

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 09-0305066 (DISTRICT COMPLAINT NO. 500)

ENFORCEMENT ACTION AGAINST COLOTEX OPERATING, LLC (OPERATOR NO. 168908) FOR VIOLATIONS OF STATEWIDE RULES ON THE WEST VOGTSBERGER UNIT (13357) LEASE, WELL NOS. 2, 3, 4, 8, 10, 11, 12, 14, AND 16, ARCHER COUNTY REGULAR FIELD, ARCHER 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 November 2, 2017, and that the respondent, Colotex Operating, LLC, failed to appear or respond to the **Notice of Opportunity for Hearing**. Pursuant to § 1.25 of the Commission's General Rules of Practice and Procedure, 16 TEX. ADMIN. CODE § 1.25, 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. Colotex Operating, LLC ("Respondent"), Operator No. 168908, 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 agent and officer as identified on the Form P-5—Tim Martin and Christian Charles Broadhurst—were sent the Original Complaint and Notice of Opportunity for Hearing by certified and first-class mail, addressed to the last known addresses.
2. The certified mail envelopes containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent, Tim Martin, and Christian Charles Broadhurst were returned to the Commission unopened on September 26, 2017, August 28, 2017, and September 26, 2017 respectively. The first-class mail envelope addressed to Tim Martin was returned to the Commission on August 25, 2017. The first-class mail envelopes addressed to Respondent and Christian Charles Broadhurst 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 23, 2015, Respondent, a corporation, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Christian Charles Broadhurst, Manager.

4. Christian Charles Broadhurst 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. Respondent's Form P-5 is delinquent. Respondent had a \$50,000.00 cash deposit 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 West Vogtsberger Unit (13357) Lease, Well Nos. 2, 3, 4, 8, 10, 11, 12, 14, and 16, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective August 1, 2015, approved September 25, 2015.
7. A Commission inspection report made on May 13, 2016, for the West Vogtsberger Unit (13357) Lease show that the signs or identification required to be posted at the lease entrance was missing. Follow-up Commission inspection reports made on July 12, 2016, January 17, 2017, February 1, 2017, March 16, 2017, and March 20, 2017, for the West Vogtsberger Unit (13357) Lease show that the signs or identification required to be posted at the lease entrance did not reflect the current operator name.
8. Commission inspection reports made on February 1, 2017, March 16, 2017, and March 20, 2017, for the West Vogtsberger Unit (13357) Lease, Well Nos. 2, 3, 4, 8, 10, 11, 12, 14, and 16 show that the signs or identification required to be posted at the well locations failed to identify the current operator.
9. Commission inspection reports made on February 1, 2017, March 16, 2017, and March 20, 2017, for the West Vogtsberger Unit (13357) Lease show that the signs or identification required to be posted at the tank battery failed to identify the current operator.
10. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rules 3(1), 3(2), 3(3), 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.
11. Commission District inspection reports made on May 13, 2016 and July 12, 2016, for the West Vogtsberger Unit (13357) Lease indicated that Respondent caused or allowed an unauthorized discharge of oil on the ground at the horizontal separator. The area of affected soil measured 15 feet by 30 feet by 1 foot of oil saturated soil, with areas of standing oil of 1/4 inch deep. All fluids were contained inside of a shallow firewall. A follow-up inspection made on February 1, 2017, stated that an area measuring 10 feet by 20 feet by 1 foot of affected soil cause by the past leak at the horizontal separator had not been remediated. Commission District inspection reports made on March 16, 2017 and March 20, 2017, were not for evaluation for state funded plugging and not as backchecks for the previously citing violations. A Commission District inspection made on June 7, 2017, an oil leak from a manifold near the separator had affected an area of 15 feet by 25 feet with oil saturated soil.

12. 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.
13. 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.
14. Commission inspection reports made on May 13, 2016, July 12, 2016, and February 1, 2017, and the absence of reported production since March 2016, showed that the West Vogtsberger Unit (13357) Lease, Well Nos. 2, 3, 4, 8, 10, 11, 12, 14, and 16 have been inactive for a period greater than one year. Production from the subject lease ceased on or before April 2016. Commission records show that Wells Nos 4 and 16 were permitted as injections wells. In 2006, the then regulatory responsible operator filed a letter with the Commission to convert Well No. 4 from an injection well to a producing well. The permit was never canceled, as the then regulatory responsible operator did not submit a cancellation request. Commission records show that zero injection has been reported, or no injection reports filed, for the Well No. 4 since October 2006. Commission records show that Well No. 16 was permitted as an injection well November 29, 2006, UIC No. 168908. Commission records show that no injection was ever reported for Well No. 16.
15. 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.
16. 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.
17. The total estimated cost to the State for plugging the West Vogtsberger Unit (13357) Lease Well Nos. 2, 3, 4, 8, 10, 11, 12, 14, and 16 is \$126,718.12.
18. The Respondent charged with the violation herein recited has a history of violations of Commission rules. A Final Order in Oil & Gas Docket No. 7B-0301237 was signed March 1, 2017.

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), 3(2), 3(3), 8(d)(1), and 14(b)(2). 16 TEX. ADMIN. CODE §§ 3.3(1), 3.3(2), 3.3(3), 3.8(d)(1), and 3.14(b)(2).
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 oil, gas or geothermal resource well and tank, or other approved crude oil measuring facility, a sign shall be posted at the principal entrance which shall show the name by which the property is carried on the records of the Commission, the name of the operator, and the number of acres in the property.
7. 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.
8. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3(3), which requires that each tank battery that produces oil, gas, or geothermal resources shall post signs or identification showing the name of the property, commission lease number, name of the operator, number of acres in the property and if commingled, include the commingling permit number.
9. 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.
10. 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.
11. Pursuant to TEX. NAT. RES. CODE § 81.0531, the Commission may assess administrative penalties against Respondent for the subject violations of up to \$10,000.00 per day for each violation, with each day such violations continued constituting a separate violation.
12. An assessed administrative penalty in the amount of **SEVENTY-ONE THOUSAND, SEVENTY-NINE DOLLARS (\$71,079.00)** is justified considering the facts and violations at issue.

13. 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, Christian Charles Broadhurst, 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).

ORDERING PROVISIONS

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

1. Colotex Operating, LLC (Operator No. 168908) shall place the West Vogtsberger Unit (13357) Lease, Well Nos. 2, 3, 4, 8, 10, 11, 12, 14, and 16, in compliance with Statewide Rules 3(1), 3(2), 3(3), 8(d)(1), and 14(b)(2), and any other applicable Commission rules and statutes.
2. Colotex Operating, LLC (Operator No. 168908) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SEVENTY-ONE THOUSAND, SEVENTY-NINE DOLLARS (\$71,079.00)**.

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, Christian Charles Broadhurst, 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 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 5th day of December 2017.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated December 5, 2017)

CJH/dac