

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 09-0298301

ENFORCEMENT ACTION AGAINST PARADIGM OPERATING INC. (OPERATOR NO. 638917) FOR VIOLATIONS OF STATEWIDE RULES ON THE SUMMERS, W.H. (17667) LEASE, WELL NOS. 1, 2, 3, 4, AND 12, VOSS (TANNEHILL) FIELD, KNOX 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 17, 2016 and that the respondent, Paradigm Operating Inc. 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. Paradigm Operating Inc. (“Respondent”), Operator No. 638917, 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—Roland Baker and Vince Vellardite—were each sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to their last known address.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing was received by Paradigm Operating Inc. on October 11, 2016. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing was received by Roland Baker on October 11, 2016. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to Vince Vellardite was returned to the Commission unclaimed on October 18, 2016. The first class mail was not 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 September 28, 2015, Respondent, a corporation, filed a Form P-5 with the Commission reporting that its officers and agent consist of the following individuals: Roland Baker, Resident Agent, and Vince Vellardite, President.
4. Vince Vellardite 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.
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 Summers, W.H. (17667) Lease, Well Nos. 1, 2, 3, 4, and 12, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective May 20, 2014, approved June 5, 2014.
8. Commission inspection reports made on September 4, 2015 and September 15, 2015, for the Summers, W.H. (17667) Lease, show that the signs or identification required to be posted at Well Nos. 1, 2, 3, 4, and 12 were missing or displayed incorrect information.
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 August 24, 2015 for the Summers, W.H. (17667) Lease indicated a produced water leak at Well No. 3 affecting a 12' x 10' x 18" deep area. Subsequent inspections conducted on September 4, 2015 and September 15, 2015 show the affected area had not been cleaned and the well (now identified as Well No. 1) continued to leak.
11. Respondent did not have a permit for said discharges, nor were they authorized under Statewide Rules 8(d)(3), 8(e), 9, 46 or 98.
12. Unpermitted discharges of oil and gas waste, in violation of Statewide Rule 8(d)(1), can contaminate the land surface, affect the health of humans and animals, and may eventually be discharged to surface or subsurface waters, causing pollution.

13. Well No. 12 of the Summers, W.H. (17667) Lease is a permitted disposal well. Commission records indicate that Respondent was scheduled to perform the five-year mechanical integrity test on the subject well by April 30, 2014. Respondent failed to conduct the required test and report the test results on the Commission Form H-5.
14. Wells not tested, in violation of Statewide Rule 9(12)(C)(1), is a hazard to public safety because a failure to test a disposal well may lead to leaks of fluid and cause pollution.
15. A Commission inspection report made on August 24, 2015 shows that Well No. 3 of the Summers, W.H. (17667) Lease (later identified as Well No. 1 on the September 4, 2015 and September 15, 2015 inspection reports) lacks surface control as evidenced by the fact it is leaking produced water from the casing.
16. Wells left uncontrolled or open to the atmosphere, in violation of Statewide Rule 13(a)(6)(A), may discharge oil and gas waste onto the land surface and affect the health of humans and animals; these discharges may eventually make their way to surface or subsurface waters, causing pollution.
17. Commission District inspection reports made on August 24, 2015, September 4, 2015 and September 15, 2015, and either reports filed by Respondent with the Commission reflecting zero injection/production, or the absence of injection/production reports filed by Respondent with the Commission since becoming the P-4 operator in May 2014, shows that the Summers, W.H. (17667) Lease, Well Nos. 1, 2, 3, 4, and 12, have been inactive for a period greater than one year. Disposal into Well No. 12 ceased in February 2014 and production from Well Nos. 1, 2, 3, and 4 ceased in March 2014.
18. 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.
19. Usable quality groundwater in the area can become contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject wells. 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.
20. Commission inspection reports made on September 4, 2015 and September 15, 2015 for the Summers, W.H. (17667) Lease show that at Well No. 3 the well head is buried making the brandenhead observation valves not visible.

21. 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.
22. Commission inspection reports made August 24, 2015, September 4, 2015, and September 15, 2015 for the Summers, W.H. (17667) Lease show there are no firewalls around the storage facility, which is approximately twenty feet from CR 4480.
23. Failing to erect a dike or fire wall as required by Statewide Rule 21(j) can cause fires.
24. Respondent has no prior history of violations of Commission rules.
25. A Commission district inspection conducted on August 24, 2015 shows that Well No. 3 (subsequently indentified as Well No. 1 on the September 4, 2015 and September 15, 2015 inspections reports) was leaking produced water from the casing. The well, which lies directly upon the Seymour Aquifer, was unable to be shut-in. Further, Repondent failed to respond to Commission demands to fix well.
26. On February 9, 2016, the Commission plugged Well 3 of the Summers, W.H. (17667) Lease, expending a total of \$6,850.00 of state funds. The Railroad Commission seeks reimbursement of this amount in this proceeding.
27. Under TEX. NAT. RES. CODE ANN. §§ 89.043, 89.046, and 89.083, the Railroad Commission may assess the Respondent with actual cost incurred in plugging wells which, until plugged by the the Railroad Commission, caused or were likely to cause a serious threat of pollution or injury to the public health, and for wich, under TEX. NAT. RES. CODE ANN. §§ 89.002, 89.011 and 85.161 and Statewide Rule 58 (a) , Respondent is responsible.
28. A Commission District inspection report made on August 24, 2015 for the Summers, W.H. (17667) Lease indicated a produced water leak at Well No. 3 affecting a 12' x 10' x 18" deep area. Subsequent inspections conducted on September 4, 2105 and September 15, 2015 show the affected area has not been cleaned and the well (now indentified as Well No. 1) continuing leak. Respondent failed to respond to Commission demands to clean the affected area and fix the well, which lies directly upon the Seymour Aquifer.
29. Between September 4, 2015 and February 11, 2016, the Commission cleaned up the Summers, W.H. (17667) Lease from the leak at Well No. 3 and expened a total of \$3,589.00 in state funds. Respondent is the person responsible under TEX. NAT. RES. CODE ANN. §§ 91.113(b) for cleaning up these discharges and the Railroad Commission seeks reimbursement of this amount in this proceeding.

30. Under TEX. NAT. RES. CODE ANN. §§ 91.113(f), the Railroad Commission may recover from Respondent all costs incurred in cleaning up oil and gas waste discharged onto or from the Summers, W.H. (17667) Lease for which Respondent is the "responsible person" under TEX. NAT. RES. CODE ANN. §§91.113 (b)

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, 8(d)(1), 9(12)(C)(i), 13(a)(6)(A), 14(b)(2), 17 (a), and 21(j). 16 TEX. ADMIN. CODE §§ 3.3(2), 3.8(d)(1), 3.9(12)(C)(i), 3.13(a)(6)(A), 3.14(b)(2), 3.17(a) and 3.21(j).
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 8(d)(1), which prohibits the discharge of oil and gas waste without a permit.
8. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 9(12)(C)(i), which requires that each disposal well completed with surface casing set and cemented through the entire interval of protected usable-quality water shall be tested for mechanical integrity at least once every five years.
9. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 13(a)(6)(A), which requires that after setting the conductor pipe on surface casing on land or bay wells, wellhead assemblies shall be used on wells to maintain surface control of the well at all times.

10. 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.
11. 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.
12. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 21(j), which requires that dikes or fire walls be erected and kept around all permanent oil tanks or battery of tanks that are within the corporate limits of any city, town or village or where such tanks are closer than 500 feet to any highway or inhabited dwelling or closer than 1,000 feet to any school or church, or where such tanks are located as to be deemed by the Commission to be an objectionable hazard.
13. 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.
14. An assessed administrative penalty in the amount of **Thirty Seven, Four Hundred and Seventy-Five Dollars (\$37,475.00)** and reimbursement of **Ten Thousand, Four Hundred and Thirty-Nine Dollars (\$10,439.00)** is justified considering the facts and violations at issue.
15. As persons in a position of ownership or control of Respondent at the time Respondent violated Commission rules related to safety and the control of pollution, Vince Vellardite 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. Pardigm Operating Inc. (Operator No. 638917) shall place in compliance the Summers, W.H. (17667) Lease, Well Nos. 1, 2, 3, 4, and 12
2. Pardigm Operating Inc. (Operator No. 638917) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **Thirty Seven, Four Hundred and Seventy-Five Dollars (\$37,475.00)**.
3. Assessing Respondent with reimbursement of \$10,439.00 **Ten Thousand, Four Hundred and Thirty-Nine Dollars (\$10,439.00)**, such amount as may be established by evidence..

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, Vince Vellardite and any other organization in which they 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 [conference date, such as 24th day of January 2017.

RAILROAD COMMISSION OF TEXAS

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

RML/jm