

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL AND GAS DOCKET NO. 7C-0308859**

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**ENFORCEMENT ACTION AGAINST LORRETTA SCHKADE DBA SCHKADE EXPLORATION (OPERATOR NO. 752950) FOR VIOLATIONS OF STATEWIDE RULES ON THE WINTERBOTHAM (03682) LEASE, WELL NOS. 1, 3, 4, 5W, 7, 8, 9, AND 10, DOVE CREEK (SAN ANGELO) FIELD, IRION COUNTY, TEXAS**

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**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 29, 2018, and that the respondent, Lorretta Schkade dba Schkade Exploration, 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. Lorretta Schkade dba Schkade Exploration ("Respondent"), Operator No. 752950, 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.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent was returned to the Commission unopened on March 6, 2018. The first-class mail was not returned. Record of the 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 12, 2016, Respondent, a sole proprietorship, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Loretta Schkade, Owner-Operator.
4. Loretta Schkade 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 \$31,720.00 bond 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 Winterbotham (03682) Lease, Well Nos. 1, 3, 4, 5W, 7, 8, 9, and 10, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective November 1, 1979, approved January 17, 1980.
7. Commission inspection reports made on March 14, 2017, April 6, 2017, April 12, 2017, May 30, 2017, July 27, 2017, August 23, 2017, and November 20, 2017, for the Winterbotham (03682) Lease show three violations of 8(d)(1) have occurred. A 25 foot area of oil contaminated soil around Well No. 7 was first documented on the April 6, 2017 District inspection. A second 25 foot area of contamination was observed around the tank battery on the March 14, 2017 District inspection. Both spills were remediated using state funds and was documented on the May 18, 2017 District inspection. A District inspection made on May 30, 2017, showed that a new 15 foot area of oil contaminated soil is present around the wellhead at Well No. 7.
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 March 14, 2017, April 6, 2017, April 12, 2017, May 30, 2017, July 27, 2017, August 23, 2017, and November 20, 2017 for the Winterbotham (03682) Lease show Well No. 7 was open to the atmosphere. This caused the well to continue to leak and created another spill.
11. Wells left uncontrolled or open to the atmosphere, in violation of Statewide Rule 13(a)(6)(A), may discharge oil and gas waste onto the land surface and affect the health of humans and animals; these discharges may eventually make their way to surface or subsurface waters, causing pollution.
12. Commission inspection reports made on March 14, 2017, April 6, 2017, April 12, 2017, May 30, 2017, July 27, 2017, August 23, 2017, and November 20, 2017, and the absence of reported production since June 2015, showed that the Winterbotham (03682) Lease, Well Nos. 1, 3, 4, 5W, 7, 8, 9, and 10 have been inactive for a period greater than one year. Production from the subject lease ceased on or before May 2015.
13. No workovers, re-entries, or subsequent operations have taken place on the subject well within the last twelve months; the subject well has 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 well as allowed by Statewide Rule 14.

14. Usable quality groundwater in the area can become contaminated by migrations or discharges of saltwater and other oil and gas waste from the subject well. 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.
15. The total estimated cost to the State for plugging the Winterbotham (03682) Lease Well Nos. 1, 3, 4, 5W, 7, 8, 9, and 10 is \$54,950.00.
16. A Commission District inspection report made on November 20, 2017 for the Winterbotham (03682) Lease indicated that at Well Nos. 1, 3, 4, 5W, 7, 8, 9, and 10, no piping existed to Bradenhead in a manner to allow the observation of pressure.
17. Wells that have pressure on the Bradenhead, in violation of Statewide Rule 17(a), may result in a discharge of oil and gas waste into ground water and contamination of surface or subsurface waters, thereby resulting in pollution. Failure to plumb the strings or piping to Bradenhead prohibits the ability to monitor pressure within the wellbore.
18. 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), 13(a)(6)(A), 14(b)(2), and 17(a). 16 TEX. ADMIN. CODE §§ 3.8(d)(1), 3.13(a)(6)(A), 3.14(b)(2), and 3.17(a).
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 surface control of a well by using wellhead assemblies in compliance with Statewide Rule 13(a)(6)(A). Maintenance

of surface control is necessary not only to prevent fluids from being discharged from the wellbore onto the ground surface, but also to prevent any oil and gas wastes present in the wellbore from being displaced to surface by influxes of surface water into the open wellbore.

8. Respondent is responsible for maintaining the subject lease 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. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 17(a), which requires that all wells be equipped with an operable Bradenhead.
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 **THIRTY-EIGHT THOUSAND, FIVE HUNDRED TWENTY-FOUR DOLLARS (\$38,524.00)** is justified considering the facts and violations at issue.
12. 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, Loretta Schkade, 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. Lorretta Schkade dba Schkade Exploration (Operator No. 752950) shall place the Winterbotham (03682) Lease, Well Nos. 1, 3, 4, 5W, 7, 8, 9, and 10, in compliance with Statewide Rules 8(d)(1), 13(a)(6)(A), 14(b)(2), and 17(a), and any other applicable Commission rules and statutes.
2. Lorretta Schkade dba Schkade Exploration (Operator No. 752950) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **THIRTY-EIGHT THOUSAND, FIVE HUNDRED TWENTY-FOUR DOLLARS (\$38,524.00)**.

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, Loretta Schkade, 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 24<sup>th</sup> day of April 2018.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master  
Order dated April 24, 2018)

CJH/dac