

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET No. 7B-0307760

ENFORCEMENT ACTION AGAINST PRAIRIE PRODUCTION (OPERATOR No. 675926) FOR VIOLATIONS OF STATEWIDE RULES ON THE SHULTZ, JACK CAROL (21752) LEASE, WELL NOS. 5, 6, AND 8, AMITY FIELD, COMANCHE 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 March 15, 2018, and that the respondent, Prairie Production, 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. Prairie Production ("Respondent"), Operator No. 675926, 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—Robert F Pitts—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 February 5, 2018. The Certified Mail envelope addressed to Robert F Pitts was received on February 3, 2018. The Certified Mail envelope addressed to Prairie Production was returned to the Commission unopened on February 12, 2018. The first-class mail envelope addressed to Prairie Production was returned to the Commission on February 12, 2018. The first-class mail envelopes addressed to Respondent and Robert F Pitts 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 April 7, 2016, Respondent, a sole proprietorship, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Robert F Pitts, Owner.
4. Robert F Pitts 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 letter of credit 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 Shultz, Jack Carol (21752) Lease, Well Nos. 5, 6, and 8, by filing a Commission Form P-4 (Certificate of

Compliance and Transportation Authority), effective January 1, 1994, approved January 27, 1994.

7. Commission inspection reports made on September 11, 2017 for the Shultz, Jack Carol (21752) Lease show hydrocarbon-soaked soil inside the firewall measuring approximately 80' x 30', a produced water leak east of the tank battery saturating a 950' x 200' area, and an active hydrocarbon release from the flowline of Well No. 8 affecting a 100' x 30' area.
8. 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.
9. 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.
10. Commission district inspection reports made on September 11, 2017 for the Shultz, Jack Carol (21752) Lease show Respondent is using and maintaining an open pit inside the firewall measuring 5' x 5' x 2' deep to store approximately three inches of free-standing fluid and an open pit at Well No. 8 measuring 3-1/2' x 3' x 10" deep to store approximately one-half barrel of fluid with a hydrocarbon residue on top.
11. 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.
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), 22(b), 46(a), and 73(i). 16 TEX. ADMIN. CODE §§ 3.8(d)(1), 3.8(d)(2), 3.22(b), 3.46(a), and 3.73(i).
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. 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.
9. An assessed administrative penalty in the amount of **SEVENTY-TWO THOUSAND DOLLARS (\$72,000.00)** is justified considering the facts and violations at issue.
10. 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, Robert F Pitts, 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. Prairie Production (Operator No. 675926) shall place the Shultz, Jack Carol (21752) Lease, Well Nos. 5, 6, and 8, in compliance with Statewide Rules 8(d)(1), 8(d)(2), 22(b), 46(a), and 73(i), and any other applicable Commission rules and statutes.
2. Prairie Production (Operator No. 675926) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SEVENTY-TWO THOUSAND DOLLARS (\$72,000.00)**.

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, Robert F Pitts, 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 10th day of April 2018.

RAILROAD COMMISSION OF TEXAS

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

KMR/pbm