

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
OIL AND GAS SECTION**

OIL AND GAS DOCKET NO. 7C-0231289

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY CARY DAVID STACY D/B/A D AND B OIL (196224), AS TO THE TODD, J.S. -E- (05025) LEASE, TODD (SAN ANDRES) FIELD, CROCKETT COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on December 9, 2002, and that the respondent, Cary David Stacy d/b/a D and B Oil (196224), failed to appear or respond to the notice. Pursuant to § 1.49 of the Commission's General Rules of Practice and Procedure [Tex. R. R. Comm'n, 16 TEX. ADMIN. CODE § 1.49] and after being duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Cary David Stacy d/b/a D and B Oil (196224), ("Respondent") was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 Organization Report, which was signed and returned to the Commission.
2. The returned certified receipt (green card) that was attached to the Original Complaint and the Notice of Hearing Opportunity was signed and returned to the Commission on November 4, 2002. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. Respondent designated itself to the Commission as the operator of the Todd, J.S. -E- (05025) Lease ("subject lease") by filing a P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on February 1, 1990.
4. According to Commission records the Respondent's Form P-5 (Organization Report) is active. Respondent submitted a \$50,000.00 Letter of Credit as financial assurance at the time of its last Form P-5 renewal.

5. A Commission district office certified letter dated March 8, 2001 had notified the Respondent of a spill that had saturated the ground with oil, affecting an area approximately 4' x 8' x 90'. Commission district inspection reports made on June 5, 2001, August 13, 2001 and March 18, 2002 for the Todd, J.S. -E- (05025) Lease indicated part of the spill area had been dug out and put inside the firewall without remediation and part of the spill area had been covered with caliche and the oil has come to the surface in spots. A Commission district inspection report made on September 3, 2003 for the Todd, J.S. -E- (05025) Lease indicated the spill area and the dike built with the dug-out saturated soil, both had a TPH of less than 1%. As of the September 3, 2002 inspection the Todd, J.S. -E- (05025) Lease had reached a final cleanup level.
6. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
7. The unpermitted discharges of oil and gas wastes or other substances or materials on the subject lease constitute a hazard to public health and safety because leaks and spills of oil and produced water onto soils can migrate into surface water bodies causing contamination, leaching into the ground, and percolation through soils into groundwater supplies.
8. The Respondent has not demonstrated good faith since it failed to place the subject lease in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
9. The Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 7C-0215836; Rule 14; Final Order Served: April 13, 1999.

CONCLUSIONS OF LAW

1. Proper notice was issued by the Railroad Commission to respondent and to all other appropriate persons legally entitled to notice.
2. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties in this hearing have been performed or have occurred.
3. Respondent is in violation of Commission Statewide Rule 8(d)(1).
4. Respondent is responsible for maintaining the subject lease in compliance with Rule 8(d)(1), which prohibits the discharge of oil and gas wastes without a permit.
5. Respondent is responsible for maintaining the subject lease in compliance with all applicable Commission rules according to Statewide Rules 14, 58, and 79 and Chapters 89 and 91 of the Texas Natural Resources Code.

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6. The documented violations committed by the respondent constitute acts deemed serious, a hazard to the public health, and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE ANN. §81.0531(c) (Vernon 2001).

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

1. Cary David Stacy d/b/a D and B Oil (196224), shall place the Todd, J.S. -E- (05025) Lease, Todd (San Andres) Field, Crockett County, Texas in compliance with applicable Commission rules and regulations; and
2. Cary David Stacy d/b/a D and B Oil (196224), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWO THOUSAND DOLLARS (\$2,000.00)**.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing 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 TEX. GOV'T 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 90 days from the date the order is served on the parties.

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 \$10,000.00 per day per violation.

Done this 25th day of February 2003.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated February 25, 2003)

SP/sa