

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

OIL AND GAS DOCKET NO. 8A-0220693

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY DIAMOND M OIL CO., INC. (216899), AS TO THE SLAUGHTER, J.B. ESTATE (62831) LEASE, WELL NO. 1, DUNIGAN (ELLENBURGER) FIELD, BORDEN COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on July 29, 1999, and that the respondent, Diamond M Oil Co., Inc. (216899), 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. Diamond M Oil Co., Inc. (216899), ("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 July 14, 1999. 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 May 19, 1998, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individuals: David L. Mitchell; President and Lizabeth K. Duree; Vice-President.
4. Respondent designated itself to the Commission as the operator of Well No. 1 on the Slaughter, J.B. Estate (62831) Lease ("subject well"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission, effective on May 22, 1996.
5. The subject well was not properly plugged in a timely manner, in accordance with, and was not otherwise in compliance with, Statewide Rule 14.
6. Usable quality water in the area could have been contaminated by migrations or discharges

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of saltwater and other oil and gas wastes from the subject well. Unplugged wellbores constitute a cognizable threat to public health and safety because of the probability of pollution.

7. The subject well was plugged by on or before March 5, 1998. .
8. Commission district office inspections were conducted on March 5, 1998 and August 18, 1998 for the Slaughter, J.B. Estate (62831) Lease. The subject well has been plugged but no plugging report has been filed.
9. A Commission district office inspections was conducted on August 18, 1998 for the Slaughter, J. B. Estate (62831) Lease. The cellar remained open and loose junk in the from of fencing material, well head connections and empty drums remained at the site. The Commission district office inspection reports dated September 22, 1998, November 23, 1998 and February 16, 1999 indicated the loose junk remained at the site.
10. A Commission district office inspection was conducted on August 28, 1997 for the Slaughter, J.B. Estate (62831) Lease. Oil had run out of the east production tank affecting an area approximately 2' x 4'. The two Commission district office inspection reports dated August 18, 1998 indicated that the soil in the spill area was affected to a depth of 14" and tests revealed a total petroleum hydrocarbon level of 14.5% (145,000 ppm). Clean soil had been placed over the oil saturated soil, however, the oil had soaked through the clean soil. Follow up inspections indicated that the 2' x 4' x 14" and 10' x 50' x 3" oil soaked areas remained and had not been cleaned.
11. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
12. 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.
13. Commission district office inspections were conducted on August 18, 1998, September 22, 1998, November 23, 1998 and February 16, 1998 for the Slaughter, J.B. Estate (62831) Lease. Respondent failed to backfill and compact the workover pit.
14. Unfilled pits constitute a hazard to public health and safety because of the potential for illegal dumping in the pits and the potential for surface run-off to collect in the pit and seep into subsurface waters.
15. The respondent has not demonstrated good faith since it failed to place the subject well and 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.

CONCLUSIONS OF LAW

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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 Rules 8(d)(1), 8(d)(4)(G)(i)(III), 14(b)(1) and 14(c)(11).
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 Rule 8(d)(4)(G)(i)(III), which requires workover pits to be dewatered, filled and compacted within 120 days from completion of workover operations.
6. Respondent is responsible for maintaining the subject lease in compliance with Rule 14(B)(1), which requires that a plugging report shall be completed, duly verified and filed in duplicate, on the appropriate form in the District Office within 30 days after plugging operations are completed.
7. Respondent is responsible for maintaining the subject lease in compliance with Rule 14(c)(11), which requires that after plugging work is completed, the operator must fill the rat hole, mouse hole, and cellar, and must remove all loose junk and trash from the location.
8. Respondent is responsible for maintaining the subject well and lease in compliance with all applicable Statutes and Commission rules, specifically Statewide Rules 14, 58, and 79 and Chapters 89 and 91, Texas Natural Resources Code.
9. 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).

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

1. Diamond M Oil Co., Inc. (216899), shall place the Slaughter, J.B. Estate (62831) Lease, Well No. 1, Dunigan (Ellenburger) Field, Borden County, Texas in compliance with applicable Commission rules and regulations; and
2. Diamond M Oil Co., Inc. (216899), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500.00)**.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 20 days after it is actually mailed to the parties by the Commission; provided that if a motion for rehearing is filed by any party at interest within such 20-day period, this order shall not become final

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and effective until such motion is overruled, or if rehearing 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 19th day of October, 1999.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated October 19, 1999)

MFE/sa