

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL AND GAS DOCKET NO. 6E-0299881**

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**ENFORCEMENT ACTION AGAINST DYERSDALE ENERGY II, L.P. (OPERATOR NO. 237756) FOR VIOLATIONS OF STATEWIDE RULES ON DEGUERIN, LULA LEASE (LEASE NO. 06938), WELL NO. 2, EAST TEXAS FIELD, RUSK COUNTY, TEXAS**

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**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 November 3, 2016, and that the respondent, Dyersdale Energy II, L.P., 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. Dyersdale Energy II, L.P. ("Respondent"), Operator No. 237756, 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. Respondent's officers and agents as identified on the Form P-5 – Milam Simic—was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to his last known address.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing was received by Respondent on April 5, 2016. There is no information available regarding the delivery of the Notice of Opportunity for Hearing to Milan Simic. The first class mail was not returned for any of the addresses. Record of the delivery 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 October 20, 2014, Respondent, a Limited Partnership, filed a Form P-5 with the Commission reporting that its officers consist of the following individual: Milan Simic, President.
4. Milam Simic 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 cash deposit as its 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 Deguerin, Lula Lease (Lease No. 06938) Well No. 2, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective September 1, 2013, approved March 10, 2014.

8. Commission inspection reports made on August 17, 2015, September 29, 2015, December 10, 2015, and January 28, 2016 for the DeGuerin, Lula Lease show that the sign or identification required to be posted at the lease entrance was missing.
9. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rule 3(1), may cause confusion as to the responsible operator to be contacted and the actual location of a violation or emergency, which can result in delays in remedying a violation or emergency.
10. Commission inspection reports made on August 17, 2015, September 29, 2015, December 10, 2015, and January 28, 2016 for the DeGuerin, Lula Lease show that the signs or identification required to be posted at the well displayed incorrect information. The sign posted at Well No. 2 displayed the incorrect operator.
11. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rule 3(2), may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency, which can result in delays in remedying a violation or emergency.
12. Commission inspection reports made on August 17, 2015, September 29, 2015, December 10, 2015, and January 28, 2016 for the DeGuerin, Lula Lease show that the signs or identification required to be posted at the tank was missing.
13. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rule 3(3), may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency, which can result in delays in remedying a violation or emergency.
14. Commission inspection reports made on August 17, 2015, September 29, 2015, December 10, 2015, and January 28, 2016, and reports filed by Respondent with the Commission reflecting zero production since January 1993, show that the DeGuerin, Lula Lease, Well No. 2 has been inactive for a period greater than one year.
15. No work-overs, re-entries, or subsequent operations have taken place on the subject well within the last twelve months; the subject well has not been properly plugged in accordance with Statewide Rule 14, 16 TEX. ADMIN. CODE § 3.14; and no plugging extension is in effect for the subject well as allowed by Statewide Rule 14. The subject well is not otherwise in compliance with Statewide Rule 14.
16. Usable quality groundwater in the area can be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject well and tank. 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.
17. The total estimated cost to the State for plugging the DeGuerin, Lula Lease, Well No. 2 is \$20,900.00
18. Commission inspection reports made on August 17, 2015, September 29, 2015, December 10, 2015, and January 28, 2016, and reports filed by Respondent with the Commission reflecting zero production since January 1993, show that the DeGuerin, Lula Lease has been inactive for a period greater than ten years. Inspection reports show there was a substantial amount of drilling equipment and junk piping located on the lease.
19. Abandoned equipment in violation of Statewide Rule 15 can cause pollution.
20. 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 3(1), 3(2), 3(3), 14(b)(2) and 15(f)(2)(A)(ii). 16 TEX. ADMIN. CODE §§ 3.3(1), 3.3(2), 3.3(3), 3.14(b)(2) and 3.15(f)(2)(A)(ii).
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 leases in compliance with Statewide Rule 3(1) which requires that for 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, a sign shall be posted at the principal entrance which shall show the name by which the property is carried on the records of the Commission, the name of the operator, and the number of acres in the property.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3(2), which requires that each well site that produces oil, gas, or geothermal resources shall post signs or identification showing the name of the property, name of the operator and the well number.
8. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 3(3), which requires that each tank battery that produces oil, gas, or geothermal resources shall post signs or identification showing the name of the property, commission lease number, name of the operator, number of acres in the property and if commingled, include the commingling permit number.
9. Respondent is responsible for maintaining the subject leases 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.
10. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 15(f)(2)(A)(ii), which requires that if the operator does not own the surface of the land where the well is located, and the well has been inactive for at least 10 years, then the operator must remove all surface equipment and related piping, tanks, tank batteries, pump jacks, headers, fences, and firewalls; close open pits; and remove all junk and trash, as defined by Commission rule, associated with and exclusive to the well.
11. 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.
12. An assessed administrative penalty in the amount of EIGHTEEN THOUSAND THREE HUNDRED FORTY-ONE DOLLARS is justified considering the facts and violations at issue.
13. 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, Milam Simic, and any other organization in which he may

hold a position of ownership or control, are 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. Dyersdale Energy II, L.P. shall place the Deguerin, Lula Lease, Well No. 2, in compliance with Statewide Rules 3(1), 3(2), 3(3), 14(b)(2) and 15(f)(2)(A)(ii), and any other applicable Commission rules and statutes.
2. Dyersdale Energy II, L.P. shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **EIGHTEEN THOUSAND THREE HUNDRED FORTY-ONE DOLLARS (\$18,341.00)**.

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, Milam Simic 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 the Commission's order is signed, unless the time for filing a motion for rehearing has been extended under TEX. GOV'T CODE § 2001.142, by agreement under TEX. GOV'T CODE § 2001.147, or by written Commission Order issued pursuant to TEX. GOV'T CODE § 2001.146(e). 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 24<sup>th</sup> day of January, 2017.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated  
January 24, 2017)

JNC/rmf