

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 06-0296806

ENFORCEMENT ACTION AGAINST DELCO GROUNDS, JR., SOLE PROPRIETOR, SMK VACUUM SERVICE (OPERATOR NO. 796754) FOR VIOLATIONS OF STATEWIDE RULES ON THE STEPHEN, MARY B. (11210) LEASE, WELL NO. 1, ROY CLARK-MEL TILLIS (PETTIT, U) FIELD, RUSK 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 August 11, 2016, and that the respondent, SMK Vacuum Service, 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. SMK Vacuum Service ("Respondent"), (Operator No. 796754), 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—Delco Ground, Jr.—was each 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 the Delco Ground, Jr., Owner on July 11, 2016. The first class mail was not returned. 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 May 2, 2013, Respondent, a sole proprietorship, filed a Form P-5 with the Commission reporting that its officers consist of the following individual: Delco Ground, Jr., Owner.
4. Delco Ground, Jr., 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 Stephen, Mary B. (11210) Lease, Well No. 1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective June 1, 2002, approved July 10, 2002.
8. Commission District inspection reports made on February 4, 2015, February 26, 2015, and March 24, 2015, and either reports filed by Respondent with the Commission reflecting zero production, or the absence of production reports filed by Respondent with the Commission, since December 2003, show the Stephen, Mary B. (11210) Lease, Well No. 1, has been inactive for a period greater than one year. Production from the subject well ceased in November 2003.
9. 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.
10. Commission District inspection reports made on February 4, 2015, February 26, 2015, and March 24, 2015, for the Stephen, Mary B. (11210) Lease, show that the surface casing on Well No. 1 is not piped above-ground thereby making the surface casing valve inaccessible for monitoring pressure.
11. Wells that have pressure on the bradenhead, in violation of Statewide Rule 17(a), may result in a discharge of oil and gas waste into ground water and contamination of surface or subsurface waters, thereby resulting in pollution.
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 14(b)(2) and 17(a). 16 TEX. ADMIN. CODE §§ 3.14(b)(2) and 3.17(a).
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 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. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 17(a), which requires that all wells be equipped with a bradenhead.
8. 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.
9. An assessed administrative penalty in the amount of ELEVEN THOUSAND SEVEN HUNDRED AND NINETY-FIVE DOLLARS (\$11,795.00) is justified considering the facts and violations at issue.
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, Delco Ground, Jr., 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. SMK VACUUM SERVICE (Operator No. 796754) shall place the Stephen, Mary B. (11210) Lease, Well No. 1, in compliance with Statewide Rules 14(b)(2), 17(a), and any other applicable Commission rules and statutes.
2. SMK VACUUM SERVICE (Operator No. 796754) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **ELEVEN THOUSAND, SEVEN HUNDRED AND NINETY-FIVE DOLLARS (\$11,795.00)**.

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, Delco Ground, Jr., 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 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 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 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)

DAL/pbm