

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 09-0303403

ENFORCEMENT ACTION AGAINST KENNEMER, DARRELL, SOLE PROPRIETOR (OPERATOR NO. 457132) FOR VIOLATIONS OF STATEWIDE RULES ON THE KEMPNER (13875) LEASE, WELL NOS. 1, 2, 6, 9, AND 15, WICHITA COUNTY REGULAR FIELD, WICHITA COUNTY; AND THE SMITH, L.D. (22381) LEASE, WELL NO. 2, WICHITA COUNTY REGULAR FIELD, WICHITA 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 May 22, 2017, and that the respondent, Kennemer, Darrell, 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. Kennemer, Darrell ("Respondent"), Operator No. 457132, 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: Kennemer, Darrell, 252 Cr 4774, Boyd TX 76023.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent was received on March, 27, 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 2008. On December 21, 2013, Respondent, a Sole Proprietorship, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Kennemer, Darrell Wayne.
4. Kennemer, Darrell Wayne was in a position of ownership or control of Respondent, as defined in TEX. NAT. RES. CODE § 91.114, 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 bond 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 Kempner (13875) Lease, Well Nos. 1, 2, 6, 9, and 15, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective August 1, 2009, approved September 2, 2009.
7. Respondent designated itself to the Commission as the operator of the Smith, L.D. (22381) Lease, Well No. 2, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective April 1, 2009, approved May 28, 2009.
8. Respondent plugged the Kempner (13875) Lease, Well Nos. 1, 2, 6, 9, and 15 in December 2015. The Commission witnessed the plugging of Well Nos 2, 6, and 15. A Commission inspection report made on January 4, 2017 shows the Kempner (13875) Lease, Well Nos. 1, 2, 6, 9, and 15 have been plugged with all casing cut off and buried. However, Respondent has failed to file the required Forms W-3 (Plugging Record) and Forms W-15 (Cementing Report).
9. Respondent plugged the Smith, L.D. (22381) Lease, Well No. 2 in December 2015. A Commission inspection report made on January 4, 2017 shows the Smith, L.D. (22381) Lease, Well No. 2 has been plugged with all casing cut off and buried. However, Respondent has failed to file the required Forms W-3 (Plugging Record) and Forms W-15 (Cementing Report).
10. Unverified plugging of wellbores, in violation of Statewide Rule 14(b)(1), may result in the pollution of usable quality ground water and surface water because if wells are improperly plugged, they may serve as a conduit for the passage of oil, gas, saltwater, and other substances from one stratum or formation to another or to the surface or from surface downward.
11. The Respondent charged with the violation herein recited has previous violations documented under Docket Nos. 09-0278523 and 09-0281463 for violations of Statewide Rule 46(a) and Docket No. 09-0293924 for a violation of Statewide Rule 73(i).

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 TEX. NAT. RES. CODE, Chapters 89 and 91.

4. Respondent is in violation of Statewide Rule 14(b)(1). 16 TEX. ADMIN. CODE § 3.14(b)(1).
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 14(b)(1) which requires completing and filing in the district office, a duly verified plugging record, in duplicate, on the appropriate form within 30 days after plugging operations are completed. A cementing report made by the party cementing the well shall be attached to, or made a part of, the plugging report. If the well is a dry hole, an electric log status report shall be filed with the plugging report.
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 **THIRTY-THREE THOUSAND DOLLARS (\$33,000.00)** 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, Kennemer, Darrell Wayne, and any other organization in which this individual may hold a position of ownership or control, is subject to the restriction in TEX. NAT. RES. CODE § 91.114(a)(2).

IT IS ORDERED THAT within 30 days from the day immediately following the date this order becomes final:

1. Kennemer, Darrell (Operator No. 457132) shall place the Kempner (13875) Lease, Well Nos. 1, 2, 6, 9, and 15; and Smith, L.D. (22381) Lease, Well No. 2, in compliance with Statewide Rule 14(b)(1), and any other applicable Commission rules and statutes.
2. Kennemer, Darrell (Operator No. 457132) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **THIRTY-THREE THOUSAND DOLLARS (\$33,000.00)**.

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, Kennemer, Darrell Wayne, and any other organization in which this individual may hold a position of ownership or control, **shall be subject to the restriction in TEX. NAT. RES. CODE § 91.114(a)(2) 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 6th day of June, 2017.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated June 6, 2017)

CJH/dac