

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

OIL AND GAS DOCKET NO. 00002038

ENFORCEMENT ACTION AGAINST RED WATER RESOURCES, INC. (OPERATOR NO. 697109) FOR VIOLATIONS OF STATEWIDE RULES ON THE REDWATER SMACKOVER UNIT (06-13801) LEASE, WELL NOS. 1, 1WI, 2 AND 3, REDWATER (SMACKOVER) FIELD, BOWIE COUNTY, TEXAS

FINAL ORDER

The Railroad Commission of Texas ("Commission") finds that after statutory notice of the captioned enforcement proceeding RED WATER RESOURCES, INC. ("Respondent"), 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 Commissioners 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. Respondent, Operator No. 697109, 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. Notice was also sent to the Texas Resident Agent for Respondent at Phil Carter, Resident Agent, Red Water Resources, Inc., 1051 19th St. SE, Paris, Texas, 75460.
2. Respondent was served through its Texas Resident Agent, Phil Carter. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to Respondent's Texas Resident Agent was received on January 10, 2020. The first-class mail envelope addressed to the Texas Resident Agent was not returned to the Commission. 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 10, 2018, Respondent, a corporation, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Orville B. Nichols, President, Vice President and Secretary.
4. Respondent's Form P-5 is Delinquent. Respondent had a \$50,000.00 bond on file with the Commission as financial assurance at the time of the last Form P-5 annual renewal submission.
5. Respondent designated itself as the operator of the Redwater Smackover Unit (13801) Lease, Well Nos. 1, 1WI, 2 and 3, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective February 1, 2010, approved April 13, 2010.

6. Well Nos. 1WI, 2 and 3 of the Redwater Smackover Unit (13801) Lease are permitted injection wells. Commission District inspection reports made on November 6, 2019 and December 4, 2019 and the absence of reported injection since April 2000 and the absence of reported production since March 2018 show that the Redwater Smackover Unit (13801) Lease, Well Nos. 1, 1WI, 2 and 3, have been inactive for a period greater than one year. Production from the subject lease ceased in February 2018 and injection into Well No. 1WI ceased in March 2000. According to Commission records, Well Nos. 2 and 3 have never been used for injection.
7. No workovers, re-entries, or subsequent operations have taken place on the subject wells within the last twelve months and the subject wells have not been properly plugged in accordance with Statewide Rule 14. 16 Tex. Admin. Code § 3.14. No plugging extensions are in effect for the subject wells as allowed by Statewide Rule 14.
8. Usable quality groundwater in the area can become contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject wells. Unplugged wellbores in violation of Statewide Rule 14(b)(2) are likely to cause pollution of usable quality ground water and surface water, as defined in Statewide Rule 8(a)(28), 16 Texas Administrative Code § 3.8(a)(28), by serving as a conduit for the passage of oil, gas, saltwater, and other substances from one stratum or formation to another or to the surface or from the surface downward and constitute a cognizable threat to the public health and safety because of the potential of pollution.
9. The total estimated cost to the State for plugging the Redwater Smackover Unit (13801) Lease, Well Nos. 1, 1WI, 2 and 3, is \$168,000.00
10. Well No. 1WI of the Redwater Smackover Unit (13801) Lease is a permitted injection well. According to Commission records, the subject well was due for a disposal/injection well pressure test on April 30, 2018. Commission records show Respondent has failed to pressure test the well.
11. Disposal/injection wells must pass a pressure test at least once every five years, or as required by permit, to show that the well is not leaking, the at waste is being confined to the permitted injection interval, and that the usable quality water zones are properly isolated. Any injection of fluid down a wellbore could be a potential source of pollution. Without testing and supporting documentation, as required by Statewide Rule 46(j), the Commission cannot determine if a well poses a threat to natural resources.
12. According to Commission records, the Redwater Smackover Unit (13801) Lease has a maximum hydrogen sulfide concentration of 150,000 ppm and is subject to the provisions of Statewide Rule 36(c)(8) requiring safety devices. Commission district inspections of the Redwater Smackover Unit (13801) Lease conducted on November 6, 2019 and December 4, 2019 show that although hydrogen sulfide monitors are at the lease entrance and at Well Nos. 1, 1WI, 2 and 3, none of them are operable.
13. Undetected significant levels of hydrogen sulfide gas released from a well, in violation of Statewide Rule 36(c)(8), can cause death.
14. The Respondent charged with the violations herein recited has no history of violations of Commission Rules.

CONCLUSIONS OF LAW

1. The Commission properly noticed 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 Resource Code §§ 89 and 91.
4. Respondent is in violation of Statewide Rules 14(b)(2), 36(c)(8), and 46(j). 16 Tex. Admin. Code §§ 3.14(b)(2), 3.36(c)(8), and 3.46(j).
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 Resource Code § 81.0531(c).
6. 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.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 36(c)(8), which requires operators subject to the provisions of Statewide Rule 36 to install safety devices and maintain them in an operable condition or establish safety procedures designed to prevent the undetected continuing escape of hydrogen sulfide.
8. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 46(j), which requires a passing mechanical integrity test every five years.
9. Pursuant to Texas Natural Resource 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.
10. An assessed administrative penalty in the amount of **SEVENTY-THREE THOUSAND SIX HUNDRED SIX DOLLARS (\$73,606.00)** is justified considering the facts and violations at issue.

ORDERING PROVISIONS

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

1. Red Water Resources, Inc. (Operator No. 697109) shall PLUG the Smackover Unit (13801) Lease, Well Nos. 1, 1WI, 2, 3, in compliance with Statewide Rule 14(b)(2), and shall place the subject lease and wells into compliance with Statewide Rules 36(c)(8) and 46(j) and any other applicable Commission rules and statutes.
2. Red Water Resources, Inc. (Operator No. 697109) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SEVENTY-THREE THOUSAND SIX HUNDRED SIX DOLLARS (\$73,606.00)**.

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.

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 **APR 21 2020**)

EMM/bt