

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL & GAS DOCKET NO. 03-0299296

ENFORCEMENT ACTION AGAINST OMEGA ENERGY LLC (OPERATOR NO. 622657) FOR VIOLATIONS OF STATEWIDE RULES ON THE ANGELO UNIT LEASE, WELL NO. 1 (RRC NO. 085303), AND THE ANGELO UNIT LEASE, WELL NO. 2 (RRC NO. 111212), BERNARD, EAST (7700) FIELD, WHARTON 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 September 29, 2016, and that the respondent, Omega Energy LLC, 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. Omega Energy LLC (“Respondent”), Operator No. 622657, 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. Respondent’s officer identified on the Form P-5, Gaston Kearby, 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 addressed to the Respondent was received on July 30, 2016. Both the certified mail and the first class mail envelopes sent to Gaston Kearby were returned to the Commission on August 8, 2016. No other first class mail was returned. Record of the receipt and return 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 27, 2013, Respondent, a limited liability company, filed a Form P-5 with the Commission reporting that its officers consist of the following individual: Gaston Kearby, Managing Member.

4. Gaston Kearby 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 delinquent. Respondent had a \$50,000 letter of credit as its financial assurance at the time of the last Form P-5 annual renewal submission.
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 Angelo Unit Lease, Well No. 1 (RRC No. 085303), by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective August 27, 2012, approved August 28, 2012. Respondent designated itself to the Commission as the operator of the Angelo Unit Lease, Well No. 2 (RRC No. 111212), by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective August 27, 2012, approved August 28, 2012.
8. Commission inspection reports made on February 10, 2015 and March 10, 2015 on the Angelo Unit Lease show Well No. 1 has been plugged but no plugging report has been filed.
9. Commission inspection reports made on February 13, 2015 and March 10, 2015 on the Angelo Unit Lease show Well No. 2 has been plugged but no plugging report has been filed.
10. Unverified plugging of wellbores, in violation of Statewide Rules 14(b)(1), may result in the pollution of usable quality ground water and surface water, because if wells are improperly plugged, they may serve as a conduit for the passage of oil, gas, saltwater, and other substances from one stratum or formation to another or to the surface or from the surface downward.
11. The Respondent has committed prior violations of Commission rules as documented in final orders in Oil & Gas Docket Nos. 03-0269932 and 03-0269932.

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 14(b)(1). 16 TEX. ADMIN. CODE § 3.14(b)(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 in violation of Statewide Rule 14(b)(1), which requires a plugging report to be filed with the Commission within 30 days after plugging operations are completed, accompanied by a W-15 cementing report, and an electric log status report if the plugged well is a dry hole.
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 TWELVE THOUSAND DOLLARS (\$12,000) is justified considering the facts and violations at issue.
9. 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, Gaston Kearby, 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. Omega Energy LLC shall place the Angelo Unit Lease, Well No. 1 and Well No. 2 in compliance with Statewide Rule 14(b)(1), and any other applicable Commission rules and statutes.
2. Omega Energy LLC shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWELVE THOUSAND DOLLARS (\$12,000)**.

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, Gaston Kearby 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 per day per violation.

Done this 15th day of November, 2016.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated November 15, 2016.)

JNC/rmf