

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL & GAS DOCKET NO. 06-0300508**

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**ENFORCEMENT ACTION AGAINST HENDERSON INDUSTRIES, INC. (OPERATOR NO.375237) FOR VIOLATIONS OF STATEWIDE RULES ON THE W. ALDERS (10901) LEASE, NACOGDOCHES FIELD, NACOGDOCHES 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 October 13, 2016 and that the respondent, Henderson Industries, Inc., 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. Henderson Industries, Inc. ("Respondent"), Operator No. 375237, was sent the Original Complaint and Notice of Opportunity for Hearing by first class mail and certified mail return receipt requested, addressed to the most recent Commission Form P-5 Organization Report ("Form P-5") address. Respondents' officers and agents as identified on the Form P-5, President, Billy Wayne Henderson, and Vice-President, Robert Troy Henderson, were each sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to their most recent Form P-5 Organization Report address, at 1023 N Mound #A, Nacogdoches, Texas 75961. All mail sent Certified Mail Return Receipt Requested and First Class Mail was returned to the Commission between July 25, 2016 and September 7, 2016 unopened and marked Return to Sender.
2. Henderson Industries, Inc. last filed a Form P-5 Organization Report on July 14, 1998.
3. Respondent designated itself as the operator of the W. Alders (10901) Lease, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective January 3, 1983, approved January 25, 1983.
4. Billy Wayne Henderson 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. Robert Troy Henderson 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.

6. Respondent's Form P-5 is inactive. Respondent had filed \$2,400 or 24 Form W-1Xs as its financial assurance at the time of the last Form P-5 annual renewal submission in 1998.
7. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.
8. Commission inspection reports made on September 9, 2010; November 2, 2012; August 22, 2013; September 30, 2014; and March 24, 2016 for the W. Alders (10901) Lease indicated that there was significant oil and gas pollution on the lease. There is an area of contaminated soil measuring 45' x 30' around the battery, and other leaking abandoned tanks. No remediation of the oil contamination has taken place since the violation was first observed.
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 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.
11. Commission District inspection reports made on September 9, 2010, November 2, 2012, August 22, 2013, September 30, 2014, and March 24, 2016 for the W. Alders (10901) Lease indicated that the Operator has failed to remove oil and gas equipment from the well site within 120 days of completion of plugging. These inspections show that there are still two storage tanks, one separator, and one skid tank remaining on the property. These tanks are rusted and leaking, and still contain oil and gas waste. A District Office Inspection Report dated 10/2/12 stated the wells on the W. Alders (10901) Lease were plugged in 1986, 1998, and 2002.
12. SWR 14(d)(12) requires that, within 120 days of plugging, the Operator shall remove all tank vessels and related surface and subsurface piping. District Office Inspections show there are still 2 storage tanks, one separator and one skid-mounted tank on the property.
13. By failing to remove equipment in a timely manner, the Respondent violated Statewide Rule 14(d)(12).
14. Respondent's violation of Statewide Rule 14(d)(12) is serious and a hazard to the public health and safety because loose junk and trash left on the lease may cause pollution of surface or subsurface water.
15. 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. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties have been performed or have occurred.
2. 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.
3. Respondent is in violation of Statewide Rules 8(d)(1) and 14(d)(12) [16 TEX. ADMIN. CODE §§ 3.8(d)(1) and 3.14(d)(12)] on the W. Alders (10901) Lease, Nacogdoches Field, Nacogdoches County, Texas.
4. 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).
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(1), which prohibits the discharge of oil and gas waste without a permit.
6. Respondent is responsible for removing all oil and gas equipment from the well site within 120 days of completion of plugging.
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 NINE THOUSAND FOUR HUNDRED FIVE DOLLARS (\$9,405.00) 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, Billy Wayne Henderson and Robert Troy Henderson, and any other organization in which they 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:

**HENDERSON INDUSTRIES, INC.** (Operator No. 375237) shall place the W. Alders (10901) Lease, Nacogdoches Field, Nacogdoches County, Texas in compliance with Statewide Rules 8(d)(1) and 14(d)(12), and any other applicable Commission rules and statutes.

**HENDERSON INDUSTRIES, INC.** (Operator No. 375237) is hereby assessed, by Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in complaint such as **NINE THOUSAND FOUR HUNDRED FIVE DOLLARS (\$9,405.00)**.

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, Billy Wayne Henderson and Robert Troy Henderson and any other organization in which they 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 the Commission's Order is signed, unless the time for filing a motion for rehearing has been extended under Tex. Gov't Code §2001.142, by agreement under Tex. Gov't Code §2001.147, or by written Commission Order issued pursuant to Tex. Gov't Code §2001.146(e). If a timely motion for rehearing of an application 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 Commission Order is signed.

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 6th day of December, 2016.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated  
6<sup>th</sup> day of December, 2016)

MFE/see