

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 7B-0300945

ENFORCEMENT ACTION AGAINST MUDSLINGER OIL, LLC (OPERATOR NO. 592478) FOR VIOLATIONS OF STATEWIDE RULES ON THE ZEISKIE (DRILLING PERMIT NO. 811108) LEASE, WELL NO. 2, SANTA ANNA (MARBLE FALLS) FIELD, COLEMAN 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 February 23, 2017 and that the respondent, Mudslinger Oil, 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. Mudslinger Oil, LLC ("Respondent"), Operator No. 592478, 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: Mudslinger Oil, LLC, 5127 CR 319, Abilene, Texas 79601. Respondent's officer as identified on the Form –Duke Pendergraft– was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first-class mail, addressed to his last known address: Duke Pendergraft, Mudslinger Oil, LLC, 5127 CR 319, Abilene, Texas 79601.
2. The certified mail envelopes containing the Original Complaint and Notice of Opportunity for Hearing that were sent to the Respondent and Duke Pendergraft were delivered on December 21, 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. Respondent filed its first Form P-5 with the Commission in 2010. On April 26, 2016, Respondent, a Limited Liability Company, filed a Form P-5 with the Commission

reporting that its officers consist of the following individual: Duke Pendergraft, President/Secretary.

4. Duke Pendergraft 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 \$10,000.00 letter of credit as its financial assurance at the time of the last Form P-5 annual renewal submission.
6. Respondent designated itself to the Commission as the operator of the Zeiskie (Drilling Permit No. 811108) Lease, Well No. 2, by filing a Commission Form W-1 (Application for Permit to Drill, Recomplete, or Re-Enter), approved October 14, 2015.
7. Commission District inspection reports made on February 29, 2016 and May 4, 2016, and Commission records for the Zeiskie (Drilling Permit No. 811108) Lease show that Respondent failed to backfill and compact a workover pit. Commission records show that the casing for Well No. 2 was set on October 20, 2015, leaving a workover pit measuring 1,170 square feet open for more than 120 days after the well was completed.
8. Pits that are not maintained, emptied, closed, backfilled and/or compacted as required in Statewide Rule 8(d)(4)(G)(i)(III) may result in unpermitted discharges of oil and gas waste which can contaminate the land surface, affect the health of humans and animals, and may be discharged to surface or subsurface waters, causing pollution.
9. 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, Statewide Rule 8(d)(4)(H)(i)(III), all completion/workover pits used when completing or working over a well shall be dewatered within 30 days and backfilled and compacted within 120 days.
10. Commission inspection reports made on February 29, 2016 and May 4, 2016 for the Zeiskie (Drilling Permit No. 811108) Lease, show that Well No. 2 was completed but Respondent has not filed the required completion report.
11. Should a well need to be re-entered for any reason, the wellbore documentation provided in those reports as set forth in Statewide Rule 16(b) is necessary to safely and efficiently carry out the replugging, recompletion, reworking, or other action.

12. According to an affidavit signed by Petar Buva, Field Operations, on Statewide Rule 16(b), without a completion report (W-2 or G-1), required by Statewide Rule 16, the Commission is without sufficient information to determine if a wellbore has been properly cased and cemented to protect usable waters from oil and salt water present in the wellbore.
13. Commission inspection reports made on February 29, 2016 and May 4, 2016 on the Zeiskie (Drilling Permit No. 811108) Lease, show that Respondent failed to properly screen an open-topped fiberglass tank containing oil floating on water. No penalty is being sought for this violation; Commission staff requested corrective measures only.
14. Failing to properly screen or take other protective measures, as set forth in Statewide Rule 22(b), regarding open-top tanks, skimming pits, and/or collecting pits can cause harm to birds.
15. 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 8(d)(4)(H)(i)(III), 16(b), and 22(b). 16 TEX. ADMIN. CODE §§ 3.8(d)(4)(H)(i)(III), 3.16(b), and 3.22(b).
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(4)(G)(i)(III), which contains requirements for the dewatering, filling, backfilling and/or compacting of pits.
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 16(b), which requires proper completion reports to be filed within ninety days after completion of the well or within one hundred fifty days after the date on which the drilling operation is completed, whichever is earliest, or within thirty days of plugging a dry hole.

7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 22(b), which requires open-top tanks, skimming pits, and collecting pits to be screened or otherwise rendered harmless to birds.
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 SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500.00) is justified considering the facts and violations at issue, consisting of one violation of Statewide Rule 8(d)(4)(H)(i)(III) at \$5,000.00 and one violation at Statewide Rule 16(b) at \$2,500.00.
10. As persons in a position of ownership or control of Respondent at the time Respondent violated a Commission rule related to safety and the control of pollution, Duke Pendergraft, and any other organization in which they may hold a position of ownership or control, is 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. Mudslinger Oil, LLC (Operator No. 592478) shall bring the Zeiskie (Drilling Permit No. 811108) Lease, Well No. 2 in compliance with Statewide Rules 8(d)(4)(H)(i)(III), 16(b), 22(b), and any other applicable Commission rules and statutes.
2. Mudslinger Oil, LLC (Operator No. 592478) shall remit to the Railroad Commission of Texas SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500.00) for disposition as provided by law.

It is further **ORDERED** that 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, Duke Pendergraft, 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 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 4th day of April, 2017.

RAILROAD COMMISSION OF TEXAS

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

MFE/dac