

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL AND GAS DOCKET NO. 04-0300744**

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**ENFORCEMENT ACTION AGAINST CHESTNUT EXPLORATION AND PRODUCTION, INC. (OPERATOR NO. 147847) FOR VIOLATIONS OF STATEWIDE RULES ON THE SAUZ RANCH MULATOS PASTURE LEASE (LEASE NO. 03390), WELL NOS. 175, 190 AND 204, WILLAMAR, WEST FIELD, WILLACY 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 November 3, 2016 and that the respondent, Chestnut Exploration and Production, 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 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. Chestnut Exploration and Production, Inc. (“Respondent”), Operator No. 147847, was sent the Original Complaint and Notice of Hearing by certified and first class mail, addressed to the most recent Commission Form P-5 (Organization Report) (“Form P-5”) address. Respondent’s officers and agents as identified on the Form P-5, Mark A. Plummer, was sent the Original Complaint and Notice of Hearing by certified and first class mail, addressed to his last known address.
2. The certified mail envelope containing the Original Complaint and Notice of Hearing was received by the Respondent on September 12, 2016. There is no record of delivery or return of the certified mail envelope sent to Mr. Plummer. No first class mail was 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 November 13, 2015. Respondent, a corporation, filed a Form P-5 with the Commission reporting that its officers consist of the following individual: Mark A. Plummer, President.
4. Mark A. Plummer 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 bond 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 Sauz Ranch Mulatos Pasture Lease (Lease No. 03390), Well Nos. 175, 190 and 204, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective August 2, 2014, approved October 23, 2014.
8. Multiple Commission inspection reports made between March 5, 2015 and March 18, 2016 show there were two spills on the lease measuring 30' x 20' and another measuring 120' x 330'. An inspection report dated June 15, 2015 shows a spill with an affected area measuring 300' x 45'. An inspection report dated June 15, 2015 shows a spill with an affected area measuring 300' x 45'. An inspection report dated January 7, 2016 shows there was an additional spill measuring 550' x 500' which the operator failed to report to the Commission as required. Furthermore, there was a 20' x 5' affected area of improperly stored contaminated soil, for an affected area of 328,800 square feet.
9. Respondent did not have a permit for said discharges, nor were they authorized under Statewide Rules 8(d)(3), 8(e), 9, 46 or 98.
10. 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.
11. A Commission inspection report made on January 7, 2016 show that the operator through neglect or intent failed to notify the Commission of a 10 barrel ("bbl") crude oil spill and a 285 bbl produced water spill which occurred on the lease on December 15, 2015.
12. Unreported discharges in violation of Statewide Rule 20(a)(1) can lead to contamination of land surface and may eventually be discharged to surface or subsurface waters, causing pollution.
13. 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(d)(1) and 20(a)(1). 16 TEX. ADMIN. CODE §§ 3.8(d)(1) and 3.20(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(d)(1), which prohibits the discharge of oil and gas waste without a permit.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 20(a), which requires that operators immediately provide notice to the appropriate Commission district office by telephone or telegraph of a fire, leak, spill or break.
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 ONE HUNDRED FOUR THOUSAND, SIX HUNDRED FORTY DOLLARS (\$104,640.00) is justified considering the facts and violations at issue.
10. 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, Mark A. Plummer, 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. Chestnut Exploration and Production, Inc. shall place the Sauz Ranch Mulatos Pasture Lease, Well Nos. 175, 190 and 204 in compliance with Statewide Rules 8(d)(1) and 20(a)(1), and any other applicable Commission rules and statutes.
2. Chestnut Exploration and Production, Inc. shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **ONE HUNDRED FOUR THOUSAND SIX HUNDRED FORTY DOLLARS (\$104,640.00)**.

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, Mark A. Plummer 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 the Commission's order is signed, unless the time for filing a motion for rehearing has been extended under TEX. GOV'T CODE § 2001.142, by agreement under TEX. GOV'T CODE § 2001.147, or by written Commission Order issued pursuant to TEX. GOV'T CODE § 2001.146(e). 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 24<sup>th</sup> day of January, 2017.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order  
dated January 24, 2017)

JNC/rnf