texas by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective November 1, 2008, approved November 12, 2008.
8. Commission inspection reports made on August 7, 2013, and October 31, 2014, for the Wilkinson-State River Unit #1 (26443) Lease, show that the sign or identification required to be posted at the lease entrance was missing.
9. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rule 3(1), may cause confusion as to the responsible operator to be contacted and the actual location of a violation or emergency, which can result in delays in remedying a violation or emergency.
10. Commission inspection reports made on August 7, 2013, October 31, 2014 and March 18, 2015, and either reports filed by Respondent with the Commission reflecting zero production or the absence of production reports filed by Respondent with the Commission since April 2010, show the Wilkinson-State River Unit #1 (26443) Lease, Well No. 1 has been inactive for a period greater than one year. Production from the subject well ceased on or before March 2010.
11. No work-overs, re-entries, or subsequent operations have taken place on the subject well within the last twelve months; the subject well has not been properly plugged in accordance with Statewide Rule 14, 16 TEX. ADMIN. CODE § 3.14; and no plugging extensions are in effect for the subject well as allowed by Statewide Rule 14. The subject well is not otherwise in compliance with Statewide Rule 14.
12. Usable quality groundwater in the area may become contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject wells. Unplugged wellbores, in violation of Statewide Rule 14(b)(2), constitute a cognizable threat to the public health and safety because of the potential of pollution.
13. The total estimated cost to the State for plugging the Wilkinson-State River Unit #1 (26443) Lease, Well No. 1 is \$10,500.00.
14. Commission inspection reports made on August 7, 2013, and October 31, 2014, for the

Wilkinson-State River Unit #1 (26443) Lease, show that Well No. 1 is not equipped with a surface casing observation valve, thereby making it impossible to verify the pressure on the well.

15. Wells that have pressure on the bradenhead, in violation of Statewide Rule 17(a), may result in a discharge of oil and gas waste into ground water and contamination of surface or subsurface waters, thereby resulting in pollution.
16. Commission inspection reports made on August 7, 2013, October 31, 2014 and March 18, 2015, for the Wilkinson-State River Unit #1 (26443) Lease, show that Respondent failed to properly screen an open-topped fiberglass tank. No penalty is being sought for this violation; Commission staff requested corrective measures only.
17. Failing to properly screen or take other protective measure, as set forth in Statewide Rule 22(b), regarding an open-topped fiberglass tank can cause harm to birds.
18. 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, Texas Natural Resources Code.
4. Respondent is in violation of Statewide Rules 3(1), 14(b)(2), 17(a) and 22(b). 16 TEX. ADMIN. CODE §§ 3.3(1), 3.14(b)(2), 3.17(a) and 3.22(b)
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 3(1), which requires that for each property that produces oil, gas or geothermal resources and each oil, gas or geothermal resource well and tank, or other approved crude oil measuring facility, a sign shall be posted at the principal entrance which shall show the name by which the property is carried on the records of the Commission, the name of the operator, and the number of acres in the property.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide

Rule 17(a), which requires that all wells be equipped with a bradenhead.

8. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 22(b), which requires open-top tanks to be screened or otherwise rendered harmless to birds.
9. 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.
10. An assessed administrative penalty in the amount of **EIGHT THOUSAND SEVEN HUNDRED THIRTY DOLLARS (\$8,730.00)** is justified considering the facts and violations at issue; the amount does not contain any penalty for the violation of Statewide Rule 22(b).
11. 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, Jennifer Moore, and any other organization in which she may hold a position of ownership or control, is be 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. Dolberry Energy Resources Corp. (Operator No. 222162) shall place the Wilkinson-State River Unit #1 (26443) Lease, Well No. 1, Proffitt (Miss) Field, Young County, Texas in compliance with Statewide Rules 3(1), 14(b)(2), 17(a) and 22(b), and any other applicable Commission rules and statutes.
2. Dolberry Energy Resources Corp. (Operator No. 222162) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **EIGHT THOUSAND SEVEN HUNDRED THIRTY DOLLARS (\$8,730.00)**.

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, Jennifer Moore, and any other organization in which she may hold a position of ownership or control, shall be subject to the restriction in section 91.114 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 sooner, if 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 21<sup>st</sup> day of June, 2016.

**RAILROAD COMMISSION OF TEXAS**

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

JNC / rnf