

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 7B-0303269

ENFORCEMENT ACTION AGAINST RONALD D. SMITH AND RONALD D. SMITH II, PARTNERS IN THE POWELL-MCCARROLL PARTNERSHIP (OPERATOR NO. 674803), FOR VIOLATIONS OF STATEWIDE RULES ON THE MCKEICHEN "A" (27995) LEASE, WELL NO. B1, MCKEICHAN (STRAWN) FIELD, THROCKMORTON COUNTY; AND BROWN "C" (30665) LEASE, WELL NO. 8, RUST CREEK (MISS) FIELD, THROCKMORTON 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 July 6, 2017, and that the respondents Ronald D. Smith and Ronald D. Smith II, partners in the Powell-McCarroll Partnership, 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. Ronald D. Smith and Ronald D. Smith II, partners in the Powell-McCarroll Partnership (Operator No. 674803), ("Respondents"), were 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 for the partnership. Respondent's officers as identified on the Form P-5—Ronald D. Smith and Ronald D. Smith II—were sent the Original Complaint and Notice of Opportunity for Hearing by certified and first-class mail, addressed to their last known addresses.
2. The certified mail envelopes containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondents' Form P-5 address and to Ronald D. Smith were not returned to the Commission but the United States Postal Service does not have record of delivery. The certified mail envelope addressed to Ronald D. Smith was returned to the Commission on June 6, 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. Respondents were given more than 30 days' notice of the Original Complaint and Notice of Opportunity for Hearing. Respondents have

- not entered into an agreed settlement order, filed an answer or requested a hearing.
3. On September 30, 2014, Respondents' partnership filed a Form P-5 with the Commission reporting that its officers consist of the following individuals: Ronald D. Smith, Partner and Ronald D. Smith II, Partner.
 4. Ronald D. Smith was in a position of ownership or control of Respondents' partnership, as defined in TEX. NAT. RES. CODE § 91.114, during the time period of the violations of Commission rules committed by Respondent.
 5. Ronald D. Smith II was in a position of ownership or control of Respondents' partnership, as defined in TEX. NAT. RES. CODE § 91.114, during the time period of the violations of Commission rules committed by Respondent.
 6. Respondents' Form P-5 is delinquent. Respondents had a \$50,000.00 bond as its financial assurance at the time of the last Form P-5 annual renewal submission.
 7. Respondents' partnership designated itself to the Commission as the operator of the McKeichen "A" (27995) Lease, Well No. B1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective May 1, 2009, approved July 9, 2009.
 8. Respondents' partnership designated itself to the Commission as the operator of the Brown "C" (30665) Lease, Well No. 8, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective March 1, 2011, approved April 11, 2011.
 9. Commission inspection reports made on November 29, 2016 and December 20, 2016 for the Brown "C" (30665) Lease, show that the sign or identification required to be posted at the lease entrance was missing.
 10. Commission inspection reports made on November 29, 2016 and December 20, 2016 for the Brown "C" (30665) Lease show that the sign or identification required to be posted at the well was missing.
 11. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rules 3(1) and 3(2), 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.
 12. Commission inspection reports made on November 26, 2016 and December 20, 2016, and reports filed by Respondents show that the McKeichen "A" (27995) Lease, Well No. B1 has been inactive for a period greater than one year. Well No. B1 was equipped to inject and the last monitored report was submitted August 2010.

13. Commission inspection reports made on November 29, 2016 and December 20, 2016, and reports filed by Respondents show that the Brown "C" (30665) Lease, Well No. 8 has been inactive for a period greater than one year. Production from the subject lease ceased on or before April 2011.
14. No workovers, re-entries, or subsequent operations have taken place on the subject wells within the last twelve months; the subject wells have 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 wells as allowed by Statewide Rule 14.
15. Usable quality groundwater in the area can become contaminated by migrations or discharges of saltwater and other oil and gas waste from the subject wells. 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 McKeichen "A" (27995) Lease, Well No. 8 is \$23,800.00. The total estimated cost to the State for plugging the Brown "C" (30665) Lease, Well No. 8 is \$19,700.00.
17. Commission inspection reports made on November 29, 2016 and December 20, 2016 for the Brown "C" (30665) Lease show that Respondents had an open workover pit located at Well No. 8. The pit measured approximately 20' x 4' and contained approximately ten barrels of freestanding fluid.
18. Pits that are not maintained, emptied, closed, backfilled and/or compacted as required in Statewide Rule 8(d)(4)(H)(i)(III) may result in unpermitted discharges of oil and gas waste which can contaminate the land surface, affect the health of humans and animals, and may be discharged to surface or subsurface waters, causing pollution.
19. The Respondents have no prior history of violations of Commission Rules.

CONCLUSIONS OF LAW

1. Proper notice was issued by the Commission to Respondents 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. Respondents are responsible for maintaining the subject lease in compliance with all applicable Commission rules and TEX. NAT. RES. CODE, chapters 89 and 91.

4. Respondents are in violation of Statewide Rules 3(1), 3(2), 14(b)(2), and 3.8(d)(4)(H)(i)(III). 16 TEX. ADMIN. CODE §§ 3.3(1), 3.3(2), 3.14(b)(2), 3.8(d)(4)(H)(i)(III).
5. The documented violations committed by Respondents 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. Respondents are responsible for maintaining the subject leases in compliance with Statewide Rule 3(1), which requires that each well site that produces oil, gas, or geothermal resources shall post signs or identification showing the name of the property, name of the operator and the well number.
7. Respondents are responsible for maintaining the subject leases in compliance with Statewide Rule 3(2), which requires that each well site that produces oil, gas, or geothermal resources shall post signs or identification showing the name of the property, name of the operator and the well number.
8. Respondents are responsible for maintaining the subject leases 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. Respondents are responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(4)(H)(i)(III), which contains requirements for the dewatering, filling, backfilling and/or compacting of pits.
10. Pursuant to TEX. NAT. RES. CODE § 81.0531, the Commission may assess administrative penalties against Respondents 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 **EIGHTEEN THOUSAND SIX HUNDRED NINETY-EIGHT DOLLARS (\$18,698.00)** is justified considering the facts and violations at issue.
12. As persons in positions of ownership or control of Respondents at the time Respondents violated Commission rules related to safety and the control of pollution, Ronald D. Smith and Ronald D. Smith II, and any other organization in which either of these individuals 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. Respondents shall place the McKeichen "A" (27995) Lease, Well No. B1, and Brown "C" (30665) Lease, Well No. 8, in compliance with Statewide Rules 3(1), 3(2), 14(b)(2), and 8(d)(4)(H)(i)(III), and any other applicable Commission rules and statutes.
2. Respondents 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 NINETY-EIGHT DOLLARS (\$18,698.00)**.

It is further **ORDERED** that as persons in positions of ownership or control of Respondents at the time Respondents violated Commission rules related to safety and the control of pollution, Ronald D. Smith and Ronald D. Smith II, and any other organization in which either of these individuals 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 15th day of August, 2017.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated August 15, 2017)

JNC/rnf