

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 05-0291127

ENFORCEMENT ACTION AGAINST BHB OPERATING, INC. (OPERATOR NO. 068580) FOR VIOLATIONS OF STATEWIDE RULES ON THE F. LYTLE (01270) LEASE, WELL NO. 1, WORTHAM FIELD, FREESTONE COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by a Commission Administrative Law Judge on October 15, 2015, and that the respondent, BHB Operating, Inc. (Operator No. 068580), 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. BHB Operating, Inc. (Operator No. 068580), (“Respondent”), was given Notice of Opportunity for Hearing by certified and first class mail, addressed to the most recent Form P-5 (Organization Report) address. Lance W. Duncan was given Notice of Opportunity for Hearing by certified and first class mail, addressed to the most recent Form P-5 (Organization Report) address. Deborah Villarreal was given Notice of Opportunity for Hearing by certified and first class mail, addressed to the most recent Form P-5 (Organization Report) address.
2. All certified mail envelopes containing the Original Complaint and the Notice of Opportunity for Hearing, were returned to the Commission between September 9, 2015 and October 7, 2015. Copies of the certified mail envelopes are included in the file and have been on file with the Commission for at least 15 days, exclusive of the day of receipt and day of issuance. None of the first class mail was returned.
3. On August 28, 2014, Respondent, a corporation, filed a Form P-5 (Organization Report) with the Commission reporting that its officers consist of the following individuals: Lance W. Duncan, President and Owner; and Deborah Villarreal, Secretary and Office Manager.
4. Lance W. Duncan 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. Deborah Villarreal 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 P-5 (Organization Report) is delinquent. Respondent had a \$50,000 cash deposit as its financial assurance at the time of its delinquency.
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 F. Lytle (01270) Lease ("subject lease"), Well No. 1 ("subject well"), by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective August 1, 2010, approved November 15, 2010.
9. Commission inspection reports made on May 6, 2014, May 28, 2014, and July 1, 2014; zero production reported by Respondent from May 2004 through March 2005; no report filed for April 2005; and zero production reported by Respondent for May 2005, (with no production reports filed thereafter), show the F. Lytle (01270) Lease, Well No. 1 has been inactive for a period greater than one year. Production from the subject well ceased in April 2004.
10. No work-overs, re-entries, or subsequent operations have taken place on the subject well within the last twelve months; the subject well has not been properly plugged in accordance with Statewide Rule 14 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE § 3.14]; no plugging extension are in effect for the subject well as allowed by Statewide Rule 14 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE § 3.14]. The subject well is not otherwise in compliance with Statewide Rule 14 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE § 3.14].
11. Usable quality groundwater in the area may become contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject well. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the potential of pollution.
12. The total estimated cost to the State for plugging the F. Lytle (01270) Lease, Well No. 1 is \$22,100.00.
13. A Commission inspection report made on July 1, 2014 for the F. Lytle (01270) Lease, Well No. 1 showed Well No. 1 had casing open to the atmosphere.
14. Wells left uncontrolled or open to the atmosphere may discharge oil and gas waste onto the land surface and affect the health of humans and animals; these discharges may eventually make their way to surface or subsurface waters, causing pollution.

15. Respondent has no prior history of violations of Commission rules.

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 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 Statewide Rules 14(b)(2) and 13(a)(6)(A).
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 14(b)(2), which requires that plugging operations on each dry or inactive well shall be commenced within a period of one year after drilling or operations cease and shall proceed with due diligence until completed.
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 13(a)(6)(A), which requires that surface control of all wells be maintained with wellhead assemblies.
7. 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).
8. 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, both Lance W. Duncan and Deborah Villarreal, 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 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. BHB Operating, Inc. (Operator No. 068580) shall place the F. Lytle (01270) Lease, Well No. 1 in compliance with Statewide Rules 14(b)(2) and 13(a)(6)(A), and any other applicable Commission rules and statutes.

2. BHB Operating, Inc. (Operator No. 068580) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of SEVEN THOUSAND, FOUR HUNDRED FORTY DOLLARS (\$7,440.00).

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, both Lance W. Duncan and Deborah Villarreal, 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 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 of 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 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 3rd of May, 2016.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated May 3, 2016)

JNC / rnf