

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET No. 05-0306611

ENFORCEMENT ACTION AGAINST KIM RECOVERY ENTERPRISES, LLC (OPERATOR NO. 461694) FOR VIOLATIONS OF STATEWIDE RULES ON THE RYSER (04024) LEASE, WELL NO. 1, HONEY GROVE (SIMPSON SAND) FIELD, FANNIN 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 8, 2018, and that the respondent, Kim Recovery Enterprises, LLC, failed to appear or respond to the **Notice of Hearing**. Pursuant to § 1.25 of the Commission's General Rules of Practice and Procedure, 16 TEX. ADMIN. CODE § 1.25, 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. Kim Recovery Enterprises, LLC ("Respondent"), Operator No. 461694, was sent the Original Complaint and Notice of Hearing by certified and first-class mail, addressed to the most recent Commission Form P-5 (Organization Report) ("Form P-5") address. Respondent's agent and officer as identified on the Form P-5—Vincent Neuhaus and James Marion Coddington—were sent the Original Complaint and Notice of Hearing by certified and first-class mail, addressed to the last known addresses.
2. The certified mail envelope containing the Original Complaint and Notice of Hearing addressed to the Respondent was returned to the Commission unopened on January 8, 2018. The Certified Mail envelope addressed to Vincent Neuhaus was delivered on December 14, 2017. The Certified Mail envelope addressed to James Marion Coddington was returned to the Commission unopened on January 8, 2018. None of the first-class mail was 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 Hearing. Respondent has not entered into an agreed settlement order, filed an answer or requested a hearing.
3. On February 1, 2013, Respondent, a limited liability company, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: James Marion Coddington, Member/General Manager.
4. James Marion Coddington was in a position of ownership or control of Respondent, as defined in TEX. NAT. RES. CODE § 91.114, during the time period of the violations of Commission rules committed by Respondent.
5. Respondent's Form P-5 is delinquent. Respondent had a \$25,000.00 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 Ryser (04024) Lease, Well No. 1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective October 18, 2012, approved February 11, 2014.

7. Commission inspection reports made on December 14, 2016, June 2, 2017, July 18, 2017, and August 8, 2017, and the absence of reported production since November 2012, showed that the Ryser (04024) Lease, Well No. 1 has been inactive for a period greater than one year. Production from the subject lease ceased on or before October 2012.
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. The total estimated cost to the State for plugging the Ryser (04024) Lease Well No. 1 is \$71,147.50.
11. Commission inspection reports made on December 14, 2016, June 2, 2017, July 18, 2017, and August 8, 2017 for the Ryser (04024) Lease, Well No. 1, showed that the firewall was overgrown with excessive vegetation.
12. Failure to remove trees and vegetation from within the firewall, as required by Statewide Rule 21(i), creates a fire hazard.
13. 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 TEX. NAT. RES. CODE, chs. 89 and 91.
4. Respondent is in violation of Statewide Rules 14(b)(2) and 21(i). 16 TEX. ADMIN. CODE §§ 3.14(b)(2) and 3.21(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 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. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 21(i), which requires that any rubbish or debris that might constitute a fire hazard shall be removed to a distance of at least 150 feet from the vicinity of any well, tank, or pump station. All waste shall be burned or disposed of in such manner as to avoid creating a fire hazard.
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 **ELEVEN THOUSAND, FIVE HUNDRED FIFTY DOLLARS (\$11,550.00)** is justified considering the facts and violations at issue.
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, James Marion Coddington, and any other organization in which this individual may hold a position of ownership or control, is subject to the restriction in TEX. NAT. RES. CODE § 91.114(a)(2).

ORDERING PROVISIONS

IT IS ORDERED THAT within 30 days from the day immediately following the date this order becomes final:

1. Kim Recovery Enterprises, LLC (Operator No. 461694) shall place the Ryser (04024) Lease, Well No. 1, in compliance with Statewide Rules 14(b)(2) and 21(i), and any other applicable Commission rules and statutes.
2. Kim Recovery Enterprises, LLC (Operator No. 461694) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **ELEVEN THOUSAND, FIVE HUNDRED FIFTY DOLLARS (\$11,550.00)**.

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, James Marion Coddington, and any other organization in which this individual may hold a position of ownership or control, **shall be subject to the restriction in TEX. NAT. RES. CODE § 91.114(a)(2) 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 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 100 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 per day per violation.

Done this 10th day of April 2018.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated April 10, 2018)

RLM/rnf