

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL & GAS DOCKET NO. 04-0298768

ENFORCEMENT ACTION AGAINST SAXUM OIL & GAS, LLC (OPERATOR NO. 749687) FOR VIOLATION OF STATEWIDE RULE ON THE LOPEZ-VALADEZ LEASE, WELL NO. 1 (DRILLING PERMIT NO. 760664), WILDCAT FIELD, WEBB COUNTY, TEXAS

FINAL ORDER NUNC PRO TUNC

The Final Order for this docketed case signed June 21, 2016 contains a typographical error. The order incorrectly refers to the subject lease as the “Lopez-Valdez” lease when the subject lease should be referred to as the “Lopez-Valadez” lease. This typographical error originated in the Complaint filed and the Enforcement Section has requested that it be corrected in the Final Order through this Final Order Nunc Pro Tunc.

For these reasons, the Commission’s Final Order in this case is hereby amended, nunc pro tunc, to correctly refer to the lease in the style of the case above and to read in its entirety as follows:

The Railroad Commission of Texas (“Commission” or “Railroad Commission”) finds that after statutory notice the captioned enforcement proceeding was heard by the Administrative Law Judge on February 18, 2016 and that the respondent, Saxum Oil & Gas, LLC, 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. Saxum Oil & Gas, LLC (Operator No. 749687) (“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. Dougherty Brothers Oil and Gas, Respondent’s Manager, 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. John Patrick Dougherty, Partner of Dougherty Brothers Oil and Gas, 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. Robert Dougherty III, Partner of Dougherty Brothers Oil and Gas, 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.

2. The certified mail envelopes containing the Original Complaint and the Notice of Opportunity for Hearing were returned to the Commission marked “unclaimed” on January 4, 2016. The first class mail was not returned. Record of 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 November 21, 2014, Respondent, a limited liability company, filed a Form P-5 (Organization Report) with the Commission reporting that its officers consist of the following individuals: Dougherty Brothers Oil and Gas, Manager; John Patrick Dougherty, Partner of Dougherty Brothers Oil and Gas; and Robert Dougherty III, Partner of Dougherty Brothers Oil and Gas.
4. John Patrick Dougherty was a person 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. Robert Dougherty III was a person 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. Respondent’s P-5 (Organization Report) is delinquent. Respondent had a \$50,000 cash deposit as its financial assurance at the time of its last P-5 renewal submission.
7. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.
8. Respondent designated itself to the Commission as the operator of the Lopez-Valadez Lease, Well No. 1 (Drilling Permit No. 760664) by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), filed April 12, 2013, and approved April 26, 2013.
9. Commission inspection reports made on March 20, 2015, May 18, 2015 and June 3, 2015 for the subject lease, as well as notice provided to the District Office by Respondent on June 27, 2013 that the surface casing had been set show that the subject well has been completed with surface casing, but Respondent has not filed the required completion report.
10. Should a well need to be re-entered for any reason, the wellbore documentation provided in those reports as set forth in Statewide Rule 16(b) is necessary to safely and efficiently carry out the replugging, recompletion, reworking, or other action.
11. Respondent has been previously cited with violations of Commission rules as set forth in Oil & Gas Docket Number 02-0261012.

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 16(b). 16 TEX. ADMIN. CODE § 3.16(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 16(b), which requires proper completion reports to be filed timely.
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 against Respondent in the amount of THREE THOUSAND FIVE HUNDRED DOLLARS (\$3,500.00) is justified by the facts and violations at issue.
9. As persons in a position of ownership or control of Respondent at the time of the violations, John Patrick Dougherty and Robert Dougherty III, and any other organization in which either or both 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. Saxum Oil & Gas, LLC (Operator No. 749687), shall place the Lopez-Valadez Lease, Well No. 1 (Drilling Permit No. 760664), Wildcat Field, Webb County, Texas in compliance with Statewide Rule 16(b), and any other applicable Commission rules or statutes.
2. Saxum Oil & Gas, LLC (Operator No. 749687), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **THREE THOUSAND FIVE HUNDRED DOLLARS (\$3,500.00)**.

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, John Patrick Dougherty and Robert Dougherty III, and any other organization in which either or both 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 27th day of September 2016.

RAILROAD COMMISSION OF TEXAS

**(Order approved and signatures affixed
by Hearings Divisions' Unprotected
Master Order dated September 27, 2016)**

JNC/rnf