

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 03-0305171

ENFORCEMENT ACTION AGAINST SAXET OPERATING CO., INC. (OPERATOR NO. 749525) FOR VIOLATIONS OF STATEWIDE RULES ON THE THOMPSON, L. P.1 (GAS ID NO. 097109), MADISONVILLE (SUB-CLARK, GAS) FIELD, MADISON 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 27, 2017, and that the respondent, Saxet Operating Co., 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. Saxet Operating Co., Inc. ("Respondent"), Operator No. 749525, 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: Saxet Operating Co., Inc., P O Box 895, Madisonville TX 77864-0895. Respondent's officers as identified on the Form P-5—Smith, Brandye P., Sec, Treas; Smith, Brandye P., Sec, Treas; Smith, Whitney T., President/Owner; and Smith, Whitney T., President/Owner—were sent the Original Complaint and Notice of Opportunity for Hearing by certified and first-class mail, addressed to their last known address: Smith, Brandye P., Sec, Treas, P O Box 895, Madisonville TX 77864-0895; Smith, Brandye P., Sec, Treas, 7603 Cr 324, Jewett TX 75846; Smith, Whitney T., President/Owner, P O Box 895, Madisonville TX 77864-0895; and Smith, Whitney T., President/Owner, 7603 Cr 324, Jewett TX 75846.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent was delivered on June 20, 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 December 7, 2016, Respondent, a Corporation, filed a Form P-5 with the Commission reporting that its officers consist of the following individuals: Smith, Brandye P.; Smith, Brandye P. Smith, Whitney T.; and Smith, Whitney T.
4. Smith, Brandye P. 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. Smith, Whitney T. 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.
6. Respondent's Form P-5 is active. Respondent had a \$25,000.00 cash deposit as its financial assurance at the time of the last Form P-5 annual renewal submission.
7. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.
8. Respondent designated itself to the Commission as the operator of the Thompson, L. P. Lease, Well No. 1 (Gas ID No. 097109), by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective October 1, 1997, approved March 9, 1998.
9. Commission injection reports submitted by the operator show that between January 2012 and December 2015, the operator injected above its monthly allowable rate of 1,500 bbls a day. With the exception of August 2012, the operator over injected every single month during this time period. This was a violation of Rule 9 under the terms of Disposal Permit No. 02714. The Operator did not have a valid permit for such high volumes of injection, and therefore was not permitted under Rule 9(1). On August 16, 2016, Permit No. 02714 was amended to allow the operator to increase its daily allowable injection volume to 10,500 bbls a day.
10. Commission records reflect that on July 24, 2013, the Commission gave Respondent Notice of Intent to Cancel the P-4 Certificate of Compliance by certified mail. As a result of the operator's inability to comply with the District Office's request, Well No. 1 was sealed on August 23, 2013.
11. Injection reports and review of Commission H-10 Forms were filed by Respondent for the L.P. Thompson Lease, showed that the Respondent was still over injecting permitted amounts into Well No. 1 while their P-4 was severed. Respondent did not obtain a new, valid P-4 until December 7, 2016.
12. The 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 TEX. NAT. RES. CODE, Chapters 89 and 91.
4. Respondent is in violation of Statewide Rules 73(i), and 9. 16 TEX. ADMIN. CODE §§ 3.73(i), and 3.9.
5. Statewide Rule 9(1) provides that every applicant who proposes to dispose of saltwater or other oil & gas waste into a formation not productive of oil, gas or geothermal resources must obtain a permit from the Commission authorizing the disposal in accordance with Rule 9. Statewide Rule 8(a)(26) defines "oil and gas waste" as including, but not limited to, saltwater, other mineralized water, sludge, spent drilling fluids, cuttings, waste oil, spent completion fluids, and other liquid semi-liquid, or solid waste material. "Oil and gas waste" is defined in TEX. WATER CODE ANN. § 27.002 as including "an injection well that is used for the injection of oil and gas waste."
6. Respondent's violation of Statewide Rule 9(1) is serious and a hazard to the public health and safety because unauthorized and unpermitted disposal of oil and gas wastes into wells may contaminate surface or subsurface waters, causing pollution.
7. Statewide Rule 73(i) provides that upon notice from the Commission that a certificate of compliance has been cancelled, it is unlawful for an operator of a well to produce, inject, or dispose of oil or gas products until a new certificate of compliance has been issued by the Commission.
8. By injecting into the L.P. Thompson Lease, Well No. 1, after notice from the Commission that the certificate of compliance had been cancelled and before a new certificate of compliance had been issued, Respondent violated Statewide Rule 73 and TEX. NAT. RES. CODE ANN. §91.706.
9. 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).
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 continue constituting a separate violation.
11. An assessed administrative penalty in the amount of **THIRTEEN THOUSAND DOLLARS (\$13,000.00)** is justified considering the facts and violations at issue.

12. As persons in positions of ownership or control of Respondent at the time Respondent violated Commission rules related to safety and the control of pollution, Smith, Brandye P. and Smith, Whitney T., and any other organization in which 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. Saxet Operating Co.,Inc. (Operator No. 749525) shall place the Thompson, L. P. (097109) Lease, Well No. 1, in compliance with Statewide Rules 73(i), and 9, and any other applicable Commission rules and statutes.
2. Saxet Operating Co.,Inc. (Operator No. 749525) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **THIRTEEN THOUSANDDOLLARS (\$13,000.00)**.

It is further **ORDERED** that as persons in positions of ownership or control of Respondent at the time Respondent violated Commission rules related to safety and the control of pollution, Smith, Brandye P., Smith, Brandye P., Smith, Whitney T., and Smith, Whitney T., and any other organization in which 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)