

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL**

OIL AND GAS DOCKET NO. 03-0317255

ENFORCEMENT ACTION AGAINST NOXXE OIL AND GAS, LLC (OPERATOR NO. 615853) FOR VIOLATIONS OF STATEWIDE RULES ON THE OUTTERSIDE, A.J. (03-01269) LEASE, WELL NOS. 1, 2, AND 4, DICKINSON FIELD, GALVESTON COUNTY, TEXAS

FINAL ORDER

The Railroad Commission of Texas (“Commission”) finds that statutory notice of the captioned enforcement proceeding was provided pursuant to Commission rules, and that the Respondent, Noxxe Oil and Gas, 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 Texas Administrative Code § 1.25, and after being duly submitted to the Commission at an open meeting held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Noxxe Oil and Gas, LLC (“Respondent”), Operator No. 615853, 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 delivered on April 5, 2019. The first-class mail was not returned.
3. 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.
4. On December 11, 2018, Respondent, a limited liability company, filed a Form P-5 with the Commission reporting that its officer(s) consisted of the following individual(s): Steven D. Shaffer, President/ Secretary.
5. Steven D. Shaffer was in a position of ownership or control of Respondent, as defined in Texas Natural Resources Code § 91.114, during the time when the violations of Commission rules were committed by Respondent.
6. Respondent’s Form P-5 is active. Respondent has a \$50,000.00 cash deposit on file with the Commission as its financial assurance.

7. Respondent is the operator of record of the Outterside, A.J. (03-01269) Lease, Well Nos. 1, 2, and 4, Dickinson Field, Galveston County, Texas, pursuant to a Commission Form P-4 (Certificate of Compliance) on file with the Commission: effective November 10, 2009, and approved January 5, 2010.
8. Commission inspections conducted on April 6, 2018, April 24, 2018, May 14, 2018, June 6, 2018, July 31, 2018, and September 7, 2018, show a discharge of approximately twenty-five barrels of produced water at the Outterside, A.J. (03-01269) Lease. An area measuring 100 feet by 500 feet was affected by the discharge.
9. A Commission inspection conducted on June 6, 2018, showed more than five barrels of oil discharged inside the firewall at the Outterside, A.J. (03-01269) Lease. An area measuring 40 feet by 40 feet was affected by the discharge.
10. Commission records show no permit or other authorization for such discharges at the Outterside, A.J. (03-01269) Lease.
11. Unpermitted discharges of oil and gas wastes, as prohibited by Statewide Rule 8(d)(1), can contaminate State surface and subsurface waters and adversely affect human health.
12. Commission records show Respondent made no notice to the Commission Houston District Office by telephone or telegraph immediately after the aforementioned unpermitted discharges.
13. Without immediate notice of all fires, breaks, leaks, or blow-outs on any Commission regulated properties, as required by Statewide Rule 20, means that any necessary Commission oversight of remediation and/or efforts to correct the conditions that caused the fire, break, leak, or blow-out, may be substantially delayed or thwarted completely.

CONCLUSIONS OF LAW

1. Proper notice was issued by the Commission to Respondent and all other 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 captioned property in compliance with all applicable Commission rules and statutes, found in Title 16 of the Texas Administrative Code and Texas Natural Resources Code, Chapters 89 and 91.
4. Respondent is in violation of Statewide Rules 8(d)(1) and 20. 16 Texas Administrative Code §§ 3.8(d)(1) and 3.20.

5. The documented violations committed by Respondent constitute acts deemed serious, a hazard to the public health and safety, and demonstrate a lack of good faith pursuant to Texas Natural Resources Code § 81.0531(c).
6. Respondent is responsible for maintaining the subject property in compliance with Statewide Rule 8(d)(1), which prohibits the disposal of oil and gas wastes—by any method—without appropriate Statewide Rule authority or a permit.
7. Respondent is responsible for maintaining the subject property in compliance with Statewide Rule 20, which requires immediate notice of a fire, leak, spill, or break to the appropriate commission district office by telephone or telegraph. The initial notice must be followed by a letter giving the full description of the event, and it must include the volume of liquid lost when the volume of liquid lost is more than five barrels of oil.
8. Pursuant to Title 16 of the Texas Administrative Code § 3.107(f), violations of Statewide Rules are subject to penalty enhancement if the violation threatens pollution.
9. Pursuant to Texas Natural Resources Code § 81.0531, the Commission may assess administrative penalties against Respondent for the subject violations of up to \$10,000.00 per day for each violation, each day of continuing violations constituting a separate violation.
10. An assessed administrative penalty in the amount of **FORTY-SIX THOUSAND EIGHT HUNDRED DOLLARS (\$46,800.00)** 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 the violations related to safety and the control of pollution occurred, Steven D. Shaffer, and any other organization in which this individual may hold a position of ownership or control, is subject to the restriction detailed in Texas Natural Resources 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. Noxxe Oil and Gas, LLC (Operator No. 615853) shall plug the Outterside, A.J. (03-1269) Lease, Well Nos. 1, 2, and 4, and place the captioned property into compliance with Statewide Rules 8(d)(1), 20, and any other applicable Commission rules and statutes.
2. Noxxe Oil and Gas, LLC (Operator No. 615853) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FORTY-SIX THOUSAND EIGHT HUNDRED DOLLARS (\$46,800.00)**.

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 Texas Government Code § 2001.142, by agreement under Texas Government Code § 2001.147, or by written Commission order issued pursuant to Texas Government 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 Texas Government 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.

Any other organization in which an officer of this organization holds a position of ownership or control at the time Respondent violated Commission rules related to safety and the control of pollution, **shall be subject to the restriction in Texas Natural Resources 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.

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 18th day of June 2019.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated the 18th day of June 2019)

JHM/bt