

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
HEARINGS SECTION**

OIL AND GAS DOCKET NO. 8A-0259635

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY TGO OPERATING, LLC (850995), AS TO THE DOEBIE 3 LEASE, WELL NO. 1 (671170), WILDCAT, LONDON, LONDON (DEVONION), LONDON (BEND) FIELD, COCHRAN COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on October 29, 2009, and that the respondent, TGO Operating, LLC (850995), 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. TGO Operating, LLC (850995), ("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 September 28, 2009. 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 December 17, 2007, Respondent, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Gianni D. DeBiagi; Member.
4. Gianni D. DeBiagi, 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 (671170) on the Doebie 3 Lease (“subject well”/“subject lease”) by filing a Form W-1 (Application to Drill, Deepen, Plug Back or Re-Enter) with the Commission on September 15, 2008.
7. According to Commission records the Respondent’s Form P-5 (Organization Report) became delinquent on February 1, 2008. Respondent had a \$25,000.00 Letter of Credit as its financial assurance at the time of its P-5 renewal.
8. A Commission District inspection was conducted on September 15, 2008 for the Doebie 3 Lease, Well No. 1 (671170). A drilling rig was on location with the notation “rig ready to drill - waiting on drilling permit.” Commission records reveal that at approximately 7:00 p.m. on September 15, 2008, the Commission’s on call representative, Tim Prude, received a call from Scott Thompson, drilling consultant for Respondent, requesting permission to spud Well No. 1 (671170) prior to receiving the drilling permit. Mr. Prude denied Respondent’s request. Approximately fifteen minutes later, Mr. Prude received a call from Joel Johnson, also associated with Respondent, again requesting permission to spud the well prior to the drilling permit being issued. Again, Respondent’s request was denied. Thereafter, Mr. Prude contacted the Midland District Director, Mark Henkhaus, to confirm that the denial of Respondent’s request was correct, which Mr. Henkhaus confirmed. At approximately 8:10 p.m., Mr. Prude called Joel Johnson to again reiterate that Respondent was not authorized to spud the well prior to the issuance of the drilling permit.
9. A Commission District inspection was conducted on September 16, 2008, at approximately 9:45 a.m. for the Doebie 3 Lease, Well No. 1 (671170), revealing the drilling log (IADC report) showed the subject well was spudded at 10:00 p.m. on September 15, 2008. The drilling permit for the well was not issued by the Commission until September 16, 2008.
10. By drilling the Doebie 3 Lease, Well No. 1 (671170) before the issuance of the drilling permit, Respondent intentionally violated Statewide Rule 5; therefore, resulting in a \$5,000 Enhancement penalty.

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 5(c).

4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 5, which requires that operations of drilling, deepening, plugging back, or reentering shall not be commenced until the permit has been granted by the Commission and the waiting period, if any, has terminated, or authorization has been granted.
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, Gianni D. DeBiagi, and any other organization in which he/she 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. TGO Operating, LLC (850995), is assessed by the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWENTY THOUSAND DOLLARS (\$20,000.00)**.

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 9th day of February 2010.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated February 9, 2010)

ME/sa