

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

OIL AND GAS DOCKET NO. 09-0259767

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY SUNDIAL RESOURCES, INC. (829483), AS TO THE THRESHER B (28560) LEASE, WELL NOS. 1, 2, 4 AND 8, YOUNG COUNTY REGULAR FIELD , YOUNG COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on August 20, 2009, and that the respondent, Sundial Resources, Inc. (829483), 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. Sundial Resources, Inc. (829483), ("Respondent"), was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent Form P-5 (Organization Report) address, which was returned to the Commission marked "unclaimed."
2. The returned certified receipt containing the Original Complaint and the Notice of Opportunity for Hearing, was returned to the Commission marked "unclaimed" on April 21, 2009. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On May 1, 2008, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Andrew A. McDermett, President; and Masmarijanto Soedarsono; Vice-President.
4. Andrew A. McDermett, was a person 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. Masmarijanto Soedarsono, was a person 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.

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 Well Nos. 1, 2, 4 and 8 on the Thresher B (28560) Lease ("subject wells"/"subject lease") by filing Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on October 1, 2005.
8. Respondent's P-5 (Organization Report) is active. Respondent has a \$50,000.00 Letter of Credit as its financial assurance.
9. Commission District inspections were conducted on September 4, 2008, September 22, 2008 for the Thresher B (28560) Lease. The signs or identification required to be posted at Well Nos 4 and 8 were either illegible or displayed incorrect information.
10. Failure to properly identify a well by the posting of the sign required by Statewide Rule 3 has the potential for causing confusion and delay in remedying a violation or emergency and poses a threat to the public health and safety.
11. A Commission District inspection was conducted on July 27, 2009, indicating that signs had been posted at Well Nos. 4 and 8.
12. Well Nos. 2 and 4 on the Thresher B (28560) Lease ceased production on or before February 2003.
13. Well No. 1 ceased injection on or before November 2002.
14. The Statewide 14(b)(2) plugging extension for the Well No. 2 was denied on July 24, 2006 for failure to file a Form H-15 (Test On An Inactive Well More Than 25 Years Old).
15. The Statewide 14(b)(2) plugging extensions for the Well No. 4 was denied on August 1, 2007 for failure to file a Form H-15 (Test On An Inactive Well More Than 25 Years Old).
16. The Statewide 14(b)(2) plugging extensions for the Well No. 1 was denied on April 8, 2005 for failure to file a Form H-5 (Disposal/Injection Well Pressure Test Report).
17. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with Statewide Rule 14.
18. Usable quality groundwater 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 potential for pollution.
19. The estimated cost to the State of plugging the subject wells is \$7,500.00.

20. Commission records indicate no Form H-15 (Test On An Inactive Well More Than 25 Years Old) has been filed and approved for the Thresher B (28560) Lease, Well Nos. 2 and 4. Commission records further show that Thresher B (28560) Lease, Well No. 2 was completed on May 7, 1981, and Well No. 4 was completed on August 4, 1981, that H-15 test was due in May 2006 for Well Nos. 2 and due in May 2007 for Well No. 4, and that the wells have not been plugged.
21. Commission District Inspection reports conducted on September 4, 2008 and September 22, 2008 on the Thresher B (28560) Lease showed that the lease storage facility is located within 30' of a public roadway and there is no dike around the lease storage facility. A Commission District inspection was conducted on July 27, 2009 reflects that the lease storage facility had been diked.
22. A Commission District inspection was conducted on September 4, 2008, for the Thresher B (28560) Lease indicating that the mechanical integrity test was past due for Well No. 1.
23. Injection wells must pass a pressure test at least once every 5 years to show that the well is not leaking, that waste is being confined to the permitted injection interval, and that useable 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, the Commission cannot determine if a well poses a threat to natural resources.
24. The Respondent has not demonstrated good faith since it failed to timely plug or otherwise place the subject leases 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.
25. Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 09-0248585; Agreed Order Served: April 24, 2008.; and
Docket No. 09-0256289; Agreed Order Served: August 12, 2008.

CONCLUSIONS OF LAW

1. Proper notice was issued by the Railroad Commission to respondent and to 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 in violation of Commission Statewide Rules 3, 14(b)(2), 14(b)(3), 21(j) and 46(j).

4. 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 resource well and tank, or other approved crude oil measuring facility shall post signs or identification.
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 14(b)(3), which requires that the operator of any well more than 25 years old that becomes inactive shall plug or test such well to determine whether the well poses a potential threat of harm to natural resources, including surface and subsurface water, oil and gas.
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 21(j), which requires that fire walls must be erected and kept around all permanent oil tanks, or battery of tanks, where such tanks are located within 500 feet to any highway.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 46(j), which requires that the mechanical integrity of an injection well shall be evaluated by conducting pressure tests to determine whether the well tubing, packer, or casing have sufficient mechanical integrity to meet performance standards.
8. Respondent is responsible for maintaining the subject lease and subject wells in compliance with all applicable Commission rules according to Statewide Rules 14, 58, and 79 and Chapters 89 and 91 of the Texas Natural Resources Code.
9. The documented violations committed by the respondent constitute acts deemed serious, a hazard to the public health, and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE ANN. §81.0531(c).
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, Andrew A. McDermott, and any other organization in which he may hold a position of ownership or control, shall be subject to the restrictions of Texas Natural Resource 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 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, whichever is earlier.

11. 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, Masmarijanto Soedarsono, and any other organization in which he may hold a position of ownership or control, shall be subject to the restrictions of Texas Natural Resource 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 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, whichever is earlier.

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

1. Sundial Resources, Inc. (829483), shall plug the Thresher B (28560) Lease, Well Nos. 1, 2, 4 and 8, Young County Regular Field, Young County, Texas in compliance with applicable Commission rules and regulations; and
2. Sundial Resources, Inc. (829483), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **THIRTEEN THOUSAND DOLLARS (\$13,000.00)**.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 20 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 on which 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 the order.

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 29th day of September 2009.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated September 29, 2009)

MH/sa