

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 04-0285304

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY MODENA OPERATING, LLC (573221), AS TO THE DUNN-PEACH LEASE, WELL NO. 1 (203676), MURDOCK PASS, N. (FRIO 8100 B) FIELD, ST TRACT 938 LAPLAYA LEASE, WELL NO. 1ST (212930), DUNN-MCCAMPBELL (8360 CIB HAZ) FIELD, AND THE DUNN-PEACH LEASE, WELL NO. 6 (234917), MURDOCK PASS, N. (FRIO 8100 B) FIELD, KLEBURG COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on January 23, 2014, and that the respondent, Modena Operating, LLC (573221), 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. Modena Operating, LLC (573221), ("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 mail envelope containing the Original Complaint and the Notice of Opportunity for Hearing, sent to the most recent P-5 address, was returned to the Commission marked "return to sender, unable to forward" on December 17, 2013. The certified envelope has been on file with the Commission for 15 days, exclusive of the day of the receipt and day of issuance.
3. On June 10, 2010, Respondent, filed an Organization Report (Form P-5) with the Commission reporting that its members consisted of the following individual(s): Bradley Phillip Boyle, Manager.
4. Bradley Phillip Boyle, 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.

OIL AND GAS DOCKET NO. 04-0285304

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 Well No. 1 (203676) on the Dunn-Peach Lease, Well No. 1ST (212930) on the St Tract 938 LaPlaya Lease and Well No. 6 (234917) on the Dunn-Peach Lease ("subject wells"/"subject leases") by filing P-4 Forms (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on June 10, 2010 for all of the wells and leases.
7. Respondent's P-5 (Organization Report) became delinquent on May 1, 2013. Respondent had a \$150,000 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
8. Well No. 1 (203676) on the Dunn-Peach Lease ceased production on or before December 2005.
9. Well No. 1ST (212930) on the St Tract 938 LaPlaya Lease ceased on or before November 2008.
10. Well No. 6 (234917) on the Dunn-Peach Lease ceased production on or before January 2010.
11. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with Statewide Rule 14.
12. The Statewide Rule 14b2 plugging extension for Well No. 1 (203676) on the Dunn-Peach Lease was denied on September 11, 2010 for a non active P-5.
13. The Statewide Rule 14b2 plugging extension for Well No. 1ST (212930) on the St Tract 938 LaPlaya Lease was denied on October 28, 2010 for a non active P-5.
14. The Statewide Rule 14b2 plugging extension for Well No. 6 (234917) on the Dunn-Peach Lease was denied on September 11, 2010 for a non active P-5.
15. 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.
16. The total estimated cost to the State for plugging Well No. 1 (203676) on the Dunn-Peach Lease is \$70,862.00.
17. The total estimated cost to the State for plugging Well No. 1ST (212930) on the St Tract 938 LaPlaya Lease is \$92,331.00.
18. The total estimated cost to the State for plugging Well No. 6 (234917) on the Dunn-Peach Lease is \$78,235.00.

OIL AND GAS DOCKET NO. 04-0285304

19. 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.

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 Rule 14(b)(2).
4. Respondent is responsible for maintaining the subject leases 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.
5. 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.
6. 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, Bradley Phillip Boyle, 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. Modena Operating, LLC (573221), shall plug the Dunn-Peach Lease, Well No. 1 (203676), Murdock Pass, N. (Frio 8100 B) Field, St Tract 938 LaPlaya Lease, Well No. 1ST (212930), Dunn-McCampbell (8360 CIB Haz) Field, and the Dunn-Peach Lease, Well No. 6 (234917), Murdock Pass, N. (Frio 8100 B) Field, Kleburg County, Texas; in compliance with applicable Commission rules and regulations

OIL AND GAS DOCKET NO. 04-0285304

2. Modena Operating, LLC (573221), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FIFTY THREE THOUSAND FIFTY FOUR DOLLARS (\$53,054.00)**.

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 16th day of September 2014.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated September 16, 2014)

TJJ/sa