



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

PROPOSAL FOR DECISION

OIL AND GAS DOCKET No. 6E-0299578

ENFORCEMENT ACTION AGAINST CHESTNUT EXPLORATION AND PRODUCTION, INC. (OPERATOR NO. 147847) FOR VIOLATIONS OF STATEWIDE RULES ON THE ELDER, W. W. LEASE (06231), WELL NOS. 2, 4 and TANK BATTERY, EAST TEXAS FIELD, GREGG COUNTY, TEXAS

APPEARANCES

FOR THE RAILROAD COMMISSION OF TEXAS:

David Bell, Staff Attorney, Enforcement Section
Olin Macnamara, RRC Geoscientist IV

FOR CHESTNUT PETROLEUM, INC.

Raul Garza, Consultant

PROCEDURAL HISTORY:

Notice of Hearing:	January 17, 2017
Hearing on the merits:	February 16, 2017
Record closed:	February 16, 2017
Proposal for Decision issued:	March 8, 2017
Heard by:	Clayton J. Hoover, Administrative Law Judge

SUMMARY

In Docket No. 6E-0299578, the Railroad Commission of Texas (“Staff”) alleges that Chestnut Exploration and Production, Inc. (Operator No. 147847), (“Chestnut”), is in violation of Statewide Rule 8(d)(1) and Statewide Rule 20(a)(1) at Chestnut’s Elder, W. W. Lease (06231), located in Gregg County, Texas.

Chestnut’s consultant, Raul Garza, appeared at hearing, but failed to present evidence sufficient to demonstrate that Chestnut is not in violation of Commission Rules and the Texas Natural Resources Code, as alleged by Staff.

The record evidence supports all violations as alleged by Staff. Staff seeks an administrative penalty of \$20,163.00 and requests that the Lease be brought into compliance with all Commission Statewide Rules.

APPLICABLE AUTHORITY

SWR 8(d)(1), titled *Pollution control*:

Prohibited disposal methods. Except for those disposal methods authorized for certain wastes by paragraph (3) of this subsection, or §3.98 of this title (relating to Standards for Management of Hazardous Oil and Gas Waste), or disposal methods required to be permitted pursuant to §3.9 of this title (relating to Disposal Wells) (Rule 9) or §3.46 of this title (relating to Fluid Injection into Productive Reservoirs) (Rule 46), *no person may dispose of any oil and gas wastes by any method without obtaining a permit to dispose of such wastes.* The disposal methods prohibited by this paragraph include, but are not limited to, the unpermitted discharge of oil field brines, geothermal resource waters, or other mineralized waters, or drilling fluids into any watercourse or drainageway, including any drainage ditch, dry creek, flowing creek, river, or any other body of surface water.

SWR 20(a)(1), *addressing reporting of leaks and spills*:

Operators shall give immediate notice of a fire, leak, spill, or break to the appropriate commission district office by telephone or telegraph. Such notice shall be followed by a letter giving the full description of the event, and it shall include the volume of crude oil, gas, geothermal resources, other well liquids, or associated products lost.

EVIDENCE PRESENTED

STAFF'S CASE

Staff offered into evidence 3 exhibits and the testimony of Mr. Olin Macnamara—a Railroad Commission of Texas Geoscientist. Staff presented exhibits showing Chestnut's expired P-5 and information on the Elder, W. W. Lease (06231), including a series of District Office inspection reports (accompanied by photographic evidence) of the Lease—each prepared on various dates by the Commission's Oil and Gas Division, District 6E.¹ Each District Office inspection report summarily describes conditions found at the Lease on the date that the inspection took place.²

Staff states that the above-described Inspection Reports (accompanied by photographic evidence) demonstrate violations of Statewide Rule 8(d)(1) and that the Lease has not been brought into compliance.

The January 21, 2016, Inspection Report by Michael Sorensen stated:

"Well #2 has about a 30' x 30' area around well that is oil saturated and needs to be remediated. The TB area has oil saturated soil and rock with standing oil inside firewall and on water inside firewall. The salt water tank inside the firewall has salt crystals visible all the way around tank. Well #4 IT appears the bolts on the stuffing box were sheered and well control was lost. Oil and condensate sprayed a trailer house and two areas. The area around well including well is approx. 260' wide by 130' long of oil saturated soil with condensate. The 2nd area is between trailer houses and is approx.. 50' wide by 100' long. The oil did travel under one trailer house from end to end." Photos from January 21, 2016 attached.

The November 22, 2016, and December 27, 2016, Inspection Reports show that none of these violations were remedied and that additional violations have occurred.

Staff maintains that Chestnut's Lease is in violation of Statewide Rule 8(d)(1) for the unpermitted disposal of oil and gas wastes and Statewide Rule 20(a)(1) for failing to report a spill. Staff requests that Chestnut be assessed administrative penalties in the amount of \$20,163.00 and ordered to place the Lease into compliance with all Commission rules and regulations.

CHESTNUT'S CASE

Chestnut's consultant, Raul Garza, appeared at hearing, but failed to provide evidence, or otherwise articulate a legal basis, to contradict proof that it is responsible for violations of Statewide Rule 8(d)(1) or Rule 20(a)(1).

¹ Staff Exh. 3

² Staff Exh. 3

ADMINISTRATIVE LAW JUDGE OPINION

Chestnut offered no evidence to contradict proof that it is responsible for violations of Statewide Rule 8(d)(1) and Rule 20(a)(1). Without evidence to the contrary, the record in this case consists of undisputed evidence that Chestnut committed the violations as alleged by Staff. Chestnut has no history of violations of Commission rules and regulations.

The Administrative Law Judge recommends that the Commission assess Chestnut an administrative penalty in the amount of \$20,163.00, and to order Chestnut to bring the Lease into compliance with all Commission rules and regulations. The maximum penalty available under Tex. Admin. Code §83.051(b)(1) would be \$10,000 per violation per day with each day constituting a separate violation under §83.051(b-1). The violations continued for over 330 days, and staff found no evidence of good faith. Staff used the Penalty Guidelines of Rule 107 to arrive at the recommended penalty contained herein of \$20,163.00.

CONCLUSION

The Administrative Law Judge agrees with Staff that Chestnut has violated Statewide Rule 8(d)(1) and Rule 20(a)(1), and therefore makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Chestnut Exploration and Production, Inc. (Operator Number 147847) was given at least ten (10) days notice of this hearing by certified mail sent to its most recent Form P-5 address.
2. Chestnut Exploration and Production, Inc. appeared at the hearing through Raul Garza, Consultant.
3. As established by Chestnut Exploration and Production, Inc.'s most recent Form P-5 *Organization Report*, Chestnut Exploration and Production, Inc. is a corporation with Mark A. Plummer as President.
4. Chestnut Exploration and Production, Inc designated itself as the operator of the Elder, W. W. Lease (06231) by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective December 11, 2011, approved September 11, 2012.
5. The violation in this docket is a violation of Commission rules related to safety and the prevention or control of pollution.

6. Chestnut Exploration and Production, Inc. disposed of oil and gas wastes at the Elder, W. W. Lease (06231) without a permit to dispose of such wastes and failed to report a spill as required.
7. District Office field inspections conducted from March 25, 2015, to December 27, 2016 revealed that Chestnut Exploration and Production, Inc.'s Elder, W. W. Lease (06231) is in violation of Statewide Rule 8(d)(1) and Rule 20(a)(1).
8. Chestnut Exploration and Production, Inc.'s violations of 16 TEX. ADMIN. CODE § 3.8(d)(1) and §20(a)(1) are serious and constitute a hazard to the public health and safety, in that unpermitted discharges of oil and gas wastes can contaminate the land surface, affect the health of humans and animals, and may eventually be discharged to surface or subsurface waters, causing pollution.
9. Chestnut Exploration and Production, Inc. has no prior history of violations of Commission rules.
10. For purposes of TEX. NAT. RES. CODE § 91.114, at all times relevant hereto Mark A. Plummer, as President, was a person who held a position of ownership or control in Chestnut Exploration and Production, Inc.
11. Chestnut Exploration and Production, Inc. acted in bad faith because it failed to correct a Commission rule violation on the subject lease and failed adequately to explain its inaction to the Commission.

CONCLUSIONS OF LAW

1. Proper notice of hearing was timely issued to the appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. By disposing of oil and gas wastes at the Elder, W. W. Lease (06231) without a permit and failing to report a spill, Chestnut Exploration and Production, Inc. violated 16 Tex. Admin. Code § 3.8(d)(1) and §20(a)(1).
4. The documented violations committed by Chestnut Exploration and Production, Inc. constitute acts deemed serious and a hazard to the public health and safety within the meaning of Texas Natural Resources Code §81.0531.
5. Chestnut Exploration and Production, Inc. did not demonstrate good faith within the meaning of Texas Natural Resources Code §81.0531.

RECOMMENDATIONS

The Administrative Law Judge recommends that the above Findings of Fact and Conclusions of Law be adopted and that Chestnut Exploration and Production, Inc. be assessed an administrative penalty of \$20,163.00, as discussed above.

The Administrative Law Judge also recommends that Chestnut Exploration and Production, Inc. be directed to within 30 days of the date this order becomes final, place the Elder, W. W. Lease (06231) fully into compliance with all Commission rules and regulations.

The Administrative Law Judge also recommends that Chestnut Exploration and Production, Inc. and Mark A. Plummer be made subject to the restrictions of TEX. NAT. RES. CODE § 91.114.

RESPECTFULLY SUBMITTED,

CLAYTON J. HOOVER
Administrative Law Judge