



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

PROPOSAL FOR DECISION

OIL AND GAS DOCKET No. 8A-0301472

ENFORCEMENT ACTION AGAINST COBALT OPERATING, LLC (OPERATOR NO. 162726) FOR VIOLATIONS OF STATEWIDE RULES ON THE MILESTONE LEASE, WELL NO. 1 (DRILLING PERMIT NO. 786542), LANDON (DEVONIAN) FIELD, YOAKUM COUNTY, TEXAS

APPEARANCES

FOR THE RAILROAD COMMISSION OF TEXAS:

David Bell, Staff Attorney, Enforcement Section
Petar Buva, Engineering Specialist, Field Ops

FOR COBALT OPERATING, INC.

Mark Burkett

PROCEDURAL HISTORY:

Notice of Hearing:	August 22, 2017
Hearing on the merits:	October 12, 2017
Record closed:	October 12, 2017
Proposal for Decision issued:	November 15, 2017
Heard by:	Clayton J. Hoover, Administrative Law Judge

SUMMARY

In Docket No. 8A-0301472, the Railroad Commission of Texas ("Staff") alleges that Cobalt Operating, LLC (Operator No. 162726), ("Cobalt"), is in violation of Statewide Rule 3, Rule 14(b)(2), and Rule 16(b)(1) at Cobalt's Milestone Lease, Well No. 1 (Drilling Permit No. 786542), located in Yoakum County, Texas.

Cobalt's Managing Member, Mark Burkett, appeared at hearing, recounted the various operations and the current status of the well, but failed to present evidence sufficient to demonstrate that Cobalt is not in violation of Commission Rules and the Texas Natural Resources Code, as alleged by Staff.

The record evidence supports all violations as alleged by Staff. Staff seeks an administrative penalty of \$18,100.00 and requests that the Lease be brought into compliance with all Commission Statewide Rules.

APPLICABLE AUTHORITY

SWR 3, titled *Identification of Properties, Wells, and Tanks*:

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 where tanks are not utilized thereon, shall at all times be clearly identified as follows.

(1) A sign shall be posted at the principal entrance to each such property which shall show the name by which the property is commonly known and is carried on the records of the commission, the name of the operator, and the number of acres in the property.

(2) A sign shall be posted at each well site which shall show the name of the property, the name of the operator, and the well number.

(3) A sign shall be posted at or painted on each oil stock tank and on each remotely located satellite tank, or on each approved crude oil measuring facility where tanks are not utilized, that is located on or serving each property, which signs shall show, in addition to the information provided for in paragraph (1) of this section, the commission lease number for the formation from which oil in the tank, or in an approved crude oil measuring facility, is produced, and where oil from more than one formation is commingled in the same tank, or in an approved crude oil measuring facility, the sign shall show the number of the commission permit that authorized the commingling of the oil; provided that, if there is more than one tank in a battery which contains oil from only one formation or oil from different formations that is commingled pursuant to a single commingling permit, it will not be necessary for the sign to be posted at or painted on each tank if the sign posted at or painted on a tank in the battery shows the required information

and clearly identifies, by tank number or otherwise, the tanks to which the information is applicable.

(4) If a well is separately completed in two or more producing formations, the wellhead valve and flow line serving each separate formation shall be identified by a metal tag or other lettering attached to or painted on either the valve or flow line which shows the name of the formation and identifies the completion string of casing or tubing, as for example "C" for casing; "UT" for upper tubing; "LT" for lower tubing, etc., each being preceded or followed by the name of the producing formation.

(5) The signs and identification required by this section shall be in the English language, clearly legible, and in the case of the signs required by paragraphs (1), (2), and (3) of this section shall be in letters and numbers at least one inch in height.

SWR 14(b)(2), addressing *Plugging*:

(2) 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 Commission or its delegate approves a plugging extension under §3.15 of this title (relating to Surface Equipment Removal Requirements and Inactive Wells).

SWR 16(b)(1), addressing *Completion and Plugging Reports*:

(b) Completion and plugging reports.

(1) The operator of a well shall file with the commission the appropriate completion report within 90 days after completion of the well or within 150 days after the date on which the drilling operation is completed, whichever is earlier.

EVIDENCE PRESENTED

STAFF'S CASE

Staff offered into evidence four exhibits and the testimony of Mr. Petar Buva—a Railroad Commission of Texas Engineering Specialist. Staff presented exhibits showing Cobalt's active P-5 and information on the Milestone Lease, Well No. 1 (Drilling Permit No. 786542), including a series of District Office inspection reports (accompanied by photographic evidence) of the Lease—each prepared on various dates by the Commission's Oil and Gas Division, District 8A.¹ Each District Office inspection report summarily describes conditions found at the Lease on the date that the inspection took place.²

¹ Staff Exh. 5

² Staff Exh. 5

Staff states that Railroad Commission records and the above-described Inspection Reports (accompanied by photographic evidence) demonstrate violations of Statewide Rule 3, Rule 14(b)(2), and Rule 16(b)(1) and that the Lease has not been brought into compliance.

Staff maintains that Cobalt violated Statewide Rule 3, Rule 14(b)(2), and Rule 16(b)(1) by not posting the required sign(s), by not plugging the well, and by not filing a completion or plugging report. Staff requests that Cobalt be assessed administrative penalties in the amount of \$18,100.00 and ordered to place the Lease and Well into compliance with all Commission rules and regulations.

COBALT'S CASE

Cobalt's Managing Member, Mark Burkett, appeared at hearing, but failed to provide evidence, or otherwise articulate a legal basis, to contradict proof that it is responsible for violations of Statewide Rule 3, Rule 14(b)(2), and Rule 16(b)(1).

ADMINISTRATIVE LAW JUDGE OPINION

While Cobalt's Managing Member, Mark Burkett, did appear at the hearing, recounted the various operations and the current status of the well, Cobalt offered no evidence to contradict proof that it is responsible for violations of Statewide Rule 3, Rule 14(b)(2), and Rule 16(b)(1). Without evidence to the contrary, the record in this case consists of undisputed evidence that Cobalt committed the violations as alleged by Staff.

Cobalt has no history of violations of Commission rules and regulations.

The Administrative Law Judge recommends that the Commission assess Cobalt an administrative penalty in the amount of \$18,100.00, and to order Cobalt to bring the Lease and Well into compliance with all Commission rules and regulations. The maximum penalty available under Tex. Admin. Code §83.051(b)(1) would be \$10,000 per violation per day with each day constituting a separate violation under §83.051(b-1). The violations continued for over 240 days, and staff found no evidence of good faith. Staff used the Penalty Guidelines of Rule 107 to arrive at the recommended penalty contained herein of \$18,100.00.

CONCLUSION

The Administrative Law Judge agrees with Staff that Cobalt has violated Statewide Rule 3, Rule 14(b)(2), and Rule 16(b)(1) and makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Cobalt Operating, LLC (Operator Number 162726) was given at least ten (10) days notice of this hearing by certified mail sent to its most recent Form P-5 address.
2. Cobalt Operating, LLC appeared at the hearing through Mark Burkett, Principal.
3. As established by Cobalt Operating, LLC's most recent Form P-5 *Organization Report*, Cobalt Operating, LLC is a Limited Liability Company, with Mark Burkett as its managing member.
4. Cobalt Operating, LLC. designated itself as the operator of the Milestone Lease, Well No. 1 (Drilling Permit No. 786542), by filing a Commission Form W-1, dated May 8, 2014.
5. The violation in this docket is a violation of Commission rules related to safety and the prevention or control of pollution.
6. Cobalt Operating, LLC violated Statewide Rule 3, Rule 14(b)(2), and Rule 16(b)(1) by not posting the required sign, by not plugging the well, and by not filing a completion or plugging report.
7. District Office field inspections conducted from February 11, 2016 to December 29, 2016 revealed that Cobalt Operating, LLC's Milestone Lease, Well No. 1 (Drilling Permit No. 786542) is in violation of Statewide Rule 3, Rule 14(b)(2), and Rule 16(b)(1).
8. Cobalt Operating, Inc. has no prior history of violations of Commission rules.
9. For purposes of TEX. NAT. RES. CODE § 91.114, at all times relevant hereto, Mark Burkett, as Managing Member, was the person who held a position of ownership or control in Cobalt Operating, LLC
10. Cobalt Operating, LLC acted in bad faith because it failed to correct a Commission rule violation on the subject lease and failed adequately to explain its inaction to the Commission.

CONCLUSIONS OF LAW

1. Proper notice of hearing was timely issued to the appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.

3. Cobalt Operating, LLC violated Statewide Rule 3, Rule 14(b)(2), and Rule 16(b)(1) by not posting the required sign, by not plugging the well and by not filing a completion or plugging report.
4. The documented violations committed by Cobalt Operating, LLC constitute acts deemed serious and a hazard to the public health and safety within the meaning of Texas Natural Resources Code § 81.0531.
5. Cobalt Operating, LLC did not demonstrate good faith within the meaning of Texas Natural Resources Code § 81.0531.

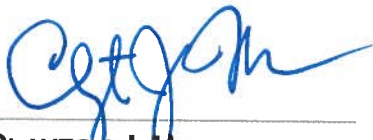
RECOMMENDATIONS

The Administrative Law Judge recommends that the above Findings of Fact and Conclusions of Law be adopted and that Cobalt Operating, LLC be assessed an administrative penalty of \$18,100.00, as discussed above.

The Administrative Law Judge also recommends that Cobalt Operating, LLC be directed to place the Milestone Lease, Well No. 1 (Drilling Permit No. 786542) fully into compliance with all Commission rules and regulations within 30 days of the date this order becomes final

The Administrative Law Judge also recommends that Cobalt Operating, LLC and Mark Burkett be made subject to the restrictions of TEX. NAT. RES. CODE § 91.114.

RESPECTFULLY SUBMITTED,



CLAYTON J. HOOVER
Administrative Law Judge