

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL**

OIL AND GAS DOCKET NO. 03-0319404

ENFORCEMENT ACTION AGAINST BYNG ENERGY GROUP, INC. (OPERATOR NO. 118732) FOR VIOLATIONS OF STATEWIDE RULES ON THE KIRBY LUMBER CO LEASE, WELL NO. 2 (RRC ID NO. 094457), SOUR LAKE, E. (YEGUA, LOWER) FIELD, HARDIN COUNTY, TEXAS

FINAL ORDER

The Railroad Commission of Texas ("Commission") finds that statutory notice of the captioned enforcement proceeding was provided pursuant to Commission rules, and that the Respondent, Byng 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 Texas Administrative 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. Byng Energy Group, Inc. ("Respondent"), Operator No. 118732, 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 as identified on the Form P-5—Amanda Pruitt—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 July 17, 2019. The first-class mail envelope addressed to Respondent was returned to the Commission unopened on July 22, 2019. The Certified Mail envelope addressed to Amanda Pruitt was returned to the Commission unopened on July 18, 2019. The first-class mail envelope addressed to Amanda Pruitt was returned to the Commission unopened on July 19, 2019. 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 March 20, 2018, Respondent, a corporation, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Nickell, Dickie Lee, President/Secretary.
4. 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.

5. Respondent designated itself to the Commission as the operator of the Kirby Lumber Co Lease, Well No. 2 (RRC ID No. 094457), by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective September 1, 2017, approved October 19, 2017.
6. Commission inspection reports made on January 15, 2019 and February 27, 2019, for the Kirby Lumber Co Lease, Well No. 2 (RRC ID No. 094457), show the sign or identification required to be posted at the well location is incorrect.
7. Commission inspection reports made on January 15, 2019 and February 27, 2019, for the Kirby Lumber Co Lease, Well No. 2 (RRC ID No. 094457) show the sign or identification required to be posted at the tank battery is missing.
8. 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.
9. Commission inspection reports made on January 15, 2019 and February 27, 2019, and the absence of reported production since October 1994, show the Kirby Lumber Co Lease, Well No. 2 (RRC ID No. 094457), has been inactive for a period greater than one year. Production from the subject lease ceased in September 1994.
10. No workovers, re-entries, or subsequent operations have taken place on the subject well within the last twelve months and the subject well has not been plugged in accordance with Statewide Rule 14. 16 Tex. Admin Code § 3.14. No plugging extensions are in effect for the subject well as allowed by Statewide Rule 14.
11. 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.
12. The total estimated cost to the State for plugging the Kirby Lumber Co Lease, Well No. 2 (RRC ID No. 094457), is \$68,403.00.
13. The Respondent charged with the violation herein recited has the following history of violations of Commission rules: Oil & Gas Docket No. 7B-0316219 - Violation of Statewide Rules 3 and 14(b)(2), Order served June 5, 2019.

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 Texas Natural Resources Code, Chapters 89 and 91.
4. Respondent is in violation of Statewide Rules 3(2), 3(3), and 14(b)(2). 16 Tex. Admin. Code §§ 3.3(2), 3.3(3), 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 Texas Natural Resources 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 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.
9. Pursuant to Texas Natural Resources 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.
10. An assessed administrative penalty in the amount of **FIFTEEN THOUSAND EIGHT HUNDRED TWENTY-FIVE DOLLARS (\$15,825.00)** is justified considering the facts and violations at issue.
11. Respondent violated Commission rules related to safety and the control of pollution. Any other organization in which an officer of this organization holds a position of ownership or control, is subject to the restriction in Texas Natural Resources Code § 91.114.

ORDERING PROVISIONS

IT IS ORDERED THAT within 30 days from the day immediately following the date this order becomes final:

1. Byng Energy Group, Inc. (Operator No. 118732) shall PLUG the Kirby Lumber Co Lease, Well No. 2 (RRC ID No. 094457), in compliance with Statewide Rule 14, and place the subject

lease in compliance with Statewide Rules 3(2) and 3(3), and any other applicable Commission rules and statutes.

2. Byng Energy Group, Inc. (Operator No. 118732) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FIFTEEN THOUSAND EIGHT HUNDRED TWENTY-FIVE DOLLARS (\$15,825.00)**.

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 Texas Government Code § 2001.142, by agreement under Texas Government Code § 2001.147, or by written Commission order issued pursuant to Texas Government 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 Texas Government 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.

Any other organization in which an officer of this organization holds a position of ownership or control at the time Respondent violated Commission rules related to safety and the control of pollution, **shall be subject to the restriction in Texas Natural Resources 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.

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.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order

dated _____ **DEC 17 2019** _____)

EMM/bt