

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 03-0299725

**ENFORCEMENT ACTION AGAINST MASTODON OPERATING COMPANY, LLC
(OPERATOR NO. 532988) FOR VIOLATION OF A STATEWIDE RULE ON THE
BOLLINGER, F.G.U. (GAS ID NO. 172451) LEASE, WELL NO. 1, SEALY (FRIO 3500)
FIELD, AUSTIN 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 June 2, 2016 and that the respondent, Mastodon Operating Company, LLC, failed to appear or respond to the Notice of Opportunity for Hearing and First Amended 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. **MASTODON OPERATING COMPANY, LLC** ("Respondent"), Operator No. 532988, was sent the Original Complaint and Notice of Opportunity for Hearing and First Amended 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, Mastodon Operating Company, LLC and Mastodon Energy Partners LLC were sent the Original Complaint and Notice of Opportunity for Hearing and First Amended Notice of Opportunity for Hearing by certified and first class mail, addressed to its last known address on March 4, 2016 and April 5, 2016.
2. The certified mail envelope addressed to Mastadon Operating Company, LLC, 4126 Southwest Frwy, Ste 720, Houston, TX 77027-7317 and Mastodon Energy Partners LLC, 4126 Southwest Frwy, Ste 720, Houston, TX 77027-7317 containing the Original Complaint and the Notice of Opportunity for Hearing and First Amended Notice of Opportunity for Hearing was returned to the Commission on April 25, 2016 and May 10, 2016 marked "Return to Sender, Not Deliverable as Addressed, Unable to Forward". The first-class mail was returned. Record of the returned 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 July 19, 2013, Respondent filed a Form P-5 with the Commission reporting that its officers consist of the following individual(s): Mastodon Energy Partners LLC, Manager; Cary E. Hughes, President; and Timothy R. Gallagher, Vice-President.
4. **MASTODON ENERGY PARTNERS, LLC** 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 \$25,000.00 bond 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 Bollinger, F.G.U. (Gas ID No. 172451) Lease, Well No. 1, Sealy (Frio 3500) Field, Austin County, Texas, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective December 1, 2008, approved December 17, 2008.
8. Commission inspection reports made on December 22, 2015 and November 3, 2015 and reports filed by the Respondent with the Commission (reflecting zero production) since April 2006, showed that the Bollinger, F.G.U. (Gas ID No. 172451) Lease, Well No. 1, Sealy (Frio 3500) Field, Austin County, Texas has been inactive for a period greater than one year.
9. 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.
10. 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. 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.
11. The total estimated cost to the State for plugging the Bollinger, F.G.U. (Gas ID No. 172451) Lease, Well No. 1, Sealy (Frio 3500) Field, Austin County, Texas is \$38,094.00.
12. 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, 14(b)(2). 16 TEX. ADMIN. CODE §§ 3.14(b)(2).
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 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.
7. 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.
8. An assessed administrative penalty in the amount of **EIGHT THOUSAND SEVEN HUNDRED DOLLARS (\$8,700.00)** is justified considering the facts and violations at issue.
9. As persons in a position of ownership or control of Respondent at the time Respondent violated Commission rule related to safety and the control of pollution, Mastodon Operating Company, LLC, and any other organization in which they 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. **MASTODON OPERATING COMPANY, LLC** (Operator No. 532988) shall plug or otherwise place the Bollinger, F.G.U. (Gas ID No. 172451) Lease, Well No. 1, Sealy (Frio

3500) Field, Austin County, Texas into compliance with Statewide Rule 14(b)(2), and any other applicable Commission rules and statutes.

2. **MASTODON OPERATING COMPANY, LLC** (Operator No. 532988) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **EIGHT THOUSAND SEVEN HUNDRED DOLLARS (\$8,700.00)**.

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, Mastodon Operating Company, LLC and any other organization in which it 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 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 Commission Order is signed.

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.)

RML/see