

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 04-0299295

ENFORCEMENT ACTION AGAINST FAOC OPERATING, LLC (OPERATOR NO. 261530) FOR VIOLATIONS OF STATEWIDE RULES ON THE GUTIERREZ, DANIEL ETAL (11111) LEASE, WELL NOS. 9 AND 13, MEDICO (3080 YEGUA) FIELD, JIM HOGG 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 March 9, 2017 and that the respondent, FAOC Operating, 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. FAOC Operating, LLC ("Respondent"), Operator No. 261530, 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; FAOC Operating LLC, 5773 Woodway Drive, Houston, Texas, 77057.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing was returned to the Commission on January 19, 2017. The first-class mail was not returned. Record of the delivery return of the 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. Respondent filed its first Form P-5 with the Commission in 2012. On August 4, 2015, Respondent, a Limited Liability Company, filed a Form P-5 with the Commission reporting that its officers consist of the following individual: Anne Bradley Owens, President/Vice-President.

4. Anne Bradley Owens 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 \$25,000 letter of credit 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 Gutierrez, Daniel Etal (11111) Lease, Well Nos. 9 and 13, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective March 10, 2014, approved March 18, 2014.
8. Commission records reflect that on November 4, 2014, the Commission gave Respondent notice by certified mail of the alleged facts or conduct of Respondent in the operation, or production, of oil or gas from the Gutierrez, Daniel Etal (11111) Lease, that appeared to violate the oil and gas conservation laws of this state, or rules or orders of the Commission adopted under those laws, to warrant the cancellation of the certificate of compliance. Said notice gave Respondent an opportunity to show compliance with all requirements of law for retention of the certificate of compliance.
9. Commission records reflect that Respondent did not timely show compliance with all requirements of law for retention of the certificate of compliance and, thus, the certificate of compliance for the Gutierrez, Daniel Etal (11111) Lease, was cancelled. Respondent was given notice of such cancellation on December 4, 2014.
10. Commission inspection reports made on April 28, 2015 and May 18, 2015 for the Gutierrez, Daniel Etal (11111) Lease show Well Nos. 9 and 13 were actively producing despite the fact the certificate of compliance had been canceled and a new certificate of compliance had not been issued.
11. By producing the Gutierrez, Daniel Etal (11111) Lease after notice from the Commission that the certificate of compliance had been cancelled and before a new certificate of compliance had been issued, Respondent violated Statewide Rule 73(i).

12. According to the affidavit of David Randle, sworn to on March 8, 2017, Field Operations, violations of Statewide Rule 73(i), as documented by the facts in the captioned docket, may result in irreparable harm.
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 Rule 73(i). 16 TEX. ADMIN. CODE §§ 3.73(i).
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 well in compliance with Statewide Rule 73(i) and TEX. NAT. RES. CODE § 91.706, which requires the operator, upon notice from the Commission that a certificate of compliance has been cancelled, to not produce oil, gas, or geothermal resources until a new certificate of compliance has been issued by the Commission.
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 **SEVEN THOUSAND FIVE-HUNDRED DOLLARS (\$7,500.00)** is justified considering the facts and violations at issue consisting of one violation of Statewide Rule 73(i) at \$7,500.00.
9. As a person in a position of ownership or control of Respondent at the time Respondent violated Commission rule related to safety and the control of pollution,

Anne Bradley Owens, and any other organization in which she 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. FAOC Operating, LLC (Operator No. 261530) shall place the Gutierrez, Daniel Etal (11111) Lease, Well Nos. 9 and 13 in compliance with Statewide Rules 73(i), and any other applicable Commission rules and statutes.
2. FAOC Operating, LLC (Operator No. 261530) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SEVEN THOUSAND FIVE-HUNDRED DOLLARS (\$7,500.00)**.

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, Anne Bradley Owens and any other organization in which she 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 4th day of April, 2017.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated April 4, 2017)

MFE/dac/rnf