

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 08-0282861

ENFORCEMENT ACTION AGAINST CALVIN STEWART DBA C & S OPERATING (OPERATOR NO. 121055) FOR VIOLATIONS OF STATEWIDE RULES ON THE FOSTER -A- LEASE (LEASE ID NO. 25424), WELL NOS. 1A, 1B, 2A, 3A, 5 AND 6, IATAN, EAST HOWARD FIELD, MITCHELL 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 March 3, 2016 and that the respondent, Calvin Stewart dba C & S Operating, failed to appear or respond to the Notice of Opportunity for Hearing. Pursuant to § 1.49 of the Commission's General Rules of Practice and Procedure, 16 TEX. ADMIN. CODE § 1.49, 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. Calvin Stewart dba C & S Operating ("Respondent"), Operator No. 121055, 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") addresses and last known address.
2. The certified mail envelopes containing the Original Complaint and the Notice of Opportunity for Hearing were returned to the Commission on February 18 and 19, 2016. The first class mail envelopes were not returned. 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 January 25, 2013, Respondent, a sole proprietorship, filed a Form P-5 with the Commission reporting that its officers consist of the following individual: Calvin Stewart.
4. Calvin Stewart was in a position of ownership or control of Respondent, as defined in section 91.114 of the Texas Natural Resources Code, 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 letter of credit as his financial assurance at the time of the last Form P-5 annual renewal submission.

6. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.
7. Respondent designated itself to the Commission as the operator of the Foster -A- Lease (Lease ID No. 25424), Well Nos. 1A, 1B, 2A, 3A, 5 and 6, Iatan, East Howard Field, Mitchell County, Texas, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective May 3, 2006, approved September 5, 2005.
8. Commission inspection reports made on January 3, 2013, February 28, 2013, February 11, 2015, February 18, 2015, August 19, 2015 and September 18, 2015, and the absence of production reports filed by the Respondent with the Commission since November 2012, show that the Foster -A- Lease, Well Nos. 1B, 2A, 3A, 5 and 6 have been inactive for a period greater than one year. Production from the subject wells ceased on or before October 2012.
9. Commission inspection reports made on January 3, 2013, February 28, 2013, February 11, 2015, February 18, 2015, August 19, 2015 and September 18, 2015, and the absence of injection reports filed by the Respondent with the Commission since January 2013, show that the Foster -A- Lease, Well No. 1A has been inactive for a period greater than one year. Injection into the subject well ceased on or before December 2012.
10. No work-overs, re-entries, or subsequent operations have taken place on any of the subject wells within the last twelve months; none of the subject wells have been properly plugged in accordance with Statewide Rule 14, 16 TEX. ADMIN. CODE § 3.14; and no plugging extensions are in effect for any of the subject wells as allowed by Statewide Rule 14. The subject wells are not otherwise in compliance with Statewide Rule 14.
11. Usable quality groundwater in the area is likely to be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject wells. 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 Foster -A- Lease, Well Nos. 1A, 1B, 2A, 3A, 5 and 6 is \$322,213.50.
13. A Commission inspection report made on January 3, 2013 for the Foster -A- Lease shows Well No. 1A is a shut-in injector well with the pump off. Tubing pressure was at 450 psi, with the tubing/casing annulus at 0 psi at the time of the inspection. Additionally, the surface casing valve was inoperable and there was a produced water spill just outside of the well fence and under the injection flowline valve.

14. Commission records show the injection permit for the Foster -A- Lease, Well No. 1A, requires an H-5 test every five years and the last test date for Well No. 1A was December 26, 2007.
15. Disposal/injection wells must pass a pressure test at least once every five years, or as required by permit, to show that the well is not leaking, at the waste is being confined to the permitted injection interval, and that the usable quality water zones are properly isolated. Any injection of fluid down a wellbore could be a potential source of pollution. Without testing and supporting documentation, as required by Statewide Rule 46(j), the Commission cannot determine if a well poses a threat to natural resources.
16. 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 chapters 89 and 91 of the Texas Natural Resources Code.
4. Respondent is in violation of Statewide Rules 14(b)(2) and 46(j). 16 TEX. ADMIN. CODE §§ 3.14(b)(2) and 3.46(j).
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 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.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 46(j), which requires a passing mechanical integrity test every five years.
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 THIRTY-FIVE THOUSAND FIVE HUNDRED FIFTY DOLLARS (\$35,550.00) is justified considering the facts and violations at issue.
10. 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, Calvin Stewart, and any other organization in which he may hold a position of ownership or control, is subject to the restriction in section 91.114(a)(2) of the Texas Natural Resources Code.

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

1. Calvin Stewart dba C & S Operating shall place the Foster -A- Lease, Well Nos. 1A, 1B, 2A, 3A, 5 and 6 in compliance with Statewide Rules 14(b)(2) and 46(j), and any other applicable Commission rules and statutes.
2. Calvin Stewart, dba C & S Operating shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of THIRTY-FIVE THOUSAND FIVE HUNDRED FIFTY DOLLARS (\$35,550.00).

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, Calvin Stewart and any other organization in which he may hold a position of ownership or control, shall be subject to the restriction in section 91.114(a)(2) of the Texas Natural Resources Code 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 a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date the notice is actually mailed. If a timely motion for rehearing 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 90 days from the date the parties are notified of this order in accordance with TEX. GOV'T CODE § 2001.144.

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 \$10,000.00 per day per violation.

Done this August 9, 2016.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated August 9, 2016)

JNC / rnf