

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

OIL AND GAS DOCKET NO. 09-0309885

ENFORCEMENT ACTION AGAINST CVS OPERATING, LLC. (OPERATOR NO. 195793) FOR VIOLATION OF STATEWIDE RULE ON THE COWAN & MCKINNEY (17570) LEASE, ARCHER COUNTY REGULAR FIELD, ARCHER 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, CVS Operating, 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. CVS Operating, LLC. ("Respondent"), Operator No. 195793, 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.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent was returned to the Commission on June 10, 2020. The first-class mail was not returned. Record of the delivery or 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 February 16, 2017, Respondent, a limited liability company, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Carlos Sandoval.
4. Carlos Sandoval was in a position of ownership or control of Respondent, as defined in Texas Natural Resources Code § 91.114, during the time period of the violations of Commission rules committed by Respondent.
5. Respondent's Form P-5 is active. Respondent had a \$50,000.00 bond 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 Cowan & McKinney (17570) Lease by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective November 1, 2007, approved May 5, 2008.

7. Commission District inspection reports made on November 7, 2017, and January 23, 2018, on the Cowan & McKinney (17570) Lease, report that an electric pole on the lease was broken and laying on the ground with wires connected to it. Commission records reflect that a certified electrician examined the lease and confirmed violations of the National Electric Code.
8. 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 Texas Natural Resources Code, Chapters 89 and 91.
4. Respondent is responsible for maintain the subject lease in compliance with Statewide Rule 21(l) [16 Texas Administrative Code § 3.21(l)], which requires that an operator construct, operate, and maintain an electric power line serving a well site or other surface facility employed in operations incident to oil and gas development and production in accordance with the National Electrical Code published by the National Fire Protection Association.
5. Respondent is in violation of Statewide Rule 21(l). 16 Texas Administrative Code § 3.21(l).
6. 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).
7. 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.
8. An assessed administrative penalty in the amount of **TWO THOUSAND DOLLARS (\$2,000.00)** is justified considering the facts and violations at issue.
9. 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. CVS Operating, LLC. (Operator No. 195793) shall place the Cowan & McKinney (17570) Lease in compliance with Statewide Rule 21(l), and any other applicable Commission rules and statutes.
2. CVS Operating, LLC. (Operator No. 195793) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWO THOUSAND DOLLARS (\$2,000.00)**.

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 SEP 22 2020)