

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

OIL AND GAS DOCKET NO. 00001401

ENFORCEMENT ACTION AGAINST EVERETT, WILLIAM GARY, SOLE PROPRIETOR, BAJA PRODUCTION (OPERATOR NO. 044650) FOR VIOLATIONS OF STATEWIDE RULES ON THE ALVORD-CLOWER UNIT LEASE, WELL NO. 1 (RRC NO. 09-101102), ALVORD (ATOKA CONGLOMERATE) FIELD, WISE COUNTY, TEXAS

FINAL ORDER

The Railroad Commission of Texas ("Commission") finds that after statutory notice of the captioned enforcement proceeding EVERETT, WILLIAM GARY, SOLE PROPRIETOR, BAJA PRODUCTION ("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. 044650, 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 2, 2020. 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 November 18, 2019, Respondent, Sole Proprietorship, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Everett, William Gary, Owner.
4. Respondent's Form P-5 is in Active status. Respondent has a \$25,000.00 cash deposit as its financial assurance.
5. Respondent designated itself as the operator of the Alvord-Clower Unit Lease, Well No. 1 (RRC No. 09-101102), by filing a Commission Form P 4 (Certificate of Compliance and Transportation Authority), effective May 1, 1997, approved April 30, 1997.

6. A Commission District inspection report made on March 20, 2019 for the Alvord-Clower Unit Lease, Well No. 1 (RRC No. 101102), shows an oil leak around the wellhead affecting a 5'x 9'x 3" deep area. A follow-up inspection made on May 23, 2019 shows that although an absorbent has been spread over the spill area, there is an oil sheen on the rainwater around the wellhead measuring approximately 5'x 10'. Subsequent inspections conducted on June 27, 2019 and August 14, 2019 show no further work has been done on the affected area. A January 13, 2020 inspection shows oil-saturated soil around the well head now measuring approximately 5'x 8'x 5" deep.
7. Respondent did not have a permit for the discharges, nor were they authorized under Statewide Rules 8(d)(3), 8(e), 9, 46 or 98.
8. 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.
9. Commission District inspection reports made on March 20, 2019, May 23, 2019, June 27, 2019 and August 14, 2019 and the absence of reported production since June 2013, show that the Alvord-Clower Unit Lease, Well No. 1 (RRC No. 09-101012), has been inactive for a period greater than one year. Production from the subject well ceased in May 2013.
10. No workovers, re-entries, or subsequent operations have taken place on the subject well within the last twelve months and the subject well has not been properly plugged in accordance with Statewide Rule 14, 16 Texas Administrative Code § 3.14. No plugging extensions are in effect for the subject well as allowed by Statewide Rule 14.
11. Usable quality groundwater in the area can become contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject well. 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 Tex. Admin. 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.
12. The total estimated cost to the State for plugging the Alvord-Clower Unit Lease, Well No. 1 (RRC No. 09-101012), is \$17,910.00.
13. Commission District inspection reports made on March 20, 2019, May 23, 2019, June 27, 2019 August 14, 2019 and January 13, 2020 for the Alvord-Clower Unit Lease, Well No. 1 (RRC No. 09-101102), show that the bradenhead is not visible at ground surface.
14. 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.
15. Commission District inspection reports made on June 27, 2019, August 14, 2019 and January 30, 2019 for the Alvord-Clower Unit Lease, Well No. 1 (RRC No. 09-101102), show tall, overgrown vegetation around the tank battery.
16. Failure to remove trees and vegetation from within the firewall, as required by Statewide Rule 21(i), creates a fire hazard.

17. The Respondent charged with the violations herein recited has the following history of violations of Commission rules: 7B-0316388 – Violation of Statewide Rule 14(b)(2), Order Served December 18, 2019.

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 Alvord-Clower Unit Lease, Well No. 1 (RRC No. 09-101102) in compliance with all applicable Commission rules and Texas Natural Resource Code §§ 89 and 91.
4. Respondent is in violation of Statewide Rules 8(d)(1), 14(b)(2), 17(a), and 21(i). 16 Tex. Admin. Code § 3.8(d)(1), 3.14(b)(2), 3.17(a), and 3.21(i).
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 8(d)(1), which prohibits the discharge of oil and gas waste without a permit.
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. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 17(a), which requires that all wells be equipped with a bradenhead.
9. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 21(i), which requires that any rubbish or debris that might constitute a fire hazard shall be removed to a distance of at least 150 feet from the vicinity of any well, tank, or pump station. All waste shall be burned or disposed of in such manner as to avoid creating a fire hazard.
10. 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.

11. An assessed administrative penalty in the amount of **Eleven Thousand Four Hundred Ninety-Three Dollars (\$11,493.00)** 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. BAJA PRODUCTION (Operator No. 044650) shall place the Alvord-Clower Unit Lease, Well No. 1 (RRC No. 09-101102), into compliance with Statewide Rules 8(d)(1), 14(b)(2), 17(a), and 21(i) and any other applicable Commission rules and statutes.
2. BAJA PRODUCTION (Operator No. 044650) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **Eleven Thousand Four Hundred Ninety-Three Dollars (\$11,493.00)**.

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 MAY 05 2020)