

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 10-0308347

ENFORCEMENT ACTION AGAINST ENID OPERATING, INC. (OPERATOR NO. 252759) FOR VIOLATIONS OF STATEWIDE RULES ON THE ANDREW (04401) LEASE, WELL NOS. 2 AND 4, AND THE YAKE, A. P. (04408) LEASE, WELL NOS. 2 AND 3, PANHANDLE HUTCHINSON COUNTY FIELD, 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 June 7, 2018, and that the respondent, Enid Operating, 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. Enid Operating, Inc. ("Respondent"), Operator No. 252759, 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 officers as identified on the Form P-5—Lezlie Gayle Beley and Robert Huber—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 were returned to the Commission in May 2018. The first-class mail envelopes were also returned. Record of the 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 October 7, 2014, Respondent, a corporation, filed a Form P-5 with the Commission reporting that its officers consist of the following individuals: Lezlie Gayle Beley, President and Robert Huber, Sec/Treas.
4. Lezlie Gayle Beley 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. Robert Huber 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 \$50,000.00 letter of credit 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 Andrew (04401) Lease, Well Nos. 2 and 4 by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective January 1, 2005.
8. Respondent designated itself to the Commission as the operator of the Yake, A. P. (04408) Lease, Well Nos. 2 and 3 by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective January 1, 2005.
9. A Commission inspection report made on November 21, 2017 for the Andrew (04401) Lease shows the road to Well Nos. 2 and 4 and the tank battery was washed out, preventing Commission access to these sites.
10. A Commission inspection report made on November 21, 2017 for the Yake, A. P. (04408) Lease shows the road to Well Nos. 2 and 3 and the tank battery was washed out, preventing Commission access to these sites.
11. Preventing access, in violation of Statewide Rule 2(a), is serious and threatens the public health and safety.
12. A Commission inspection report made on November 21, 2017, and the absence of reported production since June 2015, show that the Andrew (04401) Lease, Well Nos. 2 and 4 have been inactive for a period greater than one year. Production from the subject lease ceased on or before May 2015.
13. A Commission inspection report made on November 21, 2017, and the absence of reported production since June 2015, show that the Yake, A. P. (04408) Lease, Well Nos. 2 and 3 have been inactive for a period greater than one year. Production from the subject lease ceased on or before May 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 Andrew (04401) Lease Well Nos. 2 and 4 and the Yake, A. P. (04408) Lease Well Nos. 2 and 3 is \$88,400.
17. 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 2(a) and 14(b)(2). 16 TEX. ADMIN. CODE §§ 3.2(a), 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 leases in compliance with Statewide Rule 14(b)(2), which requires the Commission to have access to wells and tank batteries.
7. Respondent is responsible for maintaining the subject leases 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.
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 **TWENTY-SIX THOUSAND NINETY DOLLARS (\$26,090.00)** is justified considering the facts and violations at issue.
10. 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, Lezlie Gayle Beley, Robert Huber, 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. Enid Operating, Inc. (Operator No. 252759) shall place the Andrew (04401) Lease, Well Nos. 2 and 4, and the Yake, A. P. (04408) Lease, Well Nos. 2 and 3, in compliance with Statewide Rules 2(a), 14(b)(2) and any other applicable Commission rules and statutes.
2. Enid Operating, Inc. (Operator No. 252759) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWENTY-SIX THOUSAND NINETY DOLLARS (\$26,090.00)**.

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, Lezlie Gayle Beley, Robert Huber, 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 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 21st day of August 2018.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated August 21, 2018)

JNC/rnf