

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 7C-0283098

ENFORCEMENT ACTION AGAINST UPSTREAM PROPERTIES, LLC (OPERATOR NO. 878951) FOR VIOLATION OF STATEWIDE RULES ON THE WALLACE BROWN (07790) LEASE, WELL NO. 1, URBAN (MILES) FIELD, RUNNELS COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on August 6, 2015 and that the respondent, Upstream Properties, LLC (Op. 878951), 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 [Tex. R. R. Comm'n, 16 TEX. ADMIN. CODE § 1.49] and after being duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Upstream Properties, LLC (Op. 878951), ("Respondent"), was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent Form P-5 (Organization Report) address.
2. The certified envelope containing the Original Complaint and the Notice of Opportunity for Hearing, was signed for on May 15, 2015. The electronic receipt is included in the file and has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On June 28, 2013, Respondent, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): John Albert Upton, Manager, and Roland Baker, Filing Agent.
4. John Albert Upton, was in a position of ownership or control of respondent, as defined by Texas Natural Resources Code Section 91.114, during the time period of the violations of Commission rules committed by respondent.
5. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
6. Respondent designated itself to the Commission as the operator of the E. Wallace Brown (07790) Lease, Well No. 1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective June 1, 2012, approved August 9, 2012.
7. Respondent's P-5 (Organization Report) is currently delinquent. Respondent had a \$50,000 bond as its financial assurance at the time it became delinquent.

8. Commission District inspection reports made between November 8, 2012 and June 4, 2015, and reports filed by Respondent with the Commission (reflecting zero injection) from March 2008 through April 2014, with no reports filed thereafter, showed that the E. Wallace Brown (07790) Lease, Well No. 1 has been inactive for a period greater than one year. Injection from the subject well ceased on or before injection was last reported February 2008.
9. Commission District inspection reports made between November 8, 2012 and June 4, 2015, and reports filed by Respondent with the Commission (reflecting zero injection) from March 2008 through April 2014, showed that the signs or identification to be posted at the lease entrance was missing.
10. Commission District inspection reports made between November 8, 2012 and June 4, 2015, and reports filed by Respondent with the Commission (reflecting zero injection) from March 2008 through April 2014, showed that the signs or identification to be posted at the tank was missing.
14. None of the subject wells have plugging extensions.
20. 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 constitute a cognizable threat to the public health and safety because of the probability of pollution.
21. The total estimated cost to the State for plugging the E. Wallace Brown (07790) Lease, Well No. 1 is \$33,997.00.
22. Usable quality groundwater in the area is likely to be contaminated by migration or discharges of saltwater and other oil & gas wastes from the subject well. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
23. The Respondent has not demonstrated good faith since it failed to timely plug or otherwise place the subject lease and subject wells in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
24. Respondent has no prior history of violations of Commission rules.

CONCLUSIONS OF LAW

1. Proper notice was issued by the Railroad 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 in this hearing have been performed or have occurred.
3. Respondent is responsible for maintaining the subject lease in compliance with Statewide

Rule 3, which requires that each property that produces oil, gas or geothermal resources and each oil, gas or geothermal resources well and tank, or other approved crude oil measuring facility shall post signs or identification.

4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 14 (b)(2), which states 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 Commission or its delegate approves a plugging extension under §3.15 of this title.
5. The documented violations committed by the respondent constitute acts deemed are deemed serious, and a hazard to the public health, and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE ANN. §81.0531(c) (Vernon 1993).
6. Respondent is in violation of Statewide Rules 3(1,2,3) and 14(b)(2).
7. As a person in a position of ownership or control of respondent at the time respondent violated Commission rule related to safety and the control of pollution, John Albert Upton, and any other organization in which he, may hold a position of ownership or control, shall be subject to the restriction of Texas Natural Resources Code Section 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 sooner, if 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 ORDERED THAT within 30 days from the day immediately following the date this order becomes final:

1. Upstream Properties, LLC (Op. 878951), shall plug the E. Wallace Brown (07790) Lease, Well No. 1, Urban (Miles) Field, Runnels County, Texas in compliance with applicable Commission rules and regulations; and
2. Upstream Properties, LLC (Op. 878951), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **NINE THOUSAND FORTY FIVE DOLLARS (\$9,045.00)**.

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. 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 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.

Non-compliance 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 3rd day of February , 2016

RML / jm

**RAILROAD COMMISSION OF TEXAS
(Signatures affixed by Default Master Order
dated February 3, 2016)**