

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 7B-0301100

**ENFORCEMENT ACTION AGAINST RONALD D. SMITH AND RONALD D. SMITH II,
PARTNERS IN POWELL-MCCARROLL PARTNERSHIP (OPERATOR NO. 674803) FOR A
VIOLATION OF A STATEWIDE RULE ON THE ASH (28944) LEASE, WELL NO. 1, BRYLE
(CADDO, UPPER) FIELD, THROCKMORTON 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 October 27, 2016 and that the respondent, Powell-McCarroll Partnership, 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. Powell-McCarroll Partnership (“Respondent”), Operator No. 674803, 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) (“Form P-5”) address: Ronald D. Smith and Ronald D. Smith II, Partners, Powell-McCarroll Partnership, 6507 Long Beach Ct, Sachse, Texas 75048.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing was returned to the Commission on October 13, 2016. The first class mail was not returned. Record of the return of certified mail has been on file 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. Powell-McCarroll Partnership filed its first P-5 with the Commission on September 17, 1990. On September 30, 2014, Respondent filed its most recent Form P-5 with the Commission reporting that its officers consist of the following individuals: Smith, Ronald D., Partner and Smith, Ronald D. II, Partner.
4. Ronald D. Smith 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. Ronald D. Smith II 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 delinquent. Respondent had a \$50,000 bond as its financial assurance at the time of the last Form P-5 annual renewal submission.
7. Respondent designated itself to the Commission as the operator of the Ash (28944) Lease, Well No. 1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective February 23, 2011, approved March 22, 2011.
8. Commission inspection reports completed on May 12, 2016 and June 20, 2016, and reports filed by Respondent with the Commission reflecting zero production, or the absence of production reports being filed with the Commission, since March 2015, show the Ash (28944) Lease, Well No. 1 has been inactive for a period greater than one year. Inspection reports also show that Well No. 1 is currently equipped to pump, all flowlines are in the closed position, and electrical disconnect remains sealed.
9. 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 extension is in effect for the subject well as allowed by Statewide Rule 14. The subject well is not otherwise in compliance with Statewide Rule 14.
10. Usable quality groundwater in the area is likely to be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject well. 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.
11. The violations of Commission rules committed by Respondent are related to safety and the control of pollution. The affidavit of Petar Buva, Engineering Specialist, Field Operations, states that continuing violation of Statewide Rule 14(b)(2), as documented by the facts in the captioned docket, may result in irreparable harm. Any wellbore, cased or otherwise, is a potential conduit for flow from oil or saltwater zones to zones of usable quality water or to the surface. Holes or leaks may develop in cased wells, allowing oil or saltwater to communicate with the usable quality zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface.
12. The total estimated cost to the State for plugging the Ash (28944) Lease, Well No. 1 is \$19,700.00.
13. 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 of the Texas Natural Resources Code.
4. Respondent is in violation of Statewide Rule 14(b)(2). 16 TEX. ADMIN. CODE §§ 3.14(b)(2).
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 14(b)(2), which requires that plugging operations on each dry or inactive well shall be commenced within a period of one year after drilling or operations cease and shall proceed with due diligence until completed, unless the operator is eligible for and obtains an extension of the plugging deadline.
6. 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).
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 **SEVEN THOUSAND SIXTY DOLLARS (\$7,060.00)** 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 rule related to safety and the control of pollution, Ronald D. Smith and Ronald D. Smith II, 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:

1. Powell-McCarrol Partnership (Operator No. 674803) shall place the Ash (28944) Lease, Well No. 1 in compliance with Statewide Rules 14(b)(2) and any other applicable Commission rules and statutes.

2. Powell-McCarrol Partnership (Operator No. 674803) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SEVEN THOUSAND SIXTY DOLLARS (\$7,060.00)**.

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, Ronald D. Smith and Ronald D. Smith II 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 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 24th day of January, 2017.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated January 24, 2017)

RML/dac