

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 7B-0302193

**ENFORCEMENT ACTION AGAINST FERRARI ENERGY SERVICES, LLC
(OPERATOR NO. 266561) FOR VIOLATIONS OF STATEWIDE RULES ON THE
FERRARI-ZIEHR (31710) LEASE, WELL NO. 1, WILLIS (STRAWN) FIELD, HASKELL
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, Ferrari Energy Services, 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. Ferrari Energy Services, LLC ("Respondent"), Operator No. 266561, 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: Ferrari Energy Services LLC, P.O Box 5269, Abilene, Texas 79608. Respondent's officer as identified on the Form P-5—Cary Lee Epley—was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to his last known address: Cary Lee Epley, Manager, Ferrari Energy Services, LLC, 2645 CR 174, Rochester, Texas 79544.
2. The certified mail and first class mail envelopes containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent were returned to the Commission unopened on November 28, 2016 and December 1, 2016 respectively. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to Cary Lee Epley, Manager was returned to the Commission on December 20, 2016. The first-class mail addressed to Cary Lee Epley, Manager was not returned. Record of the delivery and return of certified and first class 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 2011. On December 22, 2016, Respondent, a Limited Liability Company, filed a Form P-5 with the Commission reporting that its officers consist of the following individual: Cary Lee Epley.
4. Cary Lee Epley, Manager, 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 active. Respondent had a \$25,000 letter of credit 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 Ferrari-Ziehr (31710) Lease, Well No. 1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective December 1, 2014, approved February 5, 2015.
8. Commission inspection reports made on July 18, 2016, August 23, 2016, and September 28, 2016 for the Ferrari-Ziehr (31710) Lease indicated there was an affected area of hydrocarbon pollution located inside the firewall, measuring approximately 20' x 20' x 3".
9. 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.
10. 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.
11. 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 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."

12. Commission District Office inspections were conducted on July 18, 2016, August 23, 2016, and September 28, 2016 for the Ferrari-Ziehr (31710) Lease indicated that Respondent had failed to dewater and backfill a freshwater pit, measuring approximately 300' x 300" x 5', within a year of cessation of drilling operations. Commission records show the well was drilled in August 2014.
13. Reserve pits and mud circulation pits that are not maintained, emptied and backfilled, as set forth in Statewide Rule 8(d)(4)(H)(i)(I), 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.
14. According to Petar Buva, Field Operations, "Open reserve pits are considered a potential hazard because they could become convenient sites for illegal dumping of waste and also because they become containers for surface run-off that increases the potential for seepage to subsurface waters."
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)(1) and 8(d)(4)(H)(i)(I). 16 TEX. ADMIN. CODE §§ 3.8(d)(1) and 3.8(d)(4)(H)(i)(I).
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 8(d)(1), which prohibits the discharge of oil and gas waste without a permit.

7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(4)(H)(i)(I), which requires that reserve pits and mud circulation pits be maintained, emptied and backfilled within one year of cessation of drilling operations.
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 **TWENTY-FIVE THOUSAND, SIX HUNDRED TWENTY DOLLARS (\$25,620.00)** is justified considering the facts and violations at issue, consisting of one violation of Statewide Rule 8(d)(1) for \$500.00, plus \$0.30 per square foot with total affected area of 400 square feet at \$120.00 for a total \$620.00 for Statewide Rule 8(d)(1) and one violation of Statewide Rule 8(d)(4)(H)(i)(I) at \$2,500.00, plus \$0.25 per square foot of pit area with a total pit area of 90,000 square feet at \$22,500.00 for a total of \$25,000.00 for Statewide Rule 8(d)(4)(H)(i)(I). The total penalty amount for this docket is \$25,620.00.
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, Cary Lee Epley, 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. Ferrari Energy Services, LLC (Operator No. 266561) shall place the Ferrari-Ziehr (31710) Lease, Well No. 1 in compliance with Statewide Rules 8(d)(1) and 8(d)(4)(H)(i)(I), and any other applicable Commission rules and statutes.
2. Ferrari Energy Services, LLC (Operator No. 266561) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWENTY-FIVE THOUSAND, SIX HUNDRED TWENTY DOLLARS (\$25,620.00)**.

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, Cary Lee Epley 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/rnf/dc