

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

OIL AND GAS DOCKET NO. 7B-0316386

ENFORCEMENT ACTION AGAINST R & D OPERATING, INC. (OPERATOR NO. 685874) FOR VIOLATIONS OF STATEWIDE RULES ON THE HOWARD, ROY LEASE, WELL NO. 1 (RRC NO. 097452), HOWARD (MARBLE FALLS) FIELD, BROWN 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, R & D Operating, Inc., 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 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. R & D Operating, Inc. ("Respondent"), Operator No. 685874, 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 on July 12, 2019. The first-class mail was returned to the Commission on June 19, 2019. 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 June 20, 2017, Respondent, a corporation, filed a Form P-5 with the Commission reporting that its officers consist of the following individuals: Laurie Dumas, President and Richard H. Dumas, Vice President.
4. Laurie Dumas was in a position of ownership or control of Respondent, as defined in Texas Natural Resources Code § 91.114, during the time period of the violations of Commission rules committed by Respondent.
5. Richard H. Dumas was in a position of ownership or control of Respondent, as defined in Texas Natural Resources Code § 91.114, during the time period of the violations of Commission rules committed by Respondent.
6. 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.

7. Respondent designated itself to the Commission as the operator of the Howard, Roy Lease, Well No. 1 (RRC No. 097452), by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective December 1, 2004, approved December 13, 2004.
8. Commission district inspection reports made on July 26, 2018, September 1, 2018, and October 10, 2018, for the Howard, Roy Lease, Well No. 1 (RRC No. 097452) as well as Commission records, indicate that the operator has repeatedly failed to provide the Commission with information regarding the location of the lease entrance, and that district inspectors have not been able to locate the lease entrance.
9. Respondent's violation of Statewide Rule 2(a) is serious and threatens the public health and safety because the Commission may be unable to respond to an emergency if it does not have access to a lease.
10. Commission district inspection reports made on July 26, 2018, September 11, 2018, and October 26, 2018, for the Howard, Roy Lease, Well No. 1 (RRC No. 097452), and the absence of reported production since June 2013, showed that the Howard, Roy Lease, Well No. 1 (RRC No. 097452), has been inactive for a period greater than one year. Production from the subject lease ceased on or before May 2013. .
11. 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 15.
12. 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.
13. The total estimated cost to the State for plugging the Howard, Roy Lease, Well No. 1 (RRC No. 097452), is \$10,061.00.
14. 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 Texas Natural Resources Code, Chapters 89 and 91.
4. Respondent is in violation of Statewide Rules 2(a) and 14(b)(2). 16 Texas Administrative Code §§ 3.14(b)(2), and 3.2(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 Texas Natural Resources Code § 81.0531(c).
6. Respondent's failure to provide the Commission with information necessary to gain access to the lease is a violation of Statewide Rule 2(a).
7. 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.
8. 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 per day for each violation, with each day such violations continued constituting a separate violation.
9. An assessed administrative penalty in the amount of **THREE THOUSAND SIX HUNDRED FIFTEEN DOLLARS (\$3,615.00)** is justified considering the facts and violations at issue.
10. Respondent violated Commission rules related to safety and the control of pollution. Any other organization in which an officer of this organization holds a position of ownership or control, is subject to the restriction in Texas Natural Resources Code § 91.114.

ORDERING PROVISIONS

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

1. R & D Operating, Inc. (Operator No. 685874) shall plug the Howard, Roy Lease, Well No. 1 (RRC No. 097452) and place the subject leases in compliance with Statewide Rules 2(a) and 14(b)(2), and any other applicable Commission rules and statutes.
2. R & D Operating, Inc. (Operator No. 685874) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **THREE THOUSAND SIX HUNDRED FIFTEEN DOLLARS (\$3,615.00)**.

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 20th day of

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated August 20, 2019)

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