

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

OIL AND GAS DOCKET NO. 08-0222833

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY R & K OIL COMPANY, INC. (687095), AS TO THE ANDREWS RECLAMATION PLANT, ANDREWS COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on April 13, 2000 and that the respondent, R & K Oil Company, Inc. (687095), 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. R & K Oil Company, Inc. (687095), ("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) address, which was returned to the Commission marked "unclaimed."
2. The returned certified receipt containing the Original Complaint and the Notice of Opportunity for Hearing, was returned to the Commission marked "unclaimed" on March 11, 2000. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On July 21, 1997, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission on reporting that its officers consisted of the following individual(s): David King; President.
4. Respondent designated itself to the Commission as the operator of the Andrews Reclamation Plant ("subject plant") by receiving a reclamation plant operating permit, revised October 8, 1980 and renewed November 25, 1985.
5. A Commission district office inspection was conducted on August 17, 1999 for the Andrews Reclamation Plant. Produced water that was tested in excess of 80,000 ppm for chlorides, was leaking mainly from a 1/8 inch hole that was about eighteen inches from the bottom of Tank No. 3, affecting an area approximately 2' wide by 120' long. A Commission district office inspection was conducted on August 25, 1999 for the Andrews Reclamation Plant indicating that no clean-up had been attempted by Respondent of the affected area. A Commission district office inspection conducted on November 23, 1999 and December 10, 1999 for the Andrews Reclamation Plant indicated that the affected area had been naturally remediated by blowing sand.
6. A Commission District office inspection was conducted on August 17, 1999 for the Andrews

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Reclamation Plant. Oil had leaked from the transfer pump by Tank Nos. 6 & 7, affecting an area approximately 6' x 8' x 3". Follow up Commission district office inspections were conducted on August 25, 1999, November 23, 1999 and December 10, 1999 indicating that the affected area had not been cleaned-up and was still oil saturated.

7. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.
8. 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 waters onto soils can migrate into surface water bodies causing contamination or can leach into the ground and percolate through soils into groundwater supplies.
9. The Railroad Commission spent a total of \$364.50 in emergency State Funds to empty Tank No. 3 to prevent further leaking of produced water.
10. The respondent did not demonstrate good faith since it failed to place the subject plant in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
11. The Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 7C-0220756; Final Order Served: April 30, 1999.

CONCLUSIONS OF LAW

1. Proper notice was issued by the Railroad 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 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 plant 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 plant in compliance with all applicable Statutes and Commission rules, specifically Statewide Rules 8, 14, 58, and 79 and Chapters 89 and 91, Texas Natural Resources Code.
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 1993).

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

1. R & K Oil Company, Inc. (687095), shall place in compliance the Andrews Reclamation Plant, Andrews County, Texas in compliance with applicable Commission rules and regulations; and
2. R & K Oil Company, Inc. (687095), 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)** and **REIMBURSE** State Funds in the amount of **THREE HUNDRED SIXTY FOUR DOLLARS AND FIFTY CENTS (\$364.50)**.

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 otherwise 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 22nd day of June, 2000.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated June 22, 2000)

MFK/sa