

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 7B-0303064

ENFORCEMENT ACTION AGAINST VACA OPERATING COMPANY LLC (OPERATOR NO. 881161) FOR VIOLATION OF STATEWIDE RULE ON THE BRENDER (154865) LEASE, WELL NO. 1, DOUBLE DIAMOND (STRAWN) FIELD, PARKER 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 April 25, 2017, and that the respondent, Vaca Operating Company 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. Vaca Operating Company LLC ("Respondent"), Operator No. 881161, 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: Vaca Operating Company LLC, 15135 Sunset Boulevard Ste 200, Pacific Plsds CA 90272. Respondent's agent and officer as identified on the Form P-5—Ct Corporation System, Resident Texas Agent and Partain, Peter Joseph, Manager—were sent the Original Complaint and Notice of Opportunity for Hearing by certified and first-class mail, addressed to their last known address: Ct Corporation System, Resident Texas Agent, Partain, Peter Joseph, Manager, 14714 Whitfeld Ave, Pacific Plsds CA 90272, and Partain, Peter Joseph, Manager, c/o Banner Operating LLC, 7500 Rialto Bldg. 2 Suite 280, Austin TX 78735.
2. The certified mail envelopes containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent and Partain, Peter Joseph at the Whitfeld address were returned to the Commission unopened on May 1, 2017. The Certified Mail envelope addressed to Partain, Peter Joseph was received at the Rialto address on March 28, 2017. 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 2002. On June 27, 2008, Respondent, a Ltd Liability Co, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Partain, Peter Joseph.
4. Partain, Peter Joseph 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 \$12,580.00 cash deposit 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 Brender (154865) Lease, Well No. 1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective March 1, 2002, approved March 20, 2002.
7. Commission inspection reports made on September 12, 2016 and October 27, 2016, and the absence of reported production since March 2002, showed that the Brender (154865) Lease, Well No. 1 has been inactive for a period greater than one year. No production has been reported on this well since its completion on March 20, 1995.
8. No workovers, re-entries, or subsequent operations have taken place on the subject well within the last twelve months; the subject well has not been properly plugged in accordance with Statewide Rule 14, 16 Tex. Admin Code § 3.14; and no plugging extensions are in effect for the subject well as allowed by Statewide Rule 14.
9. Usable quality groundwater in the area can become contaminated by migrations or discharges of saltwater and other oil and gas waste from the subject well. 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.
10. According to an 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."
11. The total estimated cost to the State for plugging the Brender (154865) Lease, Well No. 1 is \$11,000.00.
12. The 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 Rule 14(b)(2). 16 TEX. ADMIN. CODE § 3.14(b)(2).
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 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. 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.
8. An assessed administrative penalty in the amount of **THREE THOUSAND, NINE HUNDRED NINETY DOLLARS (\$3,990.00)** is justified considering the facts and violations at issue.
9. 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, Partain, Peter Joseph, and any other organization in which this individual 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. Vaca Operating Company LLC (Operator No. 881161) shall place the Brender (154865) Lease, Well No. 1, in compliance with Statewide Rule 14(b)(2), and any other applicable Commission rules and statutes.
2. Vaca Operating Company LLC (Operator No. 881161) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **THREE THOUSAND, NINE HUNDRED NINETY DOLLARS (\$3,990.00)**.

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, Partain, Peter Joseph, and any other organization in which this individual 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 23th day of May, 2017.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master
Order dated May 23, 2017)

CJH/dac