

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

OIL AND GAS DOCKET NO. 7B-0319859

ENFORCEMENT ACTION AGAINST FORMATION RECOVERY LLC (OPERATOR NO. 276932) FOR VIOLATIONS OF STATEWIDE RULES ON THE BRAMLET "A" LEASE, WELL NO. 2 (RRC ID NO. 102427), BBB&C, BLK.3 (MARBLE FALLS) FIELD, COMANCHE COUNTY; AND BRAMLET "A" (23552) LEASE, WELL NOS. 4, 5 AND 6, AMITY FIELD, COMANCHE 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, Formation Recovery 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 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. Formation Recovery LLC ("Respondent"), Operator No. 276932, 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 filed on August 18, 2016. After Respondent's last P-5 was filed, the Commission was notified of a change of address for the Respondent, and the Original Complaint and Notice of Opportunity for Hearing was sent to this address by certified and first-class mail.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing sent to the address on Respondent's most recent Commission Form P-5 was returned to the Commission unopened on August 13, 2019. The first-class mail was returned to the Commission unopened on August 14, 2019. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent's change of address was returned to the Commission unopened on August 27, 2019. The first-class mail was 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 August 18, 2016, Respondent, a limited liability company, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Nathan R. Chessher, Manager/Owner.
4. Respondent's Form P-5 is delinquent. Respondent had a \$25,000.00 letter of credit 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 Bramlet "A" Lease, Well No. 2 (RRC ID No. 102427), by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective October 15, 2014, approved October 22, 2014.
6. Respondent designated itself to the Commission as the operator of the Bramlet "A" (23552) Lease, Well Nos. 4, 5, and 6, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective October 15, 2014, approved October 22, 2014.
7. Commission District inspection reports made on March 5, 2019, April 17, 2019 and August 27, 2019 on the Bramlet "A" (23552) Lease show that Well No. 5 has casing open to the atmosphere.
8. 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.
9. Commission District inspection reports made on March 5, 2019, April 17, 2019 and August 27, 2019, and the absence of reported production since February 2017, show that the Bramlet "A" Lease, Well No. 2 (RRC ID No. 102427), has been inactive for a period greater than one year. Production from the subject well ceased in January 2017.
10. Commission District inspection reports made on March 5, 2019, April 17, 2019 and August 27, 2019, and the absence of reported production since February 2017, show that the Bramlet "A" (23552) Lease, Well Nos. 4, 5, and 6, have been inactive for a period greater than one year. Production from the subject wells ceased in January 2017.
11. No workovers, re-entries, or subsequent operations have taken place on the subject wells within the last twelve months and the subject wells have not been properly 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.
12. 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.
13. The total estimated cost to the State for plugging the Bramlet "A" Lease, Well No. 2 (RRC ID No. 102427), is \$20,833.00. The total estimated cost to the State for plugging the Bramlet "A" (23552) Lease, Well Nos. 4, 5 and 6, is \$13,701.00.
14. The Respondent charged with the violations herein recited has the following history of violations of Commission rules: Oil & Gas Docket No. 7B-0301562 – Violation of Statewide Rule 14(b)(2), Order Entered January 23, 2018.

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 13(a)(6)(A), and 14(b)(2). 16 Tex. Admin. Code §§ 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 Texas Natural Resources Code § 81.0531(c).
6. 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.
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 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.
9. An assessed administrative penalty in the amount of **SIXTEEN THOUSAND FORTY-THREE DOLLARS (\$16,043.00)** is justified considering the facts and violations at issue.
10. 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. Formation Recovery LLC (Operator No. 276932) shall place the Bramlet "A" Lease, Well No. 2 (RRC ID No. 102427), and the Bramlet "A" (23552) Lease, Well Nos. 4, 5, and 6, in compliance with Statewide Rules 13(a)(6)(A) and 14(b)(2), and any other applicable Commission rules and statutes.

2. Formation Recovery LLC (Operator No. 276932) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SIXTEEN THOUSAND FORTY-THREE DOLLARS (\$16,043.00)**.

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 JAN 14 2020)

EMM/bt