

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL AND GAS DOCKET NO. 7B-0297781**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY KYER-VAUGHT ENTERPRISES, LLC. (OPERATOR NO. 479202) FOR VIOLATIONS OF STATEWIDE RULES ON THE BELLAH (09896) LEASE, WELL NOS. 3, 4, 11, 13, 14, 15, 16, 20, 21, 22, 23, 24, AND 31, THROCKMORTON COUNTY REGULAR FIELD, THROCKMORTON COUNTY, TEXAS**

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**FINAL ORDER**

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by a Commission Administrative Law Judge on February 19, 2016 and that the respondent, Kyer-Vaught Enterprises (Operator No. 479202), 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 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. Kyer-Vaught Enterprises, LLC (Operator No. 479202), ("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. Gary Shawn Vaught 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. The certified mail envelope containing the Original Complaint and the Notice of Opportunity for Hearing, sent to Respondent was returned to the Commission marked "return to sender, unable to forward" on January 15, 2016. The certified mail envelope is included in the file and has been on file with the Commission since it was returned, exclusive of the day of receipt and day of issuance. The first class mail was not returned.
3. The certified mail envelope sent to Gary Shawn Vaught was delivered to the Odessa Post Office on January 21, 2016 but was not retrieved. The first class mail was not returned.
4. On December 30, 2011, Respondent, a corporation, filed a Form P-5 (Organization Report) with the Commission reporting that its officers consisted of the following individual: Gary Shawn Vaught, Member.
5. Gary Shawn Vaught was a person in a position of ownership or control of Respondent, as defined by section 91.114 of the Texas Natural Resource Code, during the time period of the violations of Commission rules committed by Respondent.

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6. Respondent's P-5 (Organization Report) became delinquent on December 1, 2014. Respondent had a \$8,368.00 cash deposit as its financial assurance at the time of its last Form P-5 renewal.
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 Well Nos. 3, 4, 11, 13, 14, 15, 16, 20, 21, 22, 23, 24, and 31 ("subject wells") on the Bellah (09896) Lease ("subject lease") by filing a Form P-4 (Certificate of Compliance and Transportation Authority) effective on January 26, 2012, with an approval date of February 10, 2012.
9. Commission District inspection reports made on June 23, 2015 and July 27, 2015 for the Bella (09896) Lease show hydrocarbon pollution affecting an area 100' x 40' x 6" remained within the tank battery containment firewall. The reports also noted that Well No. 16 had hydrocarbon pollution affecting an area of 20' x 10' x 4".
10. Respondent did not have a permit for the discharges, nor were they authorized under Statewide Rules 8(d)(3), 8(e), 9, 46 or 98.
11. The unpermitted discharges of oil and gas wastes can contaminate the land surface, affect the health of humans and animals, and may eventually be discharged to surface or subsurface waters, causing pollution.
12. A Commission District inspection report made on July 27, 2015 for the Bella (09896) Lease, shows that Respondent had an open work over pit located at Well No. 20 which measured approximately 20' x 20' x 4' with an undetermined volume of freestanding water. Field chloride tests revealed a 300 mg/l amount of chloride concentration.
13. The continued maintenance of pits required to be emptied and backfilled may result in unpermitted discharges which may contaminate surface or subsurface waters, causing pollution.
14. Commission District inspection reports made on May 14, 2015, June 23, 2015, and July 27, 2015 for the Bellah (09896) Lease, Well Nos. 3, 4, 11, 13, 14, 15, 16, 20, 21, 22, 23, 24, and 31 and reports filed by Respondent with the Commission reflecting zero production show that the wells have been inactive for a period greater than one year.
15. Commission District inspection reports made on May 14, 2015, June 23, 2015, and July 27, 2015 show Well Nos. 3, 4, 13, 14, 15, 16, 20, 22, 23 and 31 were equipped with pump jacks, rods, tubing, and connected to flowlines, and Well No. 21 had 4½ inch casing swaged to a closed valve. A follow up inspection dated January 27, 2016 shows no changes.
16. Commission records also show that Respondent was denied a 14(b)(2) extension for failure to run the required H-15 fluid level tests on Well Nos. 3, 4, 11, 13, 14, 15, 16, 20, 21, 22, 23, and 31.

17. No work-overs, re-entries, or subsequent operations have taken place on any of the subject wells within the last twelve months; none of the subject wells have 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 any of the subject wells as allowed by Statewide Rule 14 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE § 3.14]. The subject wells are not otherwise in compliance with Statewide Rule 14 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE § 3.14].
18. Usable quality groundwater in the area may become contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject wells. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the potential of pollution.
19. The total estimated cost to the State for plugging the Bellah (09896) Lease, Well Nos. 3, 4, 11, 13, 14, 15, 16, 20, 21, 22, 23, 24, and 31 is \$71,500.00.
20. 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 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 responsible for maintaining the subject lease and subject wells in compliance with all applicable Commission rules and chapters 89 and 91 of the Texas Natural Resources Code.
4. Respondent is in violation of Commission Statewide Rules 8(d)(1), 8(d)(4)(H)(i)(III) and 14(b)(2).
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 lease in compliance with Statewide Rule 8(d)(1), which prohibits the discharge of oil and gas waste without a permit.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(4)(H)(i)(III), which requires a person, who maintains or uses a completion or workover pit in conjunction with completing or working over a well, to dewater the pit within 30 days and backfill and compact the pit within 120 days of completion of the well.
8. 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

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with due diligence until completed.

9. An assessed administrative penalty in the amount of THIRTY-SEVEN THOUSAND FOUR HUNDRED EIGHTY FOUR DOLLARS (\$37,484.00) is justified by the facts and violations at issue.
10. As a person in a position of ownership or control of Respondent at the time of the violations, Gary Shawn Vaught, and any other organization in which he may hold a position of ownership or control, is subject to the restrictions of section 91.114(a)(2) of the Texas Natural Resource Code.

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

1. Kyer-Vaught Enterprises, LLC. (Operator No. 479202), shall place the Bellah (09896) Lease, Well Nos. 3, 4, 11, 13, 14, 15, 16, 20, 21, 22, 23, 24, and 31, Throckmorton County Regular Field, Throckmorton County, Texas in compliance with Statewide Rules 8(d)(1), 8(d)(4)(H)(i)(III) and 14(b)(2), and any other applicable Commission rules and regulations.
2. Kyer-Vaught Enterprises, LLC. (Operator No. 479202), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **THIRTY-SEVEN THOUSAND FOUR HUNDRED EIGHTY FOUR DOLLARS (\$37,484.00)**.

It is further **ORDERED** that 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, Gary Shawn Vaught, and any other organization in which he may hold a position of ownership or control, shall be subject to the restrictions of section 91.114(a)(2) of the Texas Natural Resource 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, whichever is earlier.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 25 days after the Commission's Order is signed, unless the time for filing a motion for rehearing has been extended under TEX. GOV'T CODE § 2001.142, by agreement under TEX. GOV'T CODE § 2001.147, or by written Commission Order issued pursuant to TEX. GOV'T CODE § 2001.146(e). 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 Commission Order is signed.

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 3<sup>rd</sup> of May, 2016.

**RAILROAD COMMISSION OF TEXAS**

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

JNC / rnf