

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL AND GAS DOCKET NO. 09-0297199**

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**ENFORCEMENT ACTION AGAINST XSTAR RESOURCES LLC (OPERATOR NO. 945934) FOR VIOLATIONS OF STATEWIDE RULES ON THE WOODS, FLORA ESTATE "A" LEASE, WELL NO. 2 (RRC NO. 115026), BILLS (CADDO CONGLOMERATE) FIELD, AND THE HATFIELD LEASE (LEASE NO. 27247), WELL NO. 1, CALLENDAR (WEIR) FIELD, JACK 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 December 1, 2016 and that the respondent, Xstar Resources LLC, 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. Xstar Resources LLC ("Respondent"), Operator No. 945934, 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 D. McBryde, 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 addressed to Respondent was delivered on October 20, 2016. The certified mail envelope addressed to Mark D. McBryde was returned to the Commission on November 14, 2016. No first class mail was returned. Record of the delivery 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 3, 2014, Respondent, a limited liability company, filed a Form P-5 with the Commission reporting that its officers consist of the following individual: Mark D. McBryde, Member.
4. Mark D. McBryde 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 \$50,000.00 bond as its financial assurance at the time of Respondent's 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 Woods, Flora Estate "A" Lease, Well No. 2 (RRC No. 115026), by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective January 1, 2010, approved January 12, 2010. Respondent designated itself to the Commission as the operator of the Hatfield Lease (Lease No. 27247), Well No. 1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective January 1, 2010, approved January 12, 2010.
8. Commission inspection reports made on July 9, 2014, August 8, 2014, October 27, 2014, January 23, 2015 and June 2, 2015 for the Woods, Flora Estate "A" Lease, Well No. 2 show that the signs or identification required to be posted at the well and tank battery were missing.
9. Commission inspection reports made on October 23, 2014, January 12, 2015 and June 1, 2015 for the Hatfield Lease, Well No. 1, show that the sign or identification required to be posted at the lease entrance and well were missing
10. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rule 3(1), 3(2) and 3(3), may cause confusion as to the responsible operator to be contacted and the actual location of a violation or emergency, which can result in delays in remedying a violation or emergency.
11. Commission inspection reports made on July 9, 2014, August 8, 2014, October 27, 2014, January 23, 2015 and June 2, 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 becoming the record operator in January 2010, show that the Woods, Flora Estate "A" Lease, Well No. 2 has been inactive for a period greater than one year. Production from the subject well ceased in January 2008.
12. Commission inspection reports made on October 23, 2014, January 12, 2015 and June 1, 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 becoming the record operator in January 2010, show that the Hatfield Lease, Well No. 1, has been inactive for a period greater than one year. Production from the subject well ceased in May 1997.
13. 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.
14. Usable quality groundwater in the area can become contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject wells. 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.
15. The total estimated cost to the State for plugging the Woods, Flora Estate "A" Lease, Well No. 2 is \$11,700.00 and for plugging the Hatfield Lease, Well No. 1, is \$3,900.00.
16. Commission inspection reports made on July 9, 2014, August 8, 2014, October 27, 2014, January 23, 2015 and June 2, 2015 for the Woods, Flora Estate "A" Lease show that a steel line is tied into the back

valves of two produced water storage tanks—which are open—and ends at West Salt Creek, where any overflow is discharged.

17. Discharges, in violation of Statewide Rule 8(b), reduce the available supplies of usable fresh water and reduce the quality of the affected water.
18. Commission inspection reports made on October 23, 2014, January 12, 2015 and June 1, 2015 for the Hatfield Lease show a leak of produced water at the well affecting a 9' x 15' x 7" deep area.
19. 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.
20. 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.
21. A Commission inspection report made on July 9, 2014, August 8, 2014, October 27, 2014, January 23, 2015 and June 2, 2015 for the Woods, Flora Estate "A" Lease show that Well No. 2 has casing open to the atmosphere and is without a wellhead assembly.
22. Wells left uncontrolled or open to the atmosphere, in violation of Statewide Rule 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.
23. Respondent is responsible for prior violations of Commission statutes and rules as documented in the enforcement final orders for Oil & Gas Docket Nos. 09-0265741, 09-0259795 and 09-0285594.

#### **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(1), 3(2), 3(3), 14(b)(2), 8(b), 8(d)(1) and 13(a)(6)(A). 16 TEX. ADMIN. CODE §§ 3.3(1), 3.3(2), 3.3(3), 3.14(b)(2), 3.8(b), 3.8(d)(1) 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 3(1) which requires that for each property that produces oil, gas or geothermal resources and each oil, gas or geothermal resource well and tank, or other approved crude oil measuring facility, a sign shall be posted at the principal entrance which shall show the name by which the property is carried on the records of the Commission, the name of the operator, and the number of acres in the property.

7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3(2), which requires that each well site that produces oil, gas, or geothermal resources shall post signs or identification showing the name of the property, name of the operator and the well number.
8. 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.
9. Respondent is responsible for maintaining the subject lease 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.
10. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(b), which prohibits the person conducting activities subject to regulation by the Commission from causing or allowing pollution of surface or subsurface water to the state.
11. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(1), which requires persons disposing of oil and gas wastes by any method to have a permit to do so unless authorized under subsection (d)(3) or (e) of Statewide Rule 8, or under Statewide Rule 9, 46, or 98.
12. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 13(a)(6)(A), which provides that wellhead assemblies shall be used on wells to maintain surface control of the wells at all times.
13. 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.
14. An assessed administrative penalty in the amount of TWENTY-FOUR THOUSAND SIX-HUNDRED SEVENTY-NINE DOLLARS (\$24,679.00) is justified considering the facts and violations at issue.
15. 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 D. McBryde, 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. Xstar Resources LLC shall plug the Woods, Flora Estate "A" Lease, Well No. 2 and the Hatfield Lease, Well No. 1 in compliance applicable Commission rules and statutes.
2. Xstar Resources LLC shall place the Woods, Flora Estate "A" Lease, Well No. 2 and the Hatfield Lease, Well No. 1 in compliance with Statewide Rules 3(1), 3(2), 3(3), 14(b)(2), 8(b), 8(d)(1), and 13(a)(6)(A), and any other applicable Commission rules and statutes.

3. Xstar Resources, LLC shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWENTY-FOUR THOUSAND SIX-HUNDRED SEVENTY-NINE DOLLARS (\$24,679.00)**.

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 D. McBryde 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