

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 02-0301255

ENFORCEMENT ACTION AGAINST SEQUOIA FOSSIL FUELS, INC. (OPERATOR NO. 767534) FOR VIOLATIONS OF STATEWIDE RULES ON THE SIMONS, T. K. (034930) LEASE, WELL NO. 1, TEXANA, NORTH (5800) FIELD, JACKSON 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 April 6, 2017, and that the respondent, Sequoia Fossil Fuels, 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. Sequoia Fossil Fuels, Inc. ("Respondent"), Operator No. 767534, 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: Sequoia Fossil Fuels, Inc., P O Box 2079, Albany TX 76430. Respondent's officer as identified on the Form P-5—Hudson, Randy D., Pres./Vice Pres.—was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first-class mail, addressed to his last known address: Hudson, Randy D., Pres./Vice Pres., P O Box 2052, Albany TX 76430.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent was received on March 1, 2017. The Certified Mail envelope addressed to Hudson, Randy D. was received on March 1, 2017. The first-class mail was not returned. Record of the delivery and 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. Respondent filed its first Form P-5 with the Commission in 1979. On December 22, 2011, Respondent, a Corporation, filed a Form P-5 with the Commission reporting that its officers consist of the following individual: Hudson, Randy D.

4. Hudson, Randy D. 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 delinquent. Respondent had a \$50,000.00 letter of credit as its financial assurance at the time of the last Form P-5 annual renewal submission.
6. Respondent designated itself to the Commission as the operator of the Simons, T. K. (034930) Lease, Well No. 1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective August 1, 2009, approved September 21, 2009.
7. A Commission district inspection report made on October 22, 2015 for the Simons, T. K. (034930) Lease shows approximately five barrels of produced water has leaked from a steel tank, affecting an area measuring approximately 30' x 30'. An inspection report made on February 4, 2016 shows that in addition to the spill area mentioned above, an oil-saturated soil area measuring approximately 3' x 2' was found in the firewall. Follow-up inspection reports made on February 22, 2016, March 7, 2016, May 10, 2016, June 20, 2016, and July 22, 2016 show that no remediation of the affected areas have occurred.
8. 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.
9. 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.
10. Commission inspection reports made on August 31, 2015, October 22, 2015, December 3, 2015, February 4, 2016, February 22, 2016, March 7, 2016, May 10, 2016, June 20, 2016, and July 22, 2016, and the absence of reported production since March 1993, showed that the Simons, T. K. (034930) Lease, Well No. 1 has been inactive for a period greater than one year. Production from the subject lease ceased on or before April 1993.
11. No workovers, 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 extensions are in effect for the subject well as allowed by Statewide Rule 14.
12. Usable quality groundwater in the area can become contaminated by migrations or discharges of saltwater and other oil and gas waste 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.

13. According to an affidavit signed by David Randle, 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."
14. The total estimated cost to the State for plugging the Simons, T. K. (034930) Lease, Well No. 1 is \$44,072.00.
15. The Simons T.K. (034930) Lease, Well NO. 1 is permitted as a disposal well. Commission records indicate that Respondent was scheduled to perform the mechanical integrity (pressure) test on the subject well by July 30, 2010. Respondent failed to conduct the required test and report the test results to the Commission on Commission Form H-5 (Disposal/Injection Well Pressure Test Report).
16. By failing to timely conduct the pressure test of the subject well, Respondent violated Statewide Rule 9(12)(C)(i) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE § 3.9(12)(C)(i)].
17. Respondent's violation of Statewide Rule 9(12)(C)(i) is serious and a hazard to the public health and safety because a failure to test a disposal well may lead to leaks of fluid and cause pollution. "Pollution" is defined in Statewide Rule 8(a)(28) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE § 3.8(a)(28)] as the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any surface or subsurface water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.
18. The Respondent has prior orders documented under Docket Nos. 7B-0298115, 7C-0282843, 7C-0284701, and 7C-0284720 for violations of rule 14(b)(2) and Docket No. 7B-0298116 for violations of rules 14(b)(2), 3(1), 3(2), and 13(a)(6)(A).

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), 14(b)(2), and 9(12). 16 TEX. ADMIN. CODE §§ 3.8(d)(1), 3.14(b)(2), and 3.9(12).
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 8(d)(1), which prohibits the discharge of oil and gas waste without a permit.
7. 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.
8. Respondent is responsible for conducting and filing integrity (pressure) test on disposal or injection wells in compliance with Statewide Rule 9(12)(C)(i), which requires that each disposal well completed with surface casing set and cemented through the entire interval of protected usable-quality water shall be tested for mechanical integrity at least once every five years.
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 **EIGHTEEN THOUSAND, SIX HUNDRED FIFTY DOLLARS (\$18,650.00)** is justified considering the facts and violations at issue.
11. 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, Hudson, Randy D. and any other organization in which this individual may hold a position of ownership or control, is 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. Sequoia Fossil Fuels, Inc. (Operator No. 767534) shall place the Simons, T. K. (034930) Lease, Well No. 1, in compliance with Statewide Rules 8(d)(1), 14(b)(2), and 9(12), and any other applicable Commission rules and statutes.

2. Sequoia Fossil Fuels, Inc. (Operator No. 767534) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **EIGHTEEN THOUSAND, SIX HUNDRED FIFTY DOLLARS (\$18,650.00)**.

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, Hudson, Randy D. and any other organization in which this individual 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 25th day of April, 2017.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated April 25, 2017)

CJH/dac