

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 7C-0299802

ENFORCEMENT ACTION AGAINST J & J SERVICES COMPANY (OPERATOR NO. 427662) FOR VIOLATIONS OF STATEWIDE RULES ON THE ALLEN, RUFUS “C” LEASE (LEASE NO. 10077), WELL NO. 2, WINTERS, SW (PALO PINTO) FIELD, RUNNELS COUNTY, TEXAS

FINAL ORDER

The Railroad Commission of Texas (“Commission”) finds that after statutory notice the captioned enforcement proceeding was heard by a Commission Administrative Law Judge on October 20, 2016 and that the respondent, J & J Services Company, failed to appear or respond to the First Amended Notice of Opportunity for Hearing. Pursuant to § 1.49 of the Commission's General Rules of Practice and Procedure, 16 TEX. ADMIN. CODE § 1.49, and after being duly submitted to the Commission 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. J & J Services Company (“Respondent”), Operator No. 427662, was sent the First Amended Original Complaint and First Amended 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. Respondent’s officers and agents as identified on the Form P-5—Kippy Joiner and Viola Joiner—were each sent the First Amended Original Complaint and First Amended Notice of Opportunity for Hearing by certified and first class mail, addressed to their last known addresses.
2. According to the United States Postal Service website, there is no record of delivery of the certified mail envelope containing the First Amended Original Complaint and First Amended Notice of Opportunity for Hearing to the Respondent. The certified mail envelope addressed to Kippy Joiner was returned to the Commission on October 13, 2016. The certified mail envelope sent to Viola Joiner was received on September 3, 2016. No first class mail was 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 4, 2015, Respondent, a partnership, filed a Form P-5 with the Commission reporting that its officers consist of the following individuals: Kippy Joiner, Partner; and Viola Joiner, Partner.
4. Kippy Joiner was in a position of ownership or control of Respondent, as defined in section 91.114 of the Texas Natural Resources Code, during the time period of the violations of Commission rules committed by Respondent.
5. Viola Joiner was in a position of ownership or control of Respondent, as defined in section 91.114 of the Texas Natural Resources Code, during the time period of the violations of Commission rules committed by Respondent.
6. Respondent's Form P-5 is delinquent. Respondent had a \$50,000 letter of credit as its financial assurance at the time of Respondent's last Form P-5 annual renewal submission.
7. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.
8. Respondent designated itself to the Commission as the operator of the Allen, Rufus "C" Lease (Lease No. 10077), Well No. 2, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective April 1, 1997, approved April 18, 1997.
9. Commission records show that on September 24, 2015, the Commission gave Respondent notice by certified mail of alleged facts or conduct of Respondent in the operation or production of oil or gas from the Allen, Rufus "C" Lease that appear to violate the oil and gas conservation laws of this state, or rules or orders of the Commission adopted under those laws, to warrant the cancellation of the Respondent's certificate of compliance. The notice gave Respondent an opportunity to show compliance with all requirements of law for retention of the certificate of compliance.
10. Commission records show that Respondent did not timely demonstrate compliance with all requirements of law for retention of the certificate of compliance and, as a result, the certificate of compliance for the Allen, Rufus "C" Lease was cancelled; Respondent was given notice of such cancellation on October 24, 2015.
11. Production reports filed by Respondent with the Commission for the Allen, Rufus "C" Lease for November and December 2015 show Respondent produced an approximate total of six barrels from the Allen, Rufus "C" Lease after the certificate of compliance had been cancelled and before a new certificate of compliance had been issued.
12. A Commission inspection report of the Allen, Rufus "C" Lease made on August 5, 2015 shows that Well No. 2 was actively producing. Despite the well's activity, Respondent

reported zero production in its August 2015 Monthly Production Report for the subject lease.

13. By filing a false production report for the Allen, Rufus "C" Lease, Respondent knowingly submitted a report to the Commission containing information which was false or untrue in a material fact in violation of TEX. NAT. RES. CODE ANN §91.143(a)(1).
14. Respondent is responsible for prior violations of Commission statutes and rules as documented in the enforcement final orders for Oil & Gas Docket Nos. 08-0284893, 7C-0279412 and 7C-0279652.

CONCLUSIONS OF LAW

1. Proper notice was issued by the 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 have been performed or have occurred.
3. Respondent is responsible for maintaining the subject lease in compliance with all applicable Commission rules and chapters 89 and 91 of the Texas Natural Resources Code.
4. Respondent is in violation of TEX NAT. RES. CODE §§ 91.143(a)(1) and 91.706 and Statewide Rule 73(i) (16 TEX. ADMIN. CODE § 3.73(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 TEX. NAT. RES. CODE § 81.0531(c).
6. Respondent is responsible for maintaining the subject well in compliance with Statewide Rule 73(i) and TEX. NAT. RES. CODE § 91.706, which requires the operator, upon notice from the Commission that a certificate of compliance has been cancelled, to not produce oil, gas, or geothermal resources until a new certificate of compliance has been issued by the Commission.
7. Pursuant to TEX. NAT. RES. 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.
8. An assessed administrative penalty in the amount of SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500.00) is justified considering the facts and violations at issue.

9. As persons in a position of ownership or control of Respondent at the time Respondent violated Commission rules related to safety and the control of pollution, Kippy Joiner and Viola Joiner, and any other organization in which either or both may hold a position of ownership or control, are subject to the restriction in section 91.114(a)(2) of the Texas Natural Resources Code.

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

1. J & J Services Company shall place the Allen, Rufus "C" Lease, Well No. 2 in compliance with Statewide Rule 73(i), TEX NAT. RES. CODE §§ 91.143(a)(1) and 91.706, and any other applicable Commission rules and statutes.
2. J & J Services Company 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** that as persons in a position of ownership or control of Respondent at the time Respondent violated Commission rules related to safety and the control of pollution, Kippy Joiner and Viola Joiner, and any other organization in which either or both may hold a position of ownership or control, shall be subject to the restriction in section 91.114(a)(2) of the Texas Natural Resources Code for a period of no more than seven years from the date the order entered in this matter becomes final, or until the conditions that constituted the violations herein are corrected or are being corrected in accordance with a schedule to which the Commission and the organization have agreed, and all administrative, civil, and criminal penalties and all cleanup and plugging costs incurred by the State relating to those conditions are paid or are being paid in accordance with a schedule to which the Commission and the organization have agreed.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 25 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 the notice is 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 parties are notified of this order in accordance with TEX. GOV'T CODE § 2001.144.

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 6th day of December, 2016.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated December 6, 2016)

JNC/rmf