

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 7B-0291098

ENFORCEMENT ACTION AGAINST GROTHE BROS., INC. (OPERATOR NO. 335430) FOR VIOLATIONS OF STATEWIDE RULES ON THE BYRON DILLER ET AL LEASE (LEASE ID NO. 03266), WELL NOS. 7, 10, 12, 13, 15, 18, 21, 25, 27, 28, 31, 34 AND 37, SHACKLEFORD COUNTY REGULAR FIELD, SHACKLEFORD COUNTY, TEXAS

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 December 17, 2015 and that the respondent, Grothe Bros., Inc., failed to appear or respond to the Notice of 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 Railroad Commission of Texas 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. Grothe Bros., Inc. (Operator No. 335430), (“Respondent”), was sent the Original Complaint, Notice of Opportunity for Hearing, and Notice of Hearing by certified and first class mail, addressed to the most recent Form P-5 (Organization Report) address. Nancy Grothe Pracht, President and Owner of Grothe Bros., Inc., was sent the Original Complaint, Notice of Opportunity for Hearing, and Notice of Hearing by certified and first class mail, addressed to her last known address. Steven James Pracht, Director and Secretary of Grothe Bros., Inc., was sent the Original Complaint, Notice of Opportunity for Hearing, and Notice of Hearing by certified and first class mail, addressed to his last known address.
2. The certified mail containing the Original Complaint and the Notice of Hearing, was received on November 24, 2015 by Respondent and Steven James Pracht. The first class mail was not returned. Record of the delivery 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.
3. On July 23, 2014, Respondent, a corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consist of the following individuals: Nancy Grothe Pracht, President and Owner; and Steven James Pracht, Director and Secretary.

4. Nancy Grothe Pracht was 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. Steven James Pracht was 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.
6. Respondent's P-5 (Organization Report) is currently active. Respondent has a \$50,000 cash deposit as its financial assurance.
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 Byron Diller et al (03266) Lease, Well Nos. 7, 10, 12, 13, 15, 18, 21, 25, 27, 28, 31, 34, and 37 by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective June 1, 2011, approved August 4, 2011.
9. Commission inspection reports made on March 3, 2014, April 15, 2014, May 12, 2014 and May 28, 2014, and zero production reported by Respondent from March 2013 through March 2015, with no production reports filed with the Commission thereafter, show the Byron Diller et al (03266) Lease, Well Nos. 7, 10, 12, 13, 15, 18, 21, 25, 27, 28, 31, 34, and 37 have been inactive for a period greater than one year. Production from the subject wells ceased in February 2013.
10. 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, 16 TEX. ADMIN. CODE § 3.14; and no plugging extensions are in effect for any of the subject wells as allowed by Statewide Rule 14. The subject wells are not otherwise in compliance with Statewide Rule 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 wells. Unplugged wellbores, in violation of Statewide Rules 14(b)(2), 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 Byron Diller et al (03266) Lease, Well Nos. 7, 10, 12, 13, 15, 18, 21, 25, 27, 28, 31, 34, and 37 is \$84,500.00 (\$6,500.00 estimated per well).

13. Commission inspection reports made on April 15, 2014, May 12, 2014 and May 28, 2014 for the Byron Diller et al (03266) Lease show that on Well No. 7 a one inch nipple opening on the south side of the pumping tee was open to the atmosphere.
14. Commission inspection reports made on March 3, 2014, April 15, 2014, May 12, 2014 and May 28, 2014 for the Byron Diller et al (03266) Lease show that on Well No. 10 had a casing open to the atmosphere.
15. Commission inspection reports made on May 12, 2014 and May 28, 2014 for the Byron Diller et al (03266) Lease show that Well No. 13 had a casing open to the atmosphere.
16. Commission inspection reports made on May 12, 2014 and May 28, 2014 for the Byron Diller et al (03266) Lease show that on Well No. 31 the pumping tee is open resulting in the casing being open to the atmosphere.
17. Wells left uncontrolled or open to the atmosphere, in violation of Statewide Rules 13(a)(6)(A), 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.
18. 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). 16 TEX. ADMIN. CODE §§ 3.14(b)(2) and 3.13(a)(6)(A).
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 leases 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.

7. 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.
8. 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.
9. An assessed administrative penalty in the amount of THIRTY-NINE THOUSAND, EIGHT HUNDRED FIFTY-ONE DOLLARS (\$39,851.00) is justified considering the facts and violations at issue.
10. 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, Nancy Grothe Pracht and Steven James Pracht, 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(a)(2) 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. Grothe Bros., Inc. (Operator No. 335430) shall place the Byron Diller et al (03266) Lease, Well Nos. 7, 10, 12, 13, 15, 18, 21, 25, 27, 28, 31, 34, and 37 in compliance with Statewide Rules 14(b)(2) and 13(a)(6)(A), and any other applicable Commission rules or statutes.
2. Grothe Bros., Inc. (Operator No. 335430) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of THIRTY-NINE THOUSAND, EIGHT HUNDRED FIFTY-ONE DOLLARS (\$39,851.00).

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, Nancy Grothe Pracht and Steven James Pracht, 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(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 21st day of June, 2016.

RAILROAD COMMISSION OF TEXAS

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

JNC / rnf