

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 03-0303535

**ENFORCEMENT ACTION AGAINST CHARLES MILLER, SOLE PROPRIETORSHIP,
(OPERATOR NO. 567830) FOR VIOLATIONS OF STATEWIDE RULES ON THE
JOOST LEASE, WELL NO. 2 (DRILLING PERMIT NO. 748788) WILDCAT FIELD,
FAYETTE 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 30, 2017 and that the respondent, Charles Miller, Sole Proprietor, 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. Charles Miller, Sole Proprietorship (“Respondent”), Operator No. 567830, 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. Respondent’s officers and agents as identified on the Form P-5—Charles Miller and Ken Stevenson—were sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to their last known address.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to Charles Miller was returned to the Commission on March 9, 2017; the first class mail envelope was also returned. The certified mail envelope addressed to Ken Stevenson, Resident Agent for Respondent, was delivered on March 28, 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. On September 14, 2012, Respondent, a sole proprietorship, filed a Form P-5 with the Commission reporting that its officers consist of the following individual: Charles Miller, Owner.
4. Charles Miller 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 \$6,520.00 cash deposit as its financial assurance at the time of Respondent's 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 Joost Lease (Drilling Permit No. 748788), Well No. 2, by filing a Commission Form W-1 (Application for Permit to Drill, Recomplete, or Re-Enter), received September 25, 2012, issued October 15, 2012.
8. Commission inspection reports made on February 21, 2014, March 11, 2014, March 20, 2014, March 21, 2014, April 22, 2014, June 16, 2014, September 3, 2014, February 5, 2015, February 24, 2016, October 24, 2016, and December 5, 2016, for the Joost Lease show that the sign or identification required to be posted at the lease entrance was missing.
9. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rule 3(1), may cause confusion as to the responsible operator to be contacted and the actual location of a violation or emergency, which can result in delays in remedying a violation or emergency.
10. Commission records show that Respondent's Commission Form W-1 (Application for Permit to Drill, Recomplete, or Re-Enter), for the Joost Lease, Well No. 2, was approved and issued Drilling Permit No. 748788 on October 15, 2012. The terms of the drilling permit specify that the operator must call in notification to the appropriate Commission district office a minimum of eight hours prior to the initiation of drilling or re-completion operations.
11. A Commission inspection report made on October 24, 2016 shows that Respondent failed to notify the district office prior to the initiation of drilling operations on the Joost Lease, Well No. 2.
12. Failing to provide notification prior to commencement of operations, as required by

Statewide Rule 5, prevents the Commission from having sufficient information to determine if proper safety measures are taken and the proper safety equipment is placed at a well. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 5(a), which requires that an application for a permit to drill, deepen, plug back, or reenter any oil well, gas well, or geothermal resource well shall be filed with the Commission on a form approved by the Commission and accompanied by any relevant information, form, or certification required by the Railroad Commission or a commission representative necessary to determine compliance with this rule and state law.

13. Commission inspection reports made on February 21, 2014, March 11, 2014, March 20, 2014, March 21, 2014, April 22, 2014, June 16, 2014, September 3, 2014, February 5, 2015, February 24, 2016, October 24, 2016, and December 5, 2016, show the Joost Lease, Well No. 2 has been inactive for a period greater than one year and that the Well is incapable of producing. Production reports were never filed for the Joost Lease, Well No. 2.
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 total estimated cost to the State for plugging the Joost Lease, Well No. 2 is \$47,495.00.
17. A Commission inspection report made on September 13, 2014, for the Joost Lease, Well No. 2 shows Respondent failed to file the required completion report. An inspection report shows the well was completed with casing. Despite completion of the well, Respondent has not filed the required completion paperwork.
18. Should a well need to be re-entered for any reason, the wellbore documentation provided in completion and plugging reports as set forth in Statewide Rule 16(b) is necessary to safely and efficiently carry out the replugging, recompletion, reworking, or other action.

19. 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(1), 5, 14(b)(2), and 16(b). 16 TEX. ADMIN. CODE §§ 3.3(1), 3.5, 3.14(b)(2), and 3.16(b).
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 3(1) which requires that for each property that produces oil, gas or geothermal resources and each oil, gas or geothermal resource well and tank, or other approved crude oil measuring facility, a sign shall be posted at the principal entrance which shall show the name by which the property is carried on the records of the Commission, the name of the operator, and the number of acres in the property.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 5, which requires that an application for a permit to drill, deepen, plug back, or reenter any oil well, gas well, or geothermal resource well shall be filed with the Commission on a form approved by the Commission and accompanied by any relevant information, form, or certification required by the Railroad Commission or a commission representative necessary to determine compliance with this rule and state law.
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. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 16(b), which requires proper completion and plugging reports to be filed timely.
10. 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.
11. An assessed administrative penalty in the amount of THIRTEEN THOUSAND SEVEN HUNDRED SIXTY DOLLARS (\$13,760.00) is justified considering the facts and violations at issue.
12. 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, Charles Miller and any other organization in which this individual 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. Charles Miller shall place the Joost Lease, Well No. 2 in compliance with Statewide Rules 3(1), 5, 14(b)(2), and 16(b), and any other applicable Commission rules and statutes.
2. Charles Miller shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **THIRTEEN THOUSAND SEVEN HUNDRED SIXTY DOLLARS (\$13,760.00)**.

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, Charles Miller 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 Commission Order is signed. All pending motions and request for relief not previously granted or granted herein are denied.

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 10th day of May 2017.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated May 10, 2017)

JNC/rmf