

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 04-0300697

ENFORCEMENT ACTION AGAINST DUVAL GAS GATHERING CORPORATION (OPERATOR NO. 236631) FOR VIOLATIONS OF STATEWIDE RULES ON THE LAUGHLIN, C.M. "B" LEASE, WELL NO. 1 (RRC ID NO. 110056), PREMONT, NW (2630) FIELD, JIM WELLS 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 August 11, 2016 and that the respondent, Duval Gas Gathering Corporation, 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. Duval Gas Gathering Corporation ("Respondent"), Operator No. 236631, 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: Duval Gas Gathering Corporation, PO Box 11635, Austin, TX 78711. Respondent's officer as identified on the Form P-5-Cantu, Juan Eric-was sent the Original Complaint and Notice of Opportunity for Hearing by Certified and First Class mail, addressed to his last known address: Cantu, Juan Eric, President/VP, PO Box 11635, Austin, TX 78711.
2. The Certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing was received by the Respondent and Cantu, Juan Eric on June 21, 2016. The First Class mail addressed to the Respondent was not returned. Record of the delivery 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. On June 15, 2016, Respondent, a Corporation, filed a Form P-5 with the Commission reporting that its officers consist of the following individual: Cantu, Juan Eric.

4. Cantu, Juan Eric 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. Respondent's Form P-5 is Active. Respondent had a \$25,000.00 cash deposit as its financial assurance at the time of the last Form P-5 annual renewal submission.
6. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.
7. Respondent designated itself to the Commission as the operator of the Laughlin, C.M. "B" Lease, Well No. 1 (RRC ID No. 110056), by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective January 1, 2003, approved March 26, 2003.
8. A Commission inspection report made on May 26, 2015 for the Laughlin, C.M. "B" Lease, Well No. 1 (RRC ID No. 110056) show three oil contaminated areas: one at the compressor measuring 36' x 30'; one at the tank battery measuring 30' x 15'; and one at a tipped over drum near the compressor measuring 18' x 3'.
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. A Commission inspection report made on May 26, 2015 for the Laughlin, C.M. "B" Lease, Well No. 1 (RRC ID No. 110056) show that twenty-two 55-gallon drums are on the lease; some of which are unlabeled and others with unknown content that are labeled as methanol, triethylene glycol, antifreeze, 15w-40, SAE 30, and SAE 40. The report also indicates that both labeled and unlabeled drums are actively leaking and that the site has not been cleaned.
12. By failing properly to label the drums and to clean the site at which the barrels were leaking, Respondent violated Statewide Rule 98.
13. A violation to Statewide Rule 98 is serious and a hazard to public health and safety. Unmarked containers of hazardous oil and gas waste may affect humans, animals, and the environment and may eventually be discharged to surface or subsurface waters.
14. Respondent has prior violations of Commission Rules as cited in Oil and Gas Docket No. 04-0297597.

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 Rules 8(d)(1) and 98. 16 TEX. ADMIN. CODE §§ 3.8(d)(1) and 3.98.
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 leases in compliance with Statewide Rule 8(d)(1), which prohibits the discharge of oil and gas waste without a permit.
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 FOUR THOUSAND NINE HUNDRED SEVENTY-SIX DOLLARS (\$4,976.00), consisting of three violations of Rule 8(d)(1) (three violations at \$500.00 each plus \$0.30 per foot on a total affected area of 1,584 square feet), one violation of Rule 98 for \$2,000.00, and an enhancement of \$1,000.00 for one prior violation, is justified considering the facts and violations at issue.
9. 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, Cantu, Juan Eric, and any other organization in which he 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. Duval Gas Gathering Corporation (Operator No. 236631) place the Laughlin, C.M. "B" Lease, Well No. 1 (RRC ID No. 110056) in compliance with Statewide Rules 8(d)(1) and 98 and any other applicable Commission rules and statutes.

2. Duval Gas Gathering Corporation (Operator No. 236631) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FOUR THOUSAND NINE HUNDRED SEVENTY-SIX DOLLARS (\$4,976.00)**.

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, Cantu, Juan Eric and any other organization in which he 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 24th day of January, 2017.

RAILROAD COMMISSION OF TEXAS

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