

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL & GAS DOCKET NO. 09-0307608

ENFORCEMENT ACTION AGAINST ANNETTE MCCAULEY DBA MCCAULEY PRODUCTION (OPERATOR NO. 539950) FOR VIOLATIONS OF STATEWIDE RULES ON THE PRIDEAUX -37- (26059) LEASE, WELL NOS. 1 AND 2, 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 June 28, 2018, and that the respondent, Annette McCauley dba McCauley Production, 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. Annette McCauley dba McCauley Production ("Respondent"), Operator No. 539950, was sent the First Amended 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") addresses. Respondent's officer as identified on the Form P-5—Annette McCauley—was sent the First Amended 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 First Amended Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent was received on May 8, 2018. The Certified Mail envelope addressed to Annette McCauley was received on May 2, 2018. The second Certified Mail envelope addressed to Annette McCauley dba McCauley Production was returned to the Commission unopened on May 29, 2018. The first-class mail envelope addressed to Annette McCauley dba McCauley Production was returned to the Commission on May 9, 2018. The first-class mail envelopes addressed to Respondent and Annette McCauley 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 First Amended 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 August 26, 2014, Respondent, a sole proprietorship, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Annette McCauley, Owner.
4. Annette McCauley 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 letter of credit 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 Prideaux -37- (26059) Lease, Well Nos. 1 and 2, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective April 1, 2001, approved October 17, 2001.
7. Commission inspection reports made on April 8, 2016, August 7, 2017, August 30, 2017, and October 12, 2017 for the Prideaux -37- (26059) Lease, Well Nos. 1, and 2 show that the signs or identification required to be posted at the well locations were missing.
8. Commission inspection reports made on April 8, 2016, August 7, 2017, August 30, 2017, and October 12, 2017 for the Prideaux -37- (26059) Lease show that the signs or identification required to be posted at the tank battery was missing.
9. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rules 3(2) and 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.
10. Commission district inspection reports made on April 8, 2016, August 7, 2017, August 30, 2017, and October 12, 2017 for the Prideaux -37- (26059) Lease show that Well No, 2 was equipped with tubing and the casing was open to the atmosphere.
11. Wells left uncontrolled or open to the atmosphere, in violation of Statewide Rule 13(a)(6)(A), may discharge oil and gas waste onto the land surface and affect the health of humans and animals; these discharges may eventually make their way to surface or subsurface waters, causing pollution.
12. Commission inspection reports made on April 8, 2016, August 7, 2017, August 30, 2017, and October 12, 2017, and the absence of reported production since March 2001, showed that the Prideaux -37- (26059) Lease, Well Nos. 1, and 2 have been inactive for a period greater than one year. Production from the subject lease ceased on or before February 2001.

13. 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.
14. 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.
15. The total estimated cost to the State for plugging the Prideaux -37- (26059) Lease Well Nos. 1, and 2 is \$8,800.00.
16. 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), 3(3), 13(a)(6)(A), and 14(b)(2). 16 TEX. ADMIN. CODE §§ 3.3(2), 3.3(3), 3.13(a)(6)(A), 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(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 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.

8. Respondent is responsible for maintaining surface control of a well by using wellhead assemblies in compliance with Statewide Rule 13(a)(6)(A). 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 surface by influxes of surface water into the open wellbore.
9. 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.
10. 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.
11. An assessed administrative penalty in the amount of **ELEVEN THOUSAND, THREE HUNDRED SEVENTEEN DOLLARS (\$11,317.00)** is justified considering the facts and violations at issue.
12. 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, Annette McCauley, 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. Annette McCauley dba McCauley Production (Operator No. 539950) shall place the Prideaux -37- (26059) Lease, Well Nos. 1, and 2, in compliance with Statewide Rules 3(2), 3(3), 13(a)(6)(A), and 14(b)(2), and any other applicable Commission rules and statutes.
2. Annette McCauley dba McCauley Production (Operator No. 539950) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **ELEVEN THOUSAND, THREE HUNDRED SEVENTEEN DOLLARS (\$11,317.00)**.

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, Annette McCauley, 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 16th day of October 2018.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated October 16, 2018)

CJH/dac