

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 09-0300369

ENFORCEMENT ACTION AGAINST KEC ENTERPRISES, INC. (OPERATOR NO. 448461) FOR VIOLATIONS OF STATEWIDE RULES ON THE CHADWELL, ODELL (GAS ID NO. 209297) LEASE, WELL NO. 2, NEWARK, EAST (BARNETT SHALE) FIELD, PARKER 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 March 9, 2017 and that the respondent, KEC Enterprises, 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. KEC Enterprises, Inc. ("Respondent"), Operator No. 448461, was sent the Original Complaint and Notice of Opportunity for Hearing and the First Amended Original Complaint and First Amended 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: KEC Enterprises, Inc., P.O. Box 726, Azle, Texas 76098. Respondent's officers and agent as identified on the Form P-5—Vicki Palmour, Resident Texas Agent; Keith Edward Chadwell, President/Director; and Kevin Earl Chadwell, Secretary/Treasurer/Director—were each sent the Original Complaint and Notice of Opportunity for Hearing and the First Amended Original Complaint and First Amended Notice of Opportunity for Hearing by certified and first class mail, addressed to their last known address: Vicki Palmour, Resident Texas Agent, P. O. Box 1327, Graham, Texas 76450; Keith Edward Chadwell, KEC Enterprises, Inc., P.O. Box 726, Azle, Texas 76098; Kevin Earl Chadwell, KEC Enterprises, Inc., P.O. Box 726, Azle, Texas 76098.
2. The certified mail envelopes containing the Original Complaint and Notice of Opportunity for Hearing addressed to Respondent, Vicki Palmour, Keith Edward Chadwell, and Kevin Earl Chadwell were returned to the Commission unopened on May 20, 2016, May 31, 2016, May 19, 2016, and May 17, 2016 respectively. The first-class mail envelopes containing the Original Complaint and Notice of

Hearing addressed to Respondent, Keith Edward Chadwell, and Kevin Earl Chadwell were returned to the Commission unopened on May 16, 2016. The first-class mail envelopes containing the Original Complaint and Notice of Hearing addressed to Vicki Palmour was returned to the Commission unopened on May 31, 2016. 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. The certified mail envelopes containing the First Amended Complaint and First Amended Notice of Opportunity for Hearing addressed to Respondent, Vicki Palmour, Keith Edward Chadwell, and Kevin Earl Chadwell were returned to the Commission on January 5, 2017, February 3, 2017, January 10, 2017, and January 10, 2017, respectively. The first-class mail envelopes containing the First Amended Complaint and First Amended Notice of Opportunity for Hearing addressed to the Vicki Palmour, Resident Texas Agent were returned to the Commission unopened on January 19, 2017 and February 3, 2017. The first-class mail envelopes containing the First Amended Complaint and First Amended Notice of Opportunity of Hearing addressed to Respondent, Keith Edward Chadwell, and Kevin Earl Chadwell were not returned. Record of the return of certified mail and first-class 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 First Amended Complaint and First Amended Notice of Opportunity for Hearing. Respondent has not entered into an agreed settlement order, filed an answer, or requested a hearing.
4. Respondent filed its first Form P-5 in 2002. On April 1, 2013, Respondent, a corporation, filed a Form P-5 with the Commission reporting that its officers consist of the following individuals: Keith Edward Chadwell and Kevin Earl Chadwell.
5. Keith Edward Chadwell 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. Kevin Earl Chadwell 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.
7. Respondent's Form P-5 is delinquent. Respondent had a \$25,000 letter of credit as its financial assurance at the time of Respondent's last Form P-5 annual renewal submission.

8. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.
9. Respondent designated itself to the Commission as the operator of the Chadwell, Odell (Gas ID No. 209297) Lease, Well No. 2, by filing a Completion Report (Commission Form G-1), filed May 2, 2005. Commission records indicate that Respondent designated itself as the operator of the Chadwell, Odell (Gas ID No. 209297) Lease, Well No. 2 by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), approved July 12, 2005.
10. Commission inspection reports made on November 10, 2015, February 9, 2016, and March 30, 2016 for the Chadwell, Odell (Gas ID No. 209297) Lease, show that the sign or identification required by Statewide Rule 3(3) to be posted at the tank was missing.
11. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rule 3(3), may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency, which can result in delays in remedying a violation or emergency.
12. The violations of Commission rules committed by Respondent are related to safety and the control of pollution. According to an Affidavit signed by Clay Woodul, Field Operations, on Statewide Rule 3, "In the event of a pollution or safety violation or other emergency, the lack of legible signs and identification displaying correct information may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency. Such confusion will cause delays in containing and remediating the violation or emergency, which is serious and may threaten the public health and safety."
13. Commission District inspection reports made on November 10, 2015, February 9, 2016, and March 30, 2016, and either reports filed by Respondent with the Commission reflecting zero production, or the absence of production reports filed by the Respondent with the Commission since January 2014, showed that the Chadwell, Odell (Gas ID No. 209297) Lease, Well No. 2 has been inactive for a period greater than one year. Production from the subject well ceased on or before February 2014.
14. 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.

15. Usable quality groundwater in the area can become 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.
16. The violations of Commission rules committed by Respondent are related to safety and the control of pollution. According to a February 2, 2017 affidavit signed by Clay Woodul, Field Operations, "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 usable quality zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface."
17. The total estimated cost to the State for plugging the Chadwell, Odell (Gas ID No. 209297) Lease, Well No. 2 is \$23,300.00.
18. Commission District inspection reports made on November 10, 2015, February 9, 2016, and March 30, 2016, for the Chadwell, Odell (Gas ID No. 209297) Lease indicated that produced water with chloride concentrations of 84,400 mg/l was actively leaking at the tank battery.
19. 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.
20. 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.
21. The violations of Commission rules committed by Respondent are related to safety and the control of pollution. According to an Affidavit signed by Clay Woodul, Field Operations, on Statewide Rule 8(d)(1), "Any unauthorized discharge of disposal of oil, saltwater, basic sediment or other oil and gas waste is a potential source of pollution to surface and subsurface waters if not remediated to prevent seepage and run-off."
22. 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 Rules 3(3), 8(d)(1), and 14(b)(2). 16 TEX. ADMIN. CODE §§ 3.3(3), 3.8(d)(1), and 3.14(b)(2).
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(3), which requires that each tank battery that produces oil, gas, or geothermal resources shall post signs or identification showing the name of the property, commission lease number, name of the operator, number of acres in the property and if commingled, include the commingling permit number.
7. 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.
8. 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.
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 **TEN THOUSAND EIGHTY-ONE DOLLARS (\$10,081.00)** is justified considering the facts and violations at issue, consisting of one violation of Statewide Rule 3(3) at \$1,000.00; one violation of Statewide Rule 14(b)(2) at \$2,000.00, plus \$1.00 per foot on a total well depth of \$6,581 feet for a total of \$8,581.00; and one violation of Statewide Rule 8(d)(1) at \$500.00.

11. As 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, Keith Edward Chadwell and Kevin Earl Chadwell, 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. KEC Enterprises, Inc. (Operator No. 448461) shall place the Chadwell, Odell (Gas ID No. 209297) Lease, Well No. 2, in compliance with Statewide Rules 3(3), 8(d)(1), and 14(b)(2), and any other applicable Commission rules and statutes.
2. KEC Enterprises, Inc. (Operator No. 448461) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TEN THOUSAND EIGHTY-ONE DOLLARS (\$10,081.00)**.

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, Keith Edward Chadwell and Kevin Earl Chadwell 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 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 April 4, 2017.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated April 4, 2017)

MFE/dac/rnf