

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 7B-0284182

ENFORCEMENT ACTION AGAINST PROSPECTA ENERGY GROUP, INC. (OPERATOR NO. 681481) FOR VIOLATIONS OF STATEWIDE RULES ON THE JOHNSON, NOAH S. (00697) LEASE, WELL NO. 1, MCGRAW (CROSS PLAINS) FIELD, CALLAHAN 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 9, 2017, and that the respondent, Prospecta Energy Group, Inc., 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. Prospecta Energy Group, Inc. ("Respondent"), Operator No. 681481, 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—Will Powers and James L. Marsh—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 and first-class mail envelopes containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent on Center Avenue was returned to the Commission unopened on September 18, 2017 and September 19, 2017, respectively. The certified mail envelopes addressed to Will Powers and Respondent at its post office box were received on September 1, 2017 and September 5, 2017, respectively. The certified mail envelope addressed to James L. Marsh was returned to the Commission unopened on September 21, 2017. The first-class mail envelopes addressed to Will Powers, James L. Marsh, and Respondent at its post office box 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 January 14, 2016, Respondent, a corporation, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: James L. Marsh, President, VP.
4. James L. Marsh 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 Johnson, Noah S. (00697) Lease, Well No. 1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective June 24, 2009, approved June 25, 2009.
7. Commission district inspection reports made on March 28, 2013 and July 20, 2013, for the Johnson, Noah S. (00697) Lease, Well No. 1 show that the sign or identification required to be posted at the well misidentified the well. Follow-up Commission district inspection reports made beginning August 30, 2013 show that the well is now correctly identified.
8. 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.
9. A Commission inspection report made on March 28, 2013, for the Johnson, Noah S. (00697) Lease shows that Respondent had allowed a discharge of hydrocarbons from the stuffing box to affect an area of 2 feet by 2 feet by 3 inches deep of saturated soil. A follow-up Commission inspection report made on May 31, 2013, shows Respondent had continued to allow the leak to continue. A follow-up Commission inspection report made on July 10, 2013, showed the leak was still ongoing and the affected area now measured 6 feet by 6 feet by 6 inches deep. A follow-up Commission inspection report made on August 30, 2013, showed the discharge to have been remediated.
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. 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(2) and 8(d)(1). 16 TEX. ADMIN. CODE §§ 3.3(2) and 3.8(d)(1).
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. 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.
9. An assessed administrative penalty in the amount of **TWO THOUSAND, FIVE HUNDRED FIFTY-FOUR DOLLARS (\$2,554.00)** is justified considering the facts and violations at issue.
10. 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, James L. Marsh, 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. Prospecta Energy Group, Inc. (Operator No. 681481) shall place the Johnson, Noah S. (00697) Lease, Well No. 1, in compliance with Statewide Rules 3(2), and 8(d)(1), and any other applicable Commission rules and statutes.
2. Prospecta Energy Group, Inc. (Operator No. 681481) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWO THOUSAND, FIVE HUNDRED FIFTY-FOUR DOLLARS (\$2,554.00)**.

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, James L. Marsh, 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 100 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 per day per violation.

Done this 23rd day of January 2018.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated January 23, 2018)

JNC/rmf