

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL AND GAS DOCKET NO. 7B-0301240**

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**ENFORCEMENT ACTION AGAINST PLATEAU ENERGY, LLC (OPERATOR NO. 667911) FOR VIOLATIONS OF STATEWIDE RULES ON THE JACKSON "D" (17537) LEASE, WELL NOS. 1, 3, 4, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 28, 29, 30, AND 32, CALLAHAN COUNTY REGULAR FIELD, CALLAHAN 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 March 9, 2017 and that the respondent, Plateau 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. Plateau Energy, LLC ("Respondent"), Operator No. 667911, 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: Plateau Energy, LLC, P.O. Box 107, Smyer, Texas, 79367. Respondent's officer as identified on the Form – Curtis Brent Berry, Manager – was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to his last known address: Curtis Brent Berry, Manager, P.O. Box 107, Smyer, Texas, 79367.
2. The certified mail envelopes containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent and Curtis Brent Berry, Manager were returned to the Commission unopened on February 17, 2017 and February 16, 2017 respectively. The first-class mail was not 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. Respondent filed its first Form P-5 with the Commission in 2013. On March 1, 2017, Respondent, a Limited Liability Company, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Curtis Brent Berry, Manager.

4. Curtis Brent Berry 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 had a \$50,000.00 bond as its financial assurance at the time of the last Form P-5 annual renewal submission.
6. Respondent designated itself to the Commission as the operator of the Jackson "D" (17537) Lease, Well Nos. 1, 3, 4, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 28, 29, 30, and 32, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective June 1, 2015, approved June 25, 2015.
7. Commission inspection reports made on January 6, 2016, February 8, 2016, March 28, 2016, and May 10, 2016, for the Jackson "D" (17537) Lease, Well Nos. 1, 12, 14, 15, 18, 21, 23, 24, 25, 28, 29, 30, and 32, show that the signs or identification required to be posted at the subject wells were missing.
8. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rule 3(2), 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.
9. The violations of Commission rules committed by Respondent are related to safety and the control of pollution. According to an Affidavit signed by Petar Buva, Field Operations, on Statewide Rule 3, "In the event of a pollution or safety violation or other emergency, the lack of legible signs and identification displaying correct information may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency. Such confusion will cause delays in containing and remediating the violation or emergency, which is serious and may threaten the public health and safety."
10. Commission inspection reports completed on January 6, 2016, February 8, 2016, March 28, 2016, and May 10, 2016, and either reports filed by Respondent with the Commission reflecting zero production, or the absence of production reports filed by the Respondent with the Commission since August 2015, show the Jackson "D" (17537) Lease, Well Nos. 3, 4, 7, 11, 13, 17, 20, 21, and 22 have been inactive for a period greater than one year. Production from the subject wells ceased on or before August 2015. The wells were shut in on the following dates: Well No. 4 in January 2000; Well No. 22 in May 2000; Well Nos. 11, 13, and 17 in February 2005; Well No. 3 in May 2005; Well No. 20 in May 2011; and Well Nos 7 and 21 in May 2012.
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 wells as allowed by Statewide Rule 14. The subject wells are not otherwise in compliance with Statewide Rule 14.
12. 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.
  13. The violations of Commission rules committed by Respondent are related to safety and the control of pollution. According to a February 2, 2017 affidavit signed by Petar Buva, Field Operations, "Any wellbore, cased or otherwise, is a potential conduit for flow from oil or saltwater zones to zones of usable quality water or to the surface. Holes or leaks may develop in cased wells, allowing oil or saltwater to communicate with usable quality zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface."
  14. The total estimated cost to the State for plugging the Jackson "D" (17537) Lease, Well Nos. 3, 4, 7, 11, 13, 17, 20, 21, and 22 is \$115,000.00.
  15. Commission inspection reports made on January 6, 2016, February 8, 2016, March 28, 2016, and May 10, 2016 for the Jackson "D" (17537) Lease show five areas of hydrocarbon soaked soil: a 750-square foot spill at the tank battery; an 18-square foot spill at Well No. 14; a 72-square foot spill at Well No. 25, a 24-square foot spill at Well No. 30, and a 28-square foot spill at Well No. 32.
  16. 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.
  17. 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.
  18. The violations of Commission rules committed by Respondent are related to safety and the control of pollution. According to an Affidavit signed by Petar Buva, Field Operations, on Statewide Rule 8(d)(1), "Any unauthorized discharge or disposal of oil, saltwater, basic sediment or other oil and gas waste is a potential source of pollution to surface and subsurface waters if not remediated to prevent seepage and run-off."
  19. Commission District inspection reports made on February 8, 2016, March 28, 2016, and May 10, 2016 for the Jackson "D" (17537) Lease, Well Nos. 12, 14, 15, 23, 24, 25, 29, 30, and 32, show that the casing is open to the atmosphere.

20. A violation of Statewide Rule 13(a)(6)(A) is serious and a hazard to the public health and safety because wells left uncontrolled or open to the atmosphere 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.
21. The violations of Commission rules committed by Respondent are related to safety and the control of pollution. According to an Affidavit signed by Petar Buva, Field Operations, on Statewide Rule 13(a)(6)(A), "Open wellbores prohibited by Statewide Rule 13(a)(6)(A) are pollution/safety hazards due to the possibility of surface run-off entering the wellbore and the possibility of well fluids flowing out of the wellbore."
22. 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 3(2), 14(b)(2), 8(d)(1), and 13(a)(6)(A). 16 TEX. ADMIN. CODE §§ 3.3(2), 3.14(b)(2), 3.8(d)(1), and 3.13(a)(6)(A).
5. 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.
6. 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.
7. 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.
8. Respondent is responsible for maintaining surface control of a well by using wellhead assemblies in compliance with Statewide Rule 13(a)(6)(A). Maintenance of surface control

is necessary not only to prevent fluids from being discharged from the wellbore onto the ground surface, but also to prevent any oil and gas wastes present in the wellbore from being displaced to surface by influxes of surface water into the open wellbore.

9. 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.
10. An assessed administrative penalty in the amount of FIFTY-NINE THOUSAND NINE HUNDRED FORTY-FOUR DOLLARS (\$59,944.00) is justified considering the facts and violations at issue, consisting of 25 violations of Statewide Rule 3(2) at \$500.00 each for a total of \$12,500.00, nine violations of Statewide Rule 14(b)(2) at \$2,000.00 each, plus \$1 per foot on a total well depth of 8,676 feet for a total of \$26,676.00, five violations of Statewide Rule 8(d)(1) at \$500.00 per spill, plus \$0.30 per square foot on a total of 892 square feet, for a total of \$2,768.00, and nine violations of Statewide Rule 13(a)(6)(A) at \$2,000.00 each for a total of \$18,000.00.
11. As a person in a position of ownership or control of Respondent at the time Respondent violated a Commission rule related to safety and the control of pollution, Curtis Brent Berry, and any other organization in which he may hold a position of ownership or control, is 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. Plateau Energy, LLC (Operator No. 667911) shall place the Jackson "D" (17537) Lease, Well Nos. 1, 3, 4, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 28, 29, 30, and 32 in compliance with Statewide Rules 3(2), 14(b)(2), 8(d)(1), and 13(a)(6)(A), and any other applicable Commission rules and statutes.
2. Plateau Energy, LLC (Operator No. 667911) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount FIFTY-NINE THOUSAND NINE HUNDRED FORTY-FOUR DOLLARS (\$59,944.00).

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, Curtis Brent Berry 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 of an application 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 Commission Order is signed.

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 4<sup>th</sup> day of April, 2017.

**RAILROAD COMMISSION OF TEXAS**

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

MFE/dac