

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 01-0302187

**ENFORCEMENT ACTION AGAINST DSD-FRIO ENVIRONMENTAL, INC.
(OPERATOR NO. 229360) FOR VIOLATIONS OF STATEWIDE RULES ON FRIO
COUNTY SCHOOL LAND LEASE (LEASE NO. 16058), WELL NOS. 5 AND 6,
PEARSALL (AUSTIN CHALK) FIELD, FRIO 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 January 26, 2017 and that the respondent, DSD-Frio Environmental, 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. DSD-Frio Environmental, Inc. ("Respondent"), Operator No. 229360, 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—Chaoming Zhang, President, and Yang Yang, Senior Manager—were each 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 was received by the Respondent on November 4, 2016. The first class mail was not returned. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to Chaoming Zhang was returned to the Commission on December 14, 2016. The first class mail was not returned. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to Yang Yang was returned to the Commission on November 30, 2016. 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 January 21, 2016, Respondent, a corporation, filed a Form P-5 with the Commission reporting that its officers consist of the following individuals: Chaoming Zhang and Yang Yang.
4. Chaoming Zhang 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. Yang Yang 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.
6. Respondent's Form P-5 is delinquent. Respondent had a \$25,000.00 cash deposit as its financial assurance at the time of Respondent's 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 Frio County School Land Lease (Lease No. 16058), Well Nos. 5 and 6, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective January 14, 2014, approved January 14, 2014.
9. Commission inspection reports made on on July 26, 2016 and August 16, 2016 for the Frio County School land Lease (Lease No. 16058) indicated solid and semi-solid waste stockpiled on the washout pad measurein approximately 40' x 20' and approximately 9,620 barrels of basic sediment and water with 100% oil coverage in an unpermitted pit.
10. 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.
11. 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.
12. Commission inspection reports made on July 26, 2016 and August 16, 2016 for the Frio County School Land Lease (Lease No. 16058) indicate Respondent is using and maintaining a pit measuring approximately 80' x 50' x 14' deep to store

approximately 9,620 barrels of basic sediment and water, with 100% oil coverage. Respondent's use and maintenance of the subject pit is not authorized by the Commission.

13. Continued maintenance of unpermitted pits, in violation of Statewide Rule 8(d)(2), 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.
14. Commission inspection reports made on July 26, 2016 and August 16, 2016 for the Frio County School Land Lease (Lease No. 16058) indicate that the firewall around the reclamation facility – which is located 65' from Stacey Road and 315' from FM 1582 – has been cut and that the firewall around the tank battery is sufficient to hold 100% of the capacity of the tanks.
15. Failing to erect a dike or fire wall as required by Statewide Rule 21(j) can cause fires.
16. On April 30, 2014, Respondent filed an Application for Permit to Operate a Reclamation Plant on the Frio County School Land Lease (Lease No. 16058), Well No. 5 (Salt Water Disposal No. 13613) and Well No. 6 (Salt Water Disposal No. 13865). Said permit was never approved/issued by the Commission. Further, Respondent does not qualify as an "authorized person" pursuant to Statewide Rule 57(c)(1).
17. Commission District inspections of the Frio County School Land Lease (Lease No. 16058) conducted on June 2, 2016, July 26, 2016 and August 16, 2016 show that despite the permit not being approved, the reclamation facility has been built and is in use, with Respondent separating and selling oil. Present at the facility are a washout/collecting pit measuring 80'x50'x14' deep, a line in the ground for discharging water and oil to the washout pad, and seven drums, a tote, three boilers, and one oiler sitting outside the tank battery firewall.
18. 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 8(d)(1), 8(d)(2), 21(j) and 57(c)(1). 16 TEX. ADMIN. CODE §§ 3.8(d)(1), 3.8(d)(2), 3.21(j) and 3.57(c)(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 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 8(d)(2), which requires that pits not otherwise authorized by rule, be permitted.
8. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 21(j), which requires that dikes or fire walls be erected and kept around all permanent oil tanks or battery of tanks that are within the corporate limits of any city, town or village or where such tanks are closer than 500 feet to any highway or inhabited dwelling or closer than 1,000 feet to any school or church, or where such tanks are located as to be deemed by the Commission to be an objectionable hazard.
9. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 57(c)(1), which requires for removal of tank bottoms or other hydrocarbon wastes from any producing lease tank, pipeline storage tank, or other production facility, for reclaiming by any person, is prohibited unless such person has either obtained a permit to operate a reclamation plant, or is an authorized person. "Authorized person" is defined as tanks bottom cleaner or transporter that is under contract for disposition of untreated tank bottoms or other hydrocarbon wastes to a person who has obtained a permit to operate a reclamation plant.
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 **TWENTY-THREE THOUSAND NINE-HUNDRED DOLLARS (\$23,900.00)** is justified considering the facts and violations at issue.
12. As persons in a position of ownership or control of Respondent at the time Respondent violated Commission rules related to safety and the control of pollution, Chaoming Zhang and Yang Yang, and any other organization in which they 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. DSD-Frio Environmental, Inc. (Operator No. 229360) shall place the Frio County School Land Lease (Lease No. 16058), Well Nos. 5 and 6 and reclamation plant in compliance with Statewide Rules 8(d)(1), 8(d)(2), 21(j) and 57(c)(1), and any other applicable Commission rules and statutes.
2. DSD-Frio Environmental, Inc. (Operator No. 229360) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWENTY-THREE THOUSAND NINE-HUNDRED DOLLARS (\$23,900.00)**.

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, Chaoming Zhang and Yang Yang and any other organization in which they 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 21st day of March, 2017

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated March 21, 2017)

RML/jm/rnf