

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL AND GAS DOCKET NO. 05-0295789**

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**ENFORCEMENT ACTION AGAINST BHB OPERATING, INC. (OPERATOR NO. 068580) FOR VIOLATIONS OF STATEWIDE RULES ON THE G.O. SUMMERS (01276) LEASE, WELL NO. 1, WORTHAM FIELD, FREESTONE COUNTY, TEXAS**

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**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 15, 2015 and that the respondent, BHB Operating, Inc., 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, 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. BHB Operating, Inc. (Operator No. 068580), (“Respondent”), was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to the most recent Commission Form P-5 (Organization Report) address. Lance W. Duncan, President and Owner of Respondent, was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to his last known address. Deborah Villarreal, Secretary and Office Manager of Respondent, was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to her last known address.
2. The certified mail envelopes containing the Original Complaint and the Notice of Opportunity for Hearing sent to Respondent, Lance W. Duncan, and Deborah Villarreal were all returned to the Commission marked “unclaimed” on or before October 7, 2015. The first class envelopes were not returned. Record of the return of certified mail has been on record 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 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 last P-5 annual renewal submittal.
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 G.O. Summers (01276) Lease, Well No. 1, Wortham Field, Freestone County, Texas by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective August 1, 2010, approved September 1, 2010. The subject lease was transferred to another operator, effective January 20, 2015, approved February 17, 2015.
9. Commission inspection reports made on January 12, 2015 and January 28, 2015, show that Respondent caused or allowed an unknown volume of crude oil to discharge due to a hole in tubing. The discharge migrated and polluted Little Wolf Creek.
10. Discharges into fresh water lakes, in violation of Statewide Rule 8(b), reduce the available supplies of usable fresh water and reduce the quality of the affected water.
11. Commission inspection reports made on January 12, 2015 and January 28, 2015, for the G.O. Summers (01276) Lease, Well No. 1 show that Respondent caused or allowed an unauthorized discharge of oil to effect an area measuring 40' x 60' around the subject well.
12. Respondent did not have a permit for said discharge, nor was it authorized under Statewide Rules 8(d)(3), 8(e), 9, 46 or 98.
13. Unpermitted discharges of oil and gas waste, in violation of Statewide Rule 8(d)(1), can contaminate the land surface, affect the health of humans and animals, and may eventually be discharged to surface or subsurface waters, causing pollution.
14. A Commission inspection report made on January 12, 2015 shows that Respondent, through neglect or intent, failed to immediately notify the Kilgore District Office of the unauthorized discharge of crude oil.

15. A leak of crude oil can contaminate the land surface, affect the health of humans and animals, and may eventually be discharged to surface or subsurface waters, causing pollution. Failing to notify the Commission as set forth in Statewide Rule 20(a)(1) can delay the Commission's ability to respond.
16. The Commission has spent \$4,644.94 to remediate the G.O. Summers (01276) Lease.
17. Respondent has no prior history of violations of Commission rules.

### **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 Statewide Rules 8(b), 8(d)(1) and 20(a)(1). 16 TEX. ADMIN. CODE §§ 3.8(b), 3.8(d)(1) and 20(a)(1).
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(b), which prohibits person from conducting activities subject to regulation by the Commission, which causes or allows pollution of surface or subsurface water in the state.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(1), which prohibits operators from discharging oil and gas waste without a permit.
8. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 20(a)(1), which requires operators to give immediate proper notice of a fire, leak, spill or break to the appropriate Commission district office.
9. 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.

10. An assessed administrative penalty in the amount of FORTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$42,500.00) is justified considering the facts and violations at issue.
11. Under TEX. NAT. RES. CODE § 91.113, the Commission may recover reimbursement of all costs incurred in cleaning up oil and gas wastes discharges within the Commission's jurisdiction.
12. 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 each or both may hold a position of ownership or control, are subject to the restriction of Texas Natural Resources Code Section 91.114(a)(2).

**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 reimburse the Commission for \$4,644.94.
2. BHB Operating, Inc. (Operator No. 068580) shall pay to the Commission, for disposition as provided by law, an administrative penalty in the amount of **FORTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$42,500.00)**.

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, both Lance W. Duncan and Deborah Villarreal, and any other organization in which each 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 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 21<sup>st</sup> day of June, 2016.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order  
dated June 21, 2016)

JNC / rnf