

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 6E-0299304

ENFORCEMENT ACTION AGAINST DYERSDALE ENERGY II, L.P. (OPERATOR NO. 237756) FOR VIOLATIONS OF STATEWIDE RULES ON HINEMAN, C.E. LEASE (LEASE NO. 07544), WELL NOS. 1, 2, 7, 11 AND 12, EAST TEXAS FIELD, GREGG 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 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. No first class mail was returned. Record of the delivery and 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 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 Hineman, C.E. Lease (Lease No. 07544), Well Nos. 1, 2, 7, 11 and 12, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective September 1, 2013, approved December 9, 2014.
8. Commission inspection reports made on September 2, 2015 and November 19, 2015 for the Hineman, C.E. Lease show that the signs or identification required to be posted at a well displayed incorrect information.

The sign posted at Well No. 1 displayed the incorrect operator number.

9. 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.
10. Commission inspection reports made on January 21, 2015, February 4, 2015, February 26, 2015, March 31, 2015, September 2, 2015, and November 19, 2015 for the Hineman, C.E. Lease show that the signs or identification required to be posted at the tank battery was missing.
11. 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.
12. Commission inspection reports made on January 21, 2015, February 4, 2015, February 26, 2015, March 31, 2015, September 2, 2015, and November 19, 2015, and reports filed by Respondent with the Commission reflecting zero production since August 2012 show that the Hineman, C.E. Lease, Well Nos. 1, 2, 7, 11 and 12 have been inactive for a period greater than one year.
13. 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.
14. 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 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.
15. The total estimated cost to the State for plugging Hineman, C.E. Lease (Lease No. 07544), Well Nos. 1, 2, 7, 11 and 12 is \$115,000.00.
16. Commission inspection reports made on February 4, 2015, February 26, 2015, March 31, 2015, September 2, 2015 and November 19, 2015 for the Hineman, C.E. Lease show that the area around Well No. 11 and the area around the firewall is completely overgrown with grass and tall vegetation.
17. Failure to remove trees and vegetation, as required by Statewide Rule 21(i), from within the fire wall may cause a fire.
18. 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(2), 3(3), 14(b)(2) and 21(i). 16 TEX. ADMIN. CODE §§ 3.3(2), 3.3(3), 3.14(b)(2) and 3.21(i).
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 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.
7. 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.
8. 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.
9. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 21(i), which requires that any rubbish or debris that might constitute a fire hazard shall be removed to a distance of at least 150 feet from the vicinity of any well, tank, or pump station. All waste shall be burned or disposed of in such manner as to avoid creating a fire hazard.
10. 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.
11. An assessed administrative penalty in the amount of THIRTY THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$30,750.00) is justified considering the facts and violations at issue.
12. 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 Hineman, C.E. Lease, Well Nos. 1, 2, 7, 11 and 12, in compliance with Statewide Rules 3(2), 3(3), 14(b)(2) and 21(i), 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 **THIRTY THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$30,750.00)**.

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 24th day of January, 2017.

RAILROAD COMMISSION OF TEXAS

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

JNC/rnf