

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 08-0288409

ENFORCEMENT ACTION AGAINST TEXAS LPG STORAGE CO., INC. (OPERATOR NO. 846657) FOR VIOLATIONS OF STATEWIDE RULES ON THE 3-BAR UNIVERSITY LEASE (LEASE ID NO. 26852), THREE BAR (DEVONIAN) FIELD, ANDREWS 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 May 26, 2016 and that the respondent, Texas LPG Storage Co., 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. Texas LPG Storage Co., Inc. (“Respondent”), Operator No. 846657, 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) (“Form P-5”) address. Respondents’ officers and agents as identified on the Form P-5—Ernesto Carrillo and John R. Greenwood—were each sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to their last known addresses.
2. Respondent and Mr. Carrillo received the certified mail envelopes containing the Original Complaint and Notice of Opportunity for Hearing on April 4, 2016. The certified mail envelope was received by Mr. Greenwood on April 8, 2016. The first class mail was not returned. Record of the delivery of certified mail has been on file 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 June 19, 2013, Respondent, a corporation, filed a Form P-5 with the Commission reporting that its officers consist of the following individuals: John R. Greenwood, President; and Ernesto Carrillo, Vice President/General Manager.

4. John R. Greenwood 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. Ernesto Carrillo 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 Form P-5 is active. Respondent has a \$14,242.00 letter of credit 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 3-Bar University Lease (Lease ID No. 26852), by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective July 1, 1988, approved July 28, 1988.
9. Commission records show that permit condition No. 14 on both Permit No. 008199 and No. 008113 for the 3-Bar University Lease required that the pits be dewatered, backfilled and compacted within 120 days of final cessation of the use of the pits. Condition No. 14 also requires that final closure of the pit must be accomplished in such a manner that rainfall will not collect at the pit location after pit closure and upon final closure the District Office would be notified in writing.
10. Commission records show that Respondent completed plugging operations on the 3-Bar University Lease on September 15, 2009. A Commission inspection report dated September 16, 2010 show that permitted pits No. 008199 and No. 008113 remained open and have not been emptied or backfilled. A Commission inspection report dated January 8, 2014, shows that permitted pits No. 008199 and No. 08113 on the 3-Bar University Lease remained open. A Commission inspection report dated January 20, 2015 states the facility is not active, wells were plugged, and both pit No. 008113 and pit No. 008199 remain with 6 inches of water left in them with no work done to backfill and level them. Commission records show that condition No. 4 on both Brine pit permits No. 008199 and No. 008113 for the 3-Bar University Lease required the pit to be lined with a fiberglass reinforced hypalon liner. A Commission inspection report dated December 9, 2015 shows that the liner for pit No. 008199 has been removed and the pit contains approximately 3 inches of water; half the pit liner for pit No. 008113 has been removed. The report states that there were no signs of activity at the time of inspection.
11. Continued maintenance of pits required to be emptied and backfilled, in violation of Statewide Rule 8, may result in unpermitted discharges of oil and gas waste, which can

contaminate the land surface, affect the health of humans and animals, and may be discharged to surface or subsurface waters, causing pollution.

12. 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 Rule 8. 16 TEX. ADMIN. CODE § 3.8.
5. The documented violation committed by Respondent constitute an act 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, which requires that pits be timely emptied and backfilled.
7. 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.
8. An assessed administrative penalty in the amount of SEVENTEEN THOUSAND FOUR HUNDRED DOLLARS (\$17,400.00) is justified considering the facts and violations at issue.
9. As persons in a position of ownership or control of Respondent at the time Respondent violated Commission rule related to safety and the control of pollution, Ernesto Carrillo and John R. Greenwood, 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. Texas LPG Storage Co., Inc. shall place the 3-Bar University Lease in compliance with Statewide Rule 8, and any other applicable Commission rules and statutes.
2. Texas LPG Storage Co., Inc.'s brine permits, Permit Nos. 008113 and 008199, are hereby terminated pursuant to Statewide Rule 8(d)(6)(E)(iii) effective the date this order becomes final.
3. Texas LPG Storage Co., Inc. (Operator No. 846657) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SEVENTEEN THOUSAND FOUR HUNDRED DOLLARS (\$17,400.00.)**

It is further **ORDERED** that as persons in a position of ownership or control of Respondent at the time Respondent violated Commission rule related to safety and the control of pollution, Ernesto Carrillo and John R. Greenwood, 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 24th day of August, 2016.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated August 24, 2016)

JNC/rnf