

RAILROAD COMMISSION OF TEXAS
HEARINGS SECTION

OIL & GAS DOCKET NO. 7B-0301524

OIL & GAS DOCKET NO. 7B-0301524: ENFORCEMENT ACTION AGAINST PLATEAU ENERGY, LLC (OPERATOR NO. 667911) FOR VIOLATIONS OF STATEWIDE RULES ON THE JACKSON -E- LEASE (00501), WELL NOS. 2, 3E, 5, 6, 7, 8, 10, 11, 12, 13, 15, 16, 17, 18, AND 21, CALLAHAN COUNTY REGULAR FIELD, CALLAHAN COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the Administrative Law Judge on January 26, 2017, and that the respondent, Plateau Energy, LLC, 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 [Tex. R. Comm'n, 16 TEX. ADMIN. CODE § 1.49] and after being duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Plateau Energy, LLC hereinafter referred to as "Respondent," designated itself as operator of the Jackson -E- (00501) Lease, Well Nos, 2, 3E, 5, 6, 7, 8, 10, 11, 12, 13, 15, 16, 17, 18, and 21, by filing a Commission Form P-4, effective June 1, 2015, approved June 25, 2015.
2. On October 19, 2016 a Notice of Opportunity for Hearing along with the Original Complaint was served on Respondent by regular mail and by Certified Mail, Return Receipt Requested, at Plateau Energy, LLC, P. O. Box 107, Smyer, TX 79367, the "organization address" reported most recently to the Commission on May 23, 2016. Notice was also served on Curtis Brent Berry, Manager, Plateau Energy, LLC, P. O. Box 107, Smyer, TX, 79367. All mail sent Certified Mail was returned to the Commission unopened marked "RETURN TO SENDER" on November 14, 2016. Mail sent regular mail was not returned. Enforcement appeared at the hearing in this matter and its certified file was accepted into evidence. Respondent failed to respond to the notice of hearing or appear at the hearing.
3. Respondent has reported itself to the Commission as a Corporation, performing activities in the State of Texas regulated by the Commission. The Commission has jurisdiction over the Respondent under Tex. Nat. Res. Code Ann. §§81.051-81.052, §85, §89, and §91.101. Under Railroad Commission General Rules of Practice and Procedure §1.48 [Tex. R.R. Comm'n 16 Tex. Admin. Code §1.48], notice of hearing may be served on Respondent by Regular Mail and by Certified Mail, Return Receipt Requested, addressed to Plateau Energy, LLC, P. O. Box 107, Smyer, TX 79367, the "organization address" reported to the Commission.
4. Respondent is responsible for the captioned violation under 16 TEX. ADMIN. CODE §3.3 at the captioned location.
5. 16 TEX. ADMIN CODE §3.3 requires the posting of signs and identification in English, which display clearly legible and correct information, with letters and numbers at least one inch in height. Statewide Rule 3(2) requires the posting of such a sign at each well site, which must show the name of the property, the name of the operator, and the well number. Statewide Rule 3(3) requires the posting of such a sign or painted identification at each tank battery, staellite tank or approved crude oil measuring facility where tanks are not utilized, which must show the name of the property as carried on the records of the Commission, the name of the operator, the number of acres in the property, the Commission lease number for the formation from which the oil or gas is produced, and if applicable the number of the Commission permits that authorizes comingling of oil.
6. Commission District inspection reports made on April 1, 2016, May 16, 2016 and July 6, 2016 for the Jackson -E- (00501) Lease, show that the signs or identification required by Statewide Rule 3(2), to be posted at

Well Nos. 3E, 6, 8, 10, 11, 12, 15, 16, 17, 18 and 21 displayed incorrect information and at Well Nos 5, 7, 13, and 14 were missing.

7. Respondent's violations are serious and a hazard to public health and safety. In the event of a pollution or safety violation or other emergency, the lack of legible signs and identification displaying correct information may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency. Such confusion will cause delays in containing and remediating the violation or emergency.

8. Respondent is responsible for the captioned violation under 16 TEX. ADMIN. CODE §3.14(b)(2) at the captioned location.

9. 16 TEX. ADMIN CODE §3.14(b)(2) requires the commencement of plugging operations on each dry or inactive well within one year after drilling or operations cease, unless the operator is eligible for and obtains an extension of the plugging deadline under Statewide rule 14(b)(2). Under Statewide Rule 14(c)(1), the entity designated as the operator of a well specifically identified on the most recent Commission approved operator designation form filed on or after September 1, 1997 is responsible for properly plugging the well in accordance with Statewide Rule 14 and all other applicable Commission rules and regulations concerning plugging of wells.

10. Commission District inspection reports made on April 1, 2016, May 16, 2016 and July 6, 2016, and either reports filed by Respondent with the Commission reflecting zero production, or the absence of production reports filed by the Respondent with the Commission since June 2015, showed that the Jackson -E- (00504) Lease, Well Nos. 2, 5, 7, and 8 have been inactive for a period greater than one year. Production from the subject wells ceased on or before June 2015.

11. No workovers, re-entries, or subsequent operations have taken place on any of the subject wells in this complaint within the last 12 months; none of the subject wells have been plugged; the plugging extensions for all the subject wells as allowed by Statewide Rule 14 were cancelled in April 2015 based on Respondent's failure to complete plugging applications as well as failure to file H-15's and field rule violations, and Respondent has not requested a hearing on the matter.

12. Respondent's violations of Statewide Rule 14(b)(2) are serious and threatens the public health and safety. Unplugged wellbores are likely to cause pollution of usable quality ground water and surface water, as defined in Statewide Rule 8(a)(28), by serving as a conduit for the passage of oil, gas, saltwater, and other substances from one stratum or formation to another or to the surface or from the surface downward.

13. Respondent is responsible for the captioned violation under 16 TEX. ADMIN. CODE §3.8(d)(1) at the captioned location.

14. 16 TEX. ADMIN CODE §3.8(d)(1) requires persons disposing of oil and gas wastes by any method to have a permit to do so unless authorized under subsection (d)(3) or (e) of Statewide Rule 8, or under Statewide Rule 9, 46 or 98. Oil and gas wastes are defined in Statewide Rule 8(a)(26) to include materials to be disposed of or reclaimed, which have been generated in connection with activities associated with the exploration, development, and production of oil or gas. These materials include but are not limited to "saltwater, other mineralized water, sludge, spent drilling fluids, cuttings, waste oil, spent completion fluids, and other liquid, semi-liquid, or solid waste material." "To dispose" is defined in Statewide Rule 8(a)(24) to include "conducting, draining, discharging, emitting, throwing, releasing, depositing, burying, landfarming, or allowing to seep, or to cause or allow any such acts of disposal."

15. Commission District inspection reports made on April 1, 2016, May 16, 2016 and July 6, 2016, for the Jackson -E- (00501) Lease indicated hydrocarbon spills at Well No. 10 measuring three feet in diameter and at Well No. 18 measuring fifteen feet by eight feet.

16. Respondent did not have a permit for said discharges, nor were they authorized under Statewide Rule 8(d)(3) or 8(e), or under Statewide Rule 9, 46 or 98.

17. Respondent's violations of Statewide Rule 8(d)(1) are serious and threatens the public health and safety. Unpermitted discharges of oil and gas waste can contaminate the land surface, affect the health of humans and animals, and may eventually be discharged to surface or subsurface waters, causing pollution.

18. Respondent is responsible for the captioned violation under 16 TEX. ADMIN. CODE §3.13(a)(6)(A) at the captioned location.

19. 16 TEX. ADMIN CODE §3.13(a)(6)(A) provides that wellhead assemblies shall be used on wells to maintain surface control of the well. Maintenance of surface control is necessary not only to prevent fluids from being discharged from the wellbore onto the ground surface, but also to prevent any oil and gas wastes present in the wellbore from being displaced to the surface by influxes of surface water into the open wellbore.

20. Commission District inspection reports made on April 1, 2016, May 16, 2016 and July 6, 2016, showed that the Jackson -E- (00504) Lease, Well Nos. 3E, 10, 12, 13, and 17 have casing open to the atmosphere and that Well No. 18 have casing and tubing open to the atmosphere.

21. By leaving wells open to the atmosphere, Respondent violated Statewide Rule 13(a)(6)(A).

22. Respondent's violation of Statewide Rule 13(a)(6)(A) is serious and threatens the public health and safety. Wells left uncontrolled or open to the atmosphere may discharge oil and gas waste onto land surface and affect the health of humans and animals; these discharges may eventually make their way to surface or subsurface waters, causing pollution.

CONCLUSIONS OF LAW

1. Proper notice of hearing was timely issued to the appropriate persons entitled to notice.

2. All things necessary to the Commission attaining jurisdiction have occurred.

3. Respondent is in violation of 16 TEX. ADMIN CODE §§3.3(2), 3.14(b)(2), 3.8(d)(1), and 3.13(a)(6)(A).

4. The violations committed by Respondent constitute acts deemed serious and a hazard to the public health and safety, and demonstrate a lack of good faith within the meaning of TEX. NAT. RES. CODE ANN. §81.0531.

5. Pursuant to TEX. NAT. RES. CODE ANN. §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.

It is accordingly ORDERED that within 30 days from the day immediately following the date this order becomes final:

1. Plateau Energy, LLC shall pay an administrative penalty in the amount of THIRTY-ONE THOUSAND SEVEN HUNDRED EIGHT-SEVEN DOLLARS (\$31,787.00) and;
2. Place the subject lease into compliance with 16 TEX. ADMIN CODE §§3.3(2), 3.14(b)(2), 3.8(d)(1), and 3.13(a)(6)(A)

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, Curtis Brent Berry and any other organization in which he may hold a position of ownership or control, shall be subject to the restriction in section 91.114(a)(2) of the Texas Natural Resources Code 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 Commission Order is signed. All pending motions and request for relief not previously granted or granted herein are denied.

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 21th day of March, 2017.

RAILROAD COMMISSION OF TEXAS
(Signatures affixed by Default Master Order dated
March 21, 2017)