

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 05-0299458

ENFORCEMENT ACTION AGAINST TEXTRON SOUTHWEST INC. (OPERATOR NO. 850938) FOR VIOLATIONS OF STATEWIDE RULES ON THE SPINDLETOP HARLEY LEASE (LEASE ID NO. 03777), WELL NO. 1, SANTA FE SPINDLETOP (SMACKOVER) FIELD, HOPKINS 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 June 9, 2016 and that the respondent, Textron Southwest 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. Textron Southwest Inc. (“Respondent”), Operator No. 850938, 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’ officer as identified on the Form P-5, Thomas W. Griffin, was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to his last known address.
2. The certified mail envelope containing the Original Complaint and the Notice of Opportunity for Hearing was unclaimed by the Respondent. The certified mail envelope was received by Thomas W. Griffin on April 20, 2016. No first class mail was returned. Record of the delivery and unclaimed 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 October 7, 2015, Respondent, a corporation, filed a Form P-5 with the Commission reporting that its officers consist of the following individual: Thomas W. Griffin, President.

4. Thomas W. Griffin 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. Respondent's Form P-5 is active. Respondent has a \$25,000 bond as its financial assurance.
6. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.
7. Respondent designated itself to the Commission as the operator of the Spindletop Harley Lease, (Lease No. 03777), Well No. 1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective November 1, 2004, approved January 19, 2005.
8. Commission inspection reports made on August 18, 2014, September 11, 2014, October 28, 2014, December 19, 2014, January 23, 2015, August 27, 2015, October 13, 2015, and December 22, 2015 for the Spindletop Harley Lease show that the sign or identification required to be posted at the tank battery is illegible.
9. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rule 3(3), may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency, which can result in delays in remedying a violation or emergency.
10. Commission inspection reports made on August 18, 2014, September 11, 2014, October 28, 2014, December 19, 2014, January 23, 2015, August 27, 2015, October 13, 2015 and December 22, 2015, and either reports filed by Respondent with the Commission reflecting zero production, or the absence of production reports filed by Respondent with the Commission since May 2013, show that the Spindletop Harley Lease, Well No. 1, has been inactive for a period greater than one year. Production from the subject well ceased in April 2013.
11. 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, 16 TEX. ADMIN. CODE § 3.14; and no plugging extension is in effect for the subject well as allowed by Statewide Rule 14. The subject well is not otherwise in compliance with Statewide Rule 14.
12. Usable quality groundwater in the area is likely to be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject well. Unplugged wellbores, in violation of Statewide Rule 14(b)(2), constitute a cognizable threat to the public health and safety because of the potential of pollution.

13. The total estimated cost to the State for plugging the Spindletop Harley Lease, Well No. 1 is \$105,000.00.
14. Commission inspection reports made on August 18, 2014, September 11, 2014, October 28, 2014, December 19, 2014, January 23, 2015, August 27, 2015, October 13, 2015, and December 22, 2015 for the Spindletop Harley Lease show that the required firewall around the tank battery has deteriorated.
15. Failing to erect a dike or fire wall as required by Statewide Rule 21(j) may cause fires.
16. According to Commission records, the Spindletop Harley Lease, Well No. 1 is in the Santa Fe Spindletop (Smackover) Field, which is an established hydrogen sulfide (H₂S) field. Commission inspection reports for the Spindletop Harley Lease (Lease No. 03777), Well No. 1, conducted on August 18, 2014, September 11, 2014, October 28, 2014, December 19, 2014, January 23, 2015, August 27, 2015, October 13, 2015, and December 22, 2015 show there are no functional H₂S monitors on the well or at the tank battery and no established safety procedures in place that are designed to prevent the undetected continuing escape of hydrogen sulfide.
17. Undetected significant levels of hydrogen sulfide gas released from a well, in violation of Statewide Rule 36(c)(8) can cause death.
18. Respondent has the following prior enforcement order issued against it: Oil & Gas Docket No. 7B-0270334.

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 3(3), 14(b)(2), 21(j), and 36(c)(8). 16 TEX. ADMIN. CODE §§ 3.3(3), 3.14(b)(2), 3.21(j), and 3.36(c)(8).
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 3(3), which requires that each tank battery that produces oil, gas, or geothermal resources shall post signs or identification showing the name of the property, commission lease number, name of the operator, number of acres in the property and if commingled, include the commingling permit number.
7. 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, unless the operator is eligible for and obtains an extension of the plugging deadline.
8. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 21(j), which requires that dikes or fire walls be erected and kept around all permanent oil tanks or battery of tanks that are within the corporate limits of any city, town or village or where such tanks are closer than 500 feet to any highway or inhabited dwelling or closer than 1,000 feet to any school or church, or where such tanks are located as to be deemed by the Commission to be an objectionable hazard.
9. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 36(c)(8), which requires operators subject to the provisions of Statewide Rule 36 to install safety devices and maintain them in an operable condition or establish safety procedures designed to prevent the undetected continuing escape of hydrogen sulfide.
10. 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.
11. An assessed administrative penalty in the amount of **TWENTY-ONE THOUSAND SIXTY-SEVEN DOLLARS (\$21,067.00)** is justified considering the facts and violations at issue.
12. 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, Thomas W. Griffin, and any other organization in which he 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. Textron Southwest Inc. shall plug the Spindletop Harley Lease, (Lease No. 03777), Well No. 1, and place the lease in compliance with Statewide Rules 3(3), 14(b)(2), 21(j), and 36(c)(8), and any other applicable Commission rules and statutes.

2. **Textron Southwest Inc. shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of TWENTY-ONE THOUSAND SIXTY-SEVEN DOLLARS (\$21,067.00).**

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, Thomas W. Griffin, and any other organization in which he 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 12th day of September, 2016.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated September 12, 2016)

JNC/rmf