

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 8A-0304231

ENFORCEMENT ACTION AGAINST NICHOLS ENERGY, LLC. (OPERATOR NO. 610687) FOR VIOLATIONS OF STATEWIDE RULES ON THE SHAFER (66146) LEASE, WELL NO. 1, WOLF (CANYON) FIELD, BORDEN 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 August 31, 2017, and that the respondent, Nichols Energy, LLC., failed to appear or respond to the **Notice of Hearing**. Pursuant to § 1.45 of the Commission's General Rules of Practice and Procedure, 16 TEX. ADMIN. CODE § 1.45, 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. Nichols Energy, LLC. ("Respondent"), Operator No. 610687, was sent the Original Complaint and Notice of Hearing by certified and first-class mail, addressed to the most recent Commission Form P-5 (Organization Report) ("Form P-5") address. Respondent's attorney and officers as identified on the Form P-5—Gregory Michael Klipp, Attorney; Isaac Nichols; and Shana D. Nichols—were sent the Original Complaint and Notice of Hearing by certified and first-class mail, addressed to the last known addresses.
2. The certified mail envelope containing the Original Complaint and Notice of Hearing addressed to the Respondent was returned to the Commission unopened on August 8, 2017. The Certified Mail envelope addressed to Gregory Michael Klipp, Attorney was received on July 28, 2017. The Certified Mail envelopes addressed to Isaac Nichols and Shana D. Nichols were returned to the Commission unopened on August 28, 2017. The first-class mail envelope addressed to Respondent was returned to the Commission on August 8, 2017. The first-class mail envelopes addressed to LLC. Nichols Energy, Gregory Michael Klipp, Isaac Nichols, and Shana D. Nichols 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 March 27, 2014, Respondent, a limited liability company, filed a Form P-5 with the Commission reporting that its officers consist of the following individuals: Isaac Nichols, Managing Member and Shana D. Nichols, Member.

4. Isaac Nichols 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. Shana D. Nichols 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 cash deposit as its financial assurance at the time of the last Form P-5 annual renewal submission.
7. Respondent designated itself to the Commission as the operator of the Shafer (66146) Lease, Well No. 1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective November 15, 2010, approved February 8, 2011.
8. Commission inspection reports made on February 13, 2017 and March 13, 2017 for the Shafer (66146) Lease show that the signs or identification required to be posted at the lease entrance displayed incorrect information.
9. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rule 3(1), 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. Commission inspection reports made on February 13, 2017 and March 13, 2017 for the Shafer (66146) Lease show that the heater treater and separator unit has an active oil drip 12' above the ground. The leak has affected a contained area of approximately 20' diameter and approximately 1' of saturated depth; approximately 314 square feet. There is also an affected area measuring approximately 50' x 6', approximately 300 square feet, inside the north side firewall.
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. Commission inspection reports made on February 13, 2017 and March 13, 2017, and the absence of reported production since December 2014, showed that the Shafer (66146) Lease, Well No. 1 has been inactive for a period greater than one year. Production from the subject lease ceased on or before January 2015.
14. No workovers, 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 extensions are in effect for the subject well 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 well. 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 Shafer (66146) Lease Well No. 1 is \$21,000.00.
17. Commission inspection reports made on February 13, 2017 and March 13, 2017 for the Shafer (66146) Lease show that the Respondent failed to properly screen in an open-top produced water tank. The netting has collapsed down on top of the tank rendering it ineffective.
18. 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.
19. 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, chs. 89 and 91.
4. Respondent is in violation of Statewide Rules 3(1), 8(d)(1), 14(b)(2), and 22(b). 16 TEX. ADMIN. CODE §§ 3.3(1), 3.8(d)(1), 3.14(b)(2), and 3.22(b).
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(1), 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 22(b), which requires open-top tanks, skimming pits, and collecting pits to be screened or otherwise rendered harmless to birds
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 continued constituting a separate violation.
11. An assessed administrative penalty in the amount of **ELEVEN THOUSAND, FIVE HUNDRED FORTY-FOUR DOLLARS (\$11,544.00)** is justified considering the facts and violations at issue.
12. 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, Isaac Nichols and Shana D. Nichols, 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).

ORDERING PROVISIONS

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

1. Nichols Energy, LLC. (Operator No. 610687) shall place the Shafer (66146) Lease, Well No. 1, in compliance with Statewide Rules 3(1), 8(d)(1), 14(b)(2), and 22(b), and any other applicable Commission rules and statutes.
2. Nichols Energy, LLC. (Operator No. 610687) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **ELEVEN THOUSAND, FIVE HUNDRED FORTY-FOUR DOLLARS (\$11,544.00)**.

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, Isaac Nichols and Shana D. Nichols, 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 19th day of September 2017.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated September 19, 2017)

CJH/dac