

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 01-0302200

ENFORCEMENT ACTION AGAINST ATERRA EXPLORATION, LLC (OPERATOR NO. 036043) FOR VIOLATIONS OF STATEWIDE RULES ON THE WHITWORTH (GAS ID. NO. 273598) LEASE, WELL NO. 1H, WILDCAT FIELD, MAVERICK COUNTY, AND WHITWORTH (17553) LEASE, WELL NO. 2, WILDCAT FIELD, MAVERICK 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 March 9, 2017 and that the respondent, Aterra Exploration, LLC, 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. Aterra Exploration, LLC ("Respondent"), Operator No. 036043, 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; Aterra Exploration, LLC, 10100 Reunion Place, Ste 625, San Antonio, Texas, 78612. Respondent's officer and resident Texas agent as identified on the Form P-5—David Sepiashvili, Managing Member and James H. Fallon, Resident Texas Agent—were each sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to their last known address: David Sepiashvili, Managing Member, 230 West 56th Street, Apt. 53D, New York, New York, 10019 and James H. Fallon, Registered Texas Agent, Aterra Exploration, LLC, 28709 IH 10 West, Boerne, Texas, 78006.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent was returned to the Commission unopened on January 20, 2017. The certified mail envelopes addressed to David Sepiashvili and James H. Fallon were delivered on December 12, 2016 and December 19, 2016, respectively. The first-class mail was not returned. Record of the delivery [or/and return of] 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. Respondent filed its first Form P-5 with the Commission in 2012. On August 18, 2014, Respondent, a Limited Liability Company, filed a Form P-5 with the Commission reporting that its officers consist of the following individual: David Sepiashvili.
4. David Sepiashvili 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 cash deposit as its financial assurance at the time of Respondent's 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 Whitworth (Gas ID. No. 273598) Lease, Well No. 1H, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective February 16, 2013, approved September 23, 2014.
8. Respondent designated itself to the Commission as the operator of the Whitworth Lease (17553), Well No. 2, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective August 12, 2013, approved May 28, 2014.
9. Commission inspection reports made on March 7, 2016, May 16, 2016, June 21, 2016, and June 22, 2016, for the Whitworth (Gas ID. No. 273598) Lease, show that the sign or identification required by Statewide Rule 3(1) to be posted at the lease entrance was missing.
10. Commission inspection reports made on March 7, 2016, May 16, 2016, June 21, 2016, and June 22, 2016, for the Whitworth (Gas ID. No. 273598) Lease, show that the sign or identification required by Statewide Rule 3(2) to be posted at the well was missing.
11. Commission inspection reports made on April 7, 2015, March 4, 2016, May 16, 2016, June 21, 2016, and June 22, 2016, for the Whitworth Lease (17553), show that the sign or identification required by Statewide Rule 3(1) to be posted at the

lease entrance was missing.

12. Commission inspection reports made on April 7, 2015, March 4, 2016, May 16, 2016, June 21, 2016, and June 22, 2016, for the Whitworth Lease (17553), show that the sign or identification required by Statewide Rule 3(1) to be posted at the well was missing.
13. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rules 3(1) and 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.
14. The violations of Commission rules committed by Respondent are related to safety and the control of pollution. According to an Affidavit signed by Petar Buva, Field Operations, on Statewide Rule 3, "In the event of a pollution or safety violation or other emergency, the lack of legible signs and identification displaying correct information may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency. Such confusion will cause delays in containing and remediating the violation or emergency, which is serious and may threaten the public health and safety."
15. Commission District inspection reports made on March 4, 2016, March 7, 2016, May 16, 2016, June 21, 2016, June 22, 2016, and reports filed by Respondent with the Commission (reflecting zero production) since February 2013, showed that the Whitworth (Gas ID. No. 273598) Lease, Well No. 1H has been inactive for a period greater than one year. Commission records show that no production has been reported on the well since it was completed on February 16, 2013.
16. Commission District inspection reports made on April 7, 2015, March 4, 2016, May 16, 2016, June 21, 2016, June 22, 2016, and reports filed by Respondent with the Commission (reflecting zero production) since August 2013, showed that the Whitworth Lease (17553), Well No. 2 has been inactive for a period greater than one year. Commission records show that no production has been reported on the well since it was completed on August 12, 2013.
17. 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.

18. 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.
19. The violations of Commission rules committed by Respondent are related to safety and the control of pollution. According to a February 2, 2017 affidavit signed by Petar Buva, Field Operations, "Any wellbore, cased or otherwise, is a potential conduit for flow from oil or saltwater zones to zones of usable quality water or to the surface. Holes or leaks may develop in cased wells, allowing oil or saltwater to communicate with usable quality zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface."
20. The total estimated cost to the State for plugging the Whitworth (Gas ID. No. 273598) Lease, Well No. 1H is \$40,689.00 and for the Whitworth Lease (17553), Well No. 2 is \$25,414.00.
21. A Commission District inspection report made on June 22, 2016 for the Whitworth (Gas ID. No. 273598) Lease indicated there is an open cellar which contains water and oil waste. The cellar is approximately 8 feet in diameter and is still in non-compliance.
22. 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.
23. 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.
24. The violations of Commission rules committed by Respondent are related to safety and the control of pollution. According to an Affidavit signed by David Randle, Field Operations, on Statewide Rule 8(d)(1), "Any unauthorized discharge of disposal of oil, saltwater, basic sediment or other oil and gas waste is a potential source of pollution to surface and subsurface waters if not remediated to prevent seepage and run-off."
25. 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), 14(b)(2), and 8(d)(1). 16 TEX. ADMIN. CODE §§ 3.3(1), 3.3(2), 3.14(b)(2), and 3.8(d)(1).
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 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.
9. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(1), which prohibits the discharge of oil and gas waste without a permit.
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 **SEVENTEEN THOUSAND, ONE HUNDRED SEVENTY-FIVE DOLLARS (\$17,175.00)** is justified considering the facts and violations at issue, consisting of two violations of Statewide Rule 3(1) at \$1,000.00 each for a total of \$2,000.00; two violations of Statewide Rule 3(2) at \$500 each for a total of \$1,000.00; two violations of Statewide Rule 14(b)(2) at \$2,000.00 each, plus \$1 per foot of well depth at a total well depth of 9,650 feet for a total of \$13,650.00; and one violation of Statewide Rule 8(d)(1) at \$500.00, plus \$0.50 per square foot for 50 square feet for a total of \$525.00.
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, David Sepiashvili, 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. Aterra Exploration, LLC (Operator No. 036043) shall place the Whitworth (Gas ID. No. 273598) Lease, Well No. 1H, Wildcat Field, Maverick County; and Whitworth Lease (17553), Well No. 2, Wildcat Field, Maverick County, Texas in compliance with Statewide Rules 3(1), 3(2), 14(b)(2), and 8(d)(1), and any other applicable Commission rules and statutes.
2. Aterra Exploration, LLC (Operator No. 036043) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SEVENTEEN THOUSAND, ONE HUNDRED SEVENTY-FIVE DOLLARS (\$17,175.00)**.

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, David Sepiashvili 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 4th day of April, 2017

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated April 4, 2017)

MFE/dac/rnf