

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 03-0305547

ENFORCEMENT ACTION AGAINST 7711 OPERATING COMPANY, LLC (OPERATOR NO. 953860) FOR VIOLATION OF STATEWIDE RULES ON THE GARY BRYANT (26242) LEASE, WELL NO. 1H, GIDDINGS (BUDA) FIELD, BRAZOS 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, 7711 Operating Company, 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. 7711 Operating Company, LLC ("Respondent"), Operator No. 953860, 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. One of Respondent's officers as identified on the Form P-5—Preston Bryant—was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first-class mail, addressed to the last known address.
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 September 20, 2017. The Certified Mail envelope addressed to Preston Bryant was returned to the Commission unopened. The first-class mail envelopes addressed to Respondent and to Preston Bryant 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 July 15, 2015, Respondent, a limited liability company, filed a Form P-5 with the Commission reporting that its officers consist of the following individuals: Preston Bryant, Manager and Christopher Whitman, Manager.

4. Preston Bryant 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. Enforcement Staff did not notice Christopher Whitman. Christopher Whitman was presumed to be 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, due to the fact that he was represented by Respondent on the Form P-5 as an officer, as required by TEX. NAT. RES. CODE § 91.142.
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. Respondent designated itself to the Commission as the operator of the Gary Bryant (26242) Lease, Well No. 1H, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective August 1, 2015, approved August 17, 2015.
8. A Commission District inspection report made on June 29, 2016 for the Gary Bryant (26242) Lease revealed that a saltwater tank and an oil tank within the tank battery had shifted during a recent flood due to improper anchoring. As a result of the shift, lines were broken, and a tank bottom cracked causing an unknown volume of produced water and oil to be released into the firewall and possibly the flood waters. The well site is less than 500 feet from Wickson Creek and the battery is less than 50 yards from a pond.
9. Unreported discharges, in violation of Statewide Rule 20(a)(1), may result in improper or inadequate clean-up of the affected areas which can cause contamination of land surface and may eventually be discharged to surface or subsurface waters, causing pollution.
10. 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 leases in compliance with all applicable Commission rules and TEX. NAT. RES. CODE, chs. 89 and 91.
4. Respondent is in violation of Statewide Rule 20(a)(1). 16 TEX. ADMIN. CODE § 3.20(a)(1).

5. The documented violation committed by Respondent constitutes an act 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 20(a)(1), which requires that operators immediately provide notice to the appropriate Commission district office by telephone or telegraph of a fire, leak, spill or break.
7. 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.
8. An assessed administrative penalty in the amount of **FIVE THOUSAND DOLLARS (\$5,000.00)** is justified considering the facts and violations at issue.
9. 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, Preston Bryant, 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. 7711 Operating Company, LLC (Operator No. 953860) shall bring the Gary Bryant (26242) Lease, Well No. 1H, in compliance with Statewide Rule 20(a)(1), and all other applicable Commission rules and statutes.
2. 7711 Operating Company, LLC (Operator No. 953860) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FIVE THOUSAND (\$5,000.00)**.

It is further **ORDERED** that as persons in a position of ownership or control of Respondent at the time Respondent violated Commission rules related to safety and the control of pollution, Preston Bryant and Christopher Whitman, and any other organization in which these 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 23rd day of January 2018.

RAILROAD COMMISSION OF TEXAS

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