

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 7B-0304101

ENFORCEMENT ACTION AGAINST TEXOWA, LLC (OPERATOR NO. 850822) FOR VIOLATIONS OF STATEWIDE RULES ON THE WATERS, BEN (05750) LEASE, WELL NOS. 1, 2, 3, AND 4, MORAN (STRAWN 2100) FIELD, SHACKELFORD 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 June 22, 2017, and that the respondent, Texowa, 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. Texowa, LLC ("Respondent"), Operator No. 850822, 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.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent was received on May, 15, 2017. 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. On December 1, 2015, Respondent, a Limited Liability Company, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Riley Mills.
4. Riley Mills 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 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 Waters, Ben (05750) Lease, Well Nos. 1, 2, 3, and 4, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective January 10, 2016, approved February 9, 2016.
8. A Commission district inspection report made on December 26, 2016 and February 8, 2017 for the Waters, Ben (05750) Lease, Well Nos. 1, 2, 3, and 4 shows that the signs or identification required to be posted at the well locations were missing.
9. 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 a violation or emergency, which can result in delays in remedying a violation or emergency.
10. A Commission district inspection report made on December 26, 2016 for the Waters, Ben (05750) Lease show an active leak of approximately one-half gallon produced water per hour at the separator with about five gallons of free-standing fluids on the ground. A produced water affected area measuring approximately 15' x 2' was also noted. A follow-up inspection conducted on February 8, 2017 revealed no corrective action had been taken since the previous inspection and the separator continued to actively leak and approximately two gallons of free-standing fluid was on the ground. The 15' x 2' spill area had not been cleaned up.
11. 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.
12. 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.
13. The Waters, Ben (05750) Lease, Well Nos. 1 and 2 are permitted injection wells. Commission district inspection reports made on December 26, 2016 and February 8, 2017, and either reports filed by Respondent with the Commission reflecting zero production/zero injection or the absence of production/injection reports filed by Respondent with the Commission since January 2016, when Respondent became the operator of the Waters, Ben (05750) Lease, show that the subject wells have been inactive for a period greater than one year. Injection into Well No. 1 ceased in March 2013, injection into Well No. 2 ceased in February 2012, and production from Well Nos 3 and 4 ceased in May 2014.
14. No workovers, re-entries, or subsequent operations have taken place on the subject wells within the last twelve months; the subject wells have not been properly plugged in accordance with Statewide Rule 14, 16 TEX. ADMIN CODE § 3.14; and no plugging extensions are in effect for the subject wells as allowed by Statewide Rule 14.

15. Usable quality groundwater in the area can become contaminated by migrations or discharges of saltwater and other oil and gas waste 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.
16. The total estimated cost to the State for plugging the Waters, Ben (05750) Lease, Well Nos. 1, 2, 3, and 4 is \$72,400.00.
17. Commission records indicate that Waters, Ben (05750) Lease, Well No. 3 was completed in September 1990. Commission district inspection reports made on December 26, 2016 and February 8, 2017 for the subject lease indicate an open workover pit at Well No. 3 measuring approximately 20' x 12' x 4' deep.
18. Completion/workover pits used when completing or working over a well that are not maintained, emptied and backfilled, as set forth in Statewide Rule 8(d)(4)(H)(i)(III), may result in unpermitted discharges of oil and gas waste which can contaminate the land surface, affect the health of humans and animals, and may be discharged to surface or subsurface waters, causing pollution.
19. The Respondent charged with the violation herein recited has previous violations documented under Docket Nos. 01-0275391 for violations of Statewide Rules 3(1), 3(2), 3(3), and 14(b)(2); 01-0276028 for violations of Statewide Rule 14(b)(2); and 01-0276029 for Statewide Rule 14(b)(2).

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 TEX. NAT. RES. CODE, Chapters 89 and 91.
4. Respondent is in violation of Statewide Rules 3(2), 8(d)(1), 14(b)(2), and 8(d)(4)(H)(i)(III). 16 TEX. ADMIN. CODE §§ 3.3(2), 3.8(d)(1), 3.14(b)(2), and 3.8(d)(4)(H)(i)(III).
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 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.

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 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.
9. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(4)(H)(i)(III), which requires a person who maintains or uses a completion or workover pit in conjunction with completing or working over a well to dewater the pit within 30 days and backfill and compact the pit within 120 days of completion of the well.
10. 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 continue constituting a separate violation.
11. An assessed administrative penalty in the amount of **TWENTY-THREE THOUSAND, FOUR HUNDRED EIGHTY-ONE DOLLARS (\$23,481.00)** is justified considering the facts and violations at issue.
12. 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, Riley Mills, and any other organization in which this individual may hold a position of ownership or control, is subject to the restriction in TEX. NAT. RES. CODE § 91.114(a)(2).

IT IS ORDERED THAT within 30 days from the day immediately following the date this order becomes final:

1. Respondent shall place the Waters, Ben (05750) Lease, Well Nos. 1, 2, 3, and 4, in compliance with Statewide Rules 3(2), 8(d)(1), 14(b)(2), and 8(d)(4)(H)(i)(III), and any other applicable Commission rules and statutes.
2. Respondent shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWENTY-THREE THOUSAND, FOUR HUNDRED EIGHTY-ONE DOLLARS (\$23,481.00)**.

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, Riley Mills, and any other organization in which this individual may hold a position of ownership or control, **shall be subject to the restriction in TEX. NAT. RES. CODE § 91.114(a)(2) 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 15th day of August 2017.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated August 15, 2017)

CJH/dac