

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL AND GAS DOCKET NO. 04-0303824**

**ENFORCEMENT ACTION AGAINST C VAC, LLC (OPERATOR NO. 120357) FOR VIOLATIONS OF STATEWIDE RULES AT THE PREMONT FACILITY (WASTE HAULER PERMIT NO. 4511), JIM WELLS 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 February 15, 2018, and that the respondent, C Vac, LLC, failed to appear or respond to the **Notice of Opportunity for Hearing**. Pursuant to § 1.25 of the Commission's General Rules of Practice and Procedure, 16 TEX. ADMIN. CODE § 1.25, 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. C Vac, LLC ("Respondent"), Operator No. 120357, 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 officer as identified on the Form P-5—Joshua D Cornelius—was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first-class mail, addressed to the last known address.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent was received on December 23, 2017. The Certified Mail envelope addressed to C Vac, LLC was returned to the Commission unopened on January 3, 2018. The first-class mail envelope addressed to C Vac, LLC was returned to the Commission on January 2, 2018. The first-class mail envelopes addressed to Respondent and Joshua D Cornelius were 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 March 23, 2015, Respondent, a limited liability company, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Joshua D Cornelius, Manager.
4. Joshua D Cornelius 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. Commission inspection reports made on February 22, 2017 and September 26, 2017 for the Premont Facility, Jim Wells County, show a 210' x 110' area affected with oil field waste which spilled from open tanks at the facility, along with several smaller areas affected with oil from the tanks' overflow and spillage.

6. 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.
7. 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.
8. Commission district inspection reports made on February 22, 2017 and September 26, 2017 for the Premont Facility, Jim Wells County, show Respondent is using and maintaining six open-top tanks/pits and one ground pit for storage of oil and gas wastes without a permit.
9. 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.
10. Commission inspection reports made on February 22, 2017 and September 26, 2017 for the Premont Facility, Jim Wells County, show the six open-top tanks/pits have no bird protection netting and have not otherwise been rendered harmless to birds.
11. Failing to properly screen or take other protective measures, as set forth in Statewide Rule 22(b), regarding open-top tanks, skimming pits, and/or collecting pits can cause harm to birds.
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, chs. 89 and 91.
4. Respondent is in violation of Statewide Rules 8(d)(1), 8(d)(2), and 22(b). 16 TEX. ADMIN. CODE §§ 3.8(d)(1), 3.8(d)(2), and 3.22(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 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 22(b), which requires open-top tanks, skimming pits, and collecting pits to be screened or otherwise rendered harmless to birds.
9. 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.
10. An assessed administrative penalty in the amount of **TWENTY-SIX THOUSAND, EIGHT HUNDRED EIGHTY DOLLARS (\$26,880.00)** is justified considering the facts and violations at issue.
11. 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, Joshua D Cornelius, 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).

#### ORDERING PROVISIONS

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

1. C Vac, LLC (Operator No. 120357) shall place the subject facility, in compliance with Statewide Rules 8(d)(1), 8(d)(2), and 22(b), and any other applicable Commission rules and statutes.
2. C Vac, LLC (Operator No. 120357) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWENTY-SIX THOUSAND, EIGHT HUNDRED EIGHTY DOLLARS (\$26,880.00)**.

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, Joshua D Cornelius, 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 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 100 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 per day per violation.

Done this 10<sup>th</sup> day of April 2018.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated April 10, 2018)

KMR/pbm