

RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
HEARINGS SECTION

OIL AND GAS DOCKET NO. 05-0253352

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY WILLIAM A. YATES, JR. D/B/A SONNY YATES OPERATING CO., (946356), AS TO THE MCKENZIE B LEASE, WELL NO. 1 (628811), FARRAR FIELD, TYLER COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on December 6, 2007, and that the respondent, William A. Yates, Jr. d/b/a Sonny Yates Operating Co. (946356), failed to appear or respond to the Notice of Opportunity for Hearing. 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. William A. Yates, Jr. d/b/a Sonny Yates Operating Co. (946356), ("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 Opportunity for Hearing mailed to Respondent's most recent P-5 address was signed and returned to the Commission on October 15, 2007. 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 October 30, 2006, Respondent, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): William A. Yates, Jr.; Owner.
4. William A. Yates, Jr., was a person in a position of ownership or control of respondent, as defined by Texas Natural Resources Code Section 91.114, during the time period of the violations of Commission rules committed by respondent.
5. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
6. Respondent designated itself to the Commission as the operator of Well No. 1 (628811) on the McKenzie B Lease ("subject wells"/"subject lease") by applying with the Commission for a Waste Hauler Permit and receiving Permit No. 3516.

7. According to Commission records the Respondent's Form P-5 (Organization Report) is active. At this time Respondent has an exempt status on its P-5 renewal.
8. A Commission District inspection was conducted on May 26, 2007, for the McKenzie B Gas Unit Lease (Permit No. P628811), Farrar Field, Tyler County, Texas showed that Respondent was witnessed by Texas Parks and Wildlife Department Law Enforcement Officers dumping salt water near the gas well site. According to the Texas Parks and Wildlife Department Investigation Report No. 05-26-07, Game Wardens were contacted by the landowner regarding a truck driver dumping the contents of his truck on their land. According to the investigation, the landowner had allegedly seen the waste hauler dump his contents previously. The officers made their way to the well site, and witnessed the driver dump salt water from his truck onto the ground. The report further stated that the officers stopped the driver after he attempted to drive off. The driver's name was Ameranda Chavez Brewer, an employee of Respondent. The Texas Parks and Wildlife Department Investigation Report No. 05-26-07 stated that Mr. Brewer initially stated that he had not dumped anything, but when confronted with the officer's statements that they witnessed him dump the salt water, he voluntarily admitted to dumping the salt water.
9. The flow path of the salt water ran down a dry ditch and into a grove of trees near the well pad. Both the Texas Parks and Wildlife and Commission District reports indicated a noticeable area of dead grass, vegetation, and trees, which were directly in the path of the produced fluids. Commission personnel tests of the fluids revealed 10,000 milligrams/liter of chlorides. Further, the Commission District inspection report indicated the firewall had been eroded where the fluids had been dumped, and there was a substantial "kill zone" along the path that the produced fluids took, including dead grass near the well site, dead oak trees near the entrance point of the woods area, and dead cedar trees along the path of the fluids. Additionally, the dry ditch into which produced fluids flowed enters Lake Limestone, which threatened to pollute a major freshwater source. Photo documentation indicates that this incident of improper disposal was not the first.
10. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.
11. 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.
12. An enhancement penalty of \$10,000 is being assessed for pollution of a major freshwater source.
13. An intentional conduct enhancement penalty of \$6,000 is being assessed for the intentional dumping of produced fluids.
14. A Commission follow up inspection report conducted on September 25, 2007 indicated that site remediation is complete.
15. The Respondent did not demonstrate good faith since it failed to timely plug or otherwise place the subject lease and subject well 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

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 Statewide 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 and subject well 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.
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).
7. As a person in a position of ownership or control of respondent at the time respondent violated Commission rules related to safety and the control of pollution, William A. Yates, Jr., and any other organization in which he may hold a position of ownership or control, shall be subject to the restrictions of Texas Natural Resource Code Section 91.114(a)(2) 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, whichever is earlier.

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

1. William A. Yates, Jr. d/b/a Sonny Yates Operating Co. (946356), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **NINETEEN THOUSAND DOLLARS (\$19,000.00)**.

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 parties are notified of the order.

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 8th day of April 2008.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated April 8, 2008)

ME/ sa