

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 7C-0304794

ENFORCEMENT ACTION AGAINST TEXAS WATER DISPOSAL SVCS, L.L.C. (OPERATOR NO. 848311) FOR VIOLATIONS OF STATEWIDE RULES ON THE HOLT "132" (17474) LEASE, WELL NO. 1D, SPRABERRY (TREND AREA) FIELD, REAGAN 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 29, 2017, and that the respondent, Texas Water Disposal Svcs, L.L.C., 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. Texas Water Disposal Svcs, L.L.C. ("Respondent"), Operator No. 848311, 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. Respondent's officers as identified on the Form P-5—Mark Crisp, Member and Gary Rogers, Member—were sent the Original Complaint and Notice of Opportunity for Hearing by certified and first-class mail, addressed to their last known addresses. The Original Complaint and Notice of Opportunity for Hearing was sent to another address for Mark Crisp as well as the address listed on the Form P-5.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent was returned to the Commission unopened on May 31, 2017. The Certified Mail envelope addressed to Gary Rogers was received on June 27, 2017. The Certified Mail envelopes addressed to the Mark Crisp and Gary Rogers were returned to the Commission unopened on June 23, 2017 and June 13, 2017 respectively. The first-class mail envelope addressed to Gary Rogers was returned to the Commission on June 1, 2017. The first-class mail envelopes addressed to Respondent and Mark Crisp were 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 June 15, 2016, Respondent, a Limited Liability Company, filed a Form P-5 with the Commission reporting that its officers consist of the following individuals: Mark Crisp and Gary Rogers.
4. Mark Crisp was in a position of ownership or control of Respondent, as defined in TEX. NAT. RES. CODE § 91.114, during the time period of the violations of Commission rules committed by Respondent.
5. Gary Rogers was in a position of ownership or control of Respondent, as defined in TEX. NAT. RES. CODE § 91.114, during the time period of the violations of Commission rules committed by Respondent.
6. Respondent's Form P-5 is delinquent. Respondent had a \$25,000.00 bond as its financial assurance at the time of the last Form P-5 annual renewal submission.
7. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.
8. Respondent designated itself to the Commission as the operator of the Holt "132" (17474) Lease, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective September 1, 2013, approved October 28, 2013.
9. Commission district inspection reports made on December 9, 2016, December 15, 2016, March 7, 2017 and May 5, 2017 for the Holt "132" (17474) Lease show unpermitted discharge of oil and gas waste around the tank and gun barrel where six areas of oil saturated soil were found.
10. 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.
11. 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.
12. Commission district inspection reports made on December 9, 2016, December 15, 2016, March 7, 2017 and May 5, 2017 for the Holt "132" (17474) Lease show that Respondent failed to properly pits subject to Statewide Rule 22(b).
13. Failing to properly screen or take other protective measures, as set forth in Statewide Rule 22(b), regarding open-top tanks, skimming pits, and/or collecting pits can cause harm to birds.
14. Commission records indicate Respondent has not filed the required bond in the amount of \$137,307.00, for the Holt "132" (17474) Lease, Commercial Facility (Permit No. P012071). Commission records also indicate that the only well on schedule, Well No. 1D, for the Holt "132" (17474) Lease is a disposal well. Commission district inspection reports made on December 9, 2016, December 15, 2016, March 7, 2017 and May 5, 2017 for the Holt "132" (17474) Lease show oil and gas waste in the permitted pits.

15. By receiving oil fields or oil and gas waste without the required bond or letter of credit on file with the Commission, Respondent violated Statewide Rule 78(I)(3)(A).
16. Respondent's violation of Statewide Rule 78(I)(3)(A) is serious and a hazard to the public health and safety. A bond or letter of credit is required as insurance against pollution and to insure the proper operation and closure of a commercial disposal facility.
17. The 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 TEX. NAT. RES. CODE, Chapters 89 and 91.
4. Respondent is in violation of Statewide Rules 8(d)(1), 22(b), and 78(I)(3)(A). 16 TEX. ADMIN. CODE §§ 3.8(d)(1), 3.22(b), and 3.78(I)(3)(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 lease in compliance with Statewide Rule 8(d)(1), which prohibits the discharge of oil and gas waste without a permit.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 22(b), which requires open-top tanks, skimming pits, and collecting pits to be screened or otherwise rendered harmless to birds.
8. Respondent is responsible for acquiring and maintaining a bond or letter of credit on the subject lease in compliance with Statewide Rule 78(I)(3)(A), which insures the proper operation and closure of commercial disposal facilities.
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 continue constituting a separate violation.

10. An assessed administrative penalty in the amount of **THIRTEEN THOUSAND, NINETY-FOUR DOLLARS (\$13,094.00)** is justified considering the facts and violations at issue.

11. As persons in positions of ownership or control of Respondent at the time Respondent violated Commission rules related to safety and the control of pollution, Mark Crisp and Gary Rogers, and any other organization in which these individuals 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 Holt "132" (17474) Lease, in compliance with Statewide Rules 8(d)(1), 22(b), and 78(l)(3)(A), and any other applicable Commission rules and statutes; and

2. Respondent shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **THIRTEEN THOUSAND, NINETY-FOUR DOLLARS (\$13,094.00)**.

It is further **ORDERED** that as persons in positions of ownership or control of Respondent at the time Respondent violated Commission rules related to safety and the control of pollution, Mark Crisp and Gary Rogers, and any other organization in which these individuals 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