

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

OIL AND GAS DOCKET NO. 04-0317328

**ENFORCEMENT ACTION AGAINST PETRO-SMITH OPERATING LLC
(OPERATOR NO. 660313) FOR VIOLATIONS OF STATEWIDE RULES ON THE
MYRICK LEASE, WELL NO. 1 (GAS ID NO. 248712), LA GLORIA (BRANSON) FIELD,
BROOKS 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, Petro-Smith Operating 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 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. Petro-Smith Operating LLC ("Respondent"), Operator No. 660313, 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 December 11, 2019. The first-class mail was 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 January 7, 2019, Respondent, a limited liability company, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Sebastian N. Smith, Manager.
4. Sebastian N. Smith 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. Respondent's Form P-5 is active. Respondent had a \$470,000.00 cash deposit 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 Myrick Lease, Well No. 1 (Gas ID No. 248712), by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective May 1, 2017, approved September 12, 2017.

7. Commission inspection reports made on February 27, 2018, and June 15, 2018 for the Myrick Lease, Well No. 1 (Gas ID No. 248712), show that the signs or identification required to be posted at the lease entrance displayed incorrect information.
8. Commission inspection reports made on February 27, 2018, and June 15, 2018 for the Myrick Lease, Well No. 1 (Gas ID No. 248712) shows that the sign or identification required to be posted at the well location displayed incorrect information.
9. Commission inspection reports made on February 27, 2018, and June 15, 2018 for the Myrick Lease, Well No. 1 (Gas ID No. 248712), show that the signs or identification required to be posted at the tank battery displayed incorrect information.
10. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rules 3(1), 3(2), 3(3), may cause confusion as to the responsible operator to be contacted and the actual location of a violation or emergency, which can result in delays in remedying a violation or emergency.
11. Commission records reflect that on December 15, 2017, the Commission gave Respondent notice by certified mail of the alleged facts or conduct of the Respondent in the operation or production of oil or gas from the Myrick Lease, Well No. 1 (Gas ID 248712) that appeared to violate oil and gas conservation laws of this state, or rules or orders of the Commission adopted under those laws, to warrant the cancellation of the certificate of compliance. Said notice gave Respondent an opportunity to show compliance with all requirements of law for retention of the certificate of compliance.
12. Commission records reflect that Respondent failed to timely show compliance with all requirements of law for retention of the certificate of compliance and, as a result, the certificate of compliance for the Myrick Lease, Well No. 1 (Gas ID 248712) was cancelled, and Respondent given notice of the cancellation, on January 16, 2018.
13. A Commission District inspection of the Myrick Lease, Well No. 1 (Gas ID 248712) conducted on June 15, 2018, shows that the well was actively producing.
14. Respondent filed a production report on Commission form PR reflecting production for June 2018 for the Myrick Lease, Well No. 1 (Gas ID 248712) reflecting no production. A Commission District inspection report for the Myrick Lease, Well No. 1 (Gas ID 248712) conducted on June 15, 2018, show that the well was producing.
15. 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 3(1), 3(2), 3(3), 73(i), 16 Texas Administrative Code §§ 3.3(1), 3.3(2), 3.3(3), 3.73(i), and Texas Natural Resources Code § 91.143.
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 is responsible for maintaining the subject lease in compliance with Statewide Rule 3(1), which requires that a sign be posted at the principal entrance of each property that produces oil, gas, or geothermal resources, which shall show the name by which the property is commonly known and is carried on the records of the commission, the name of the operator, and the number of acres in the property.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3(2), which requires that each well site that produces oil, gas, or geothermal resources shall post signs or identification showing the name of the property, name of the operator and the well number.
8. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3(3), which requires that each tank battery that produces oil, gas, or geothermal resources shall post signs or identification showing the name of the property, commission lease number, name of the operator, number of acres in the property and if commingled, include the commingling permit number.
9. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 73(i), which provides that upon notice from the Commission that a certificate of compliance has been cancelled, it is unlawful for an operator of a well to produce oil, gas, or geothermal resources until a new certificate of compliance has been issued by the Commission.
10. Respondent is responsible for maintaining the subject lease in compliance with Texas Natural Resources Code §91.143(a)(1), which provides that a person may not make or subscribe any application, report, or other document required or permitted to be filed with the Commission, knowing that the application, report or other document is false or untrue in a material fact.
11. 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.
12. An assessed administrative penalty in the amount of **FIVE THOUSAND DOLLARS (\$5,000.00)** is justified considering the facts and violations at issue.

13. 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. Petro-Smith Operating LLC (Operator No. 660313) shall place the Myrick (248712) Lease, Well No. 1, in compliance with Statewide Rules 3(1), 3(2), 3(3), 73(i), and Texas Natural Resources Code 91.143, and any other applicable Commission rules and statutes.
2. Petro-Smith Operating LLC (Operator No. 660313) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FIVE THOUSAND DOLLARS (\$5,000.00)**.

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.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order

dated **MAR 04 2020**)

MAG/wcd