

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL**

OIL AND GAS DOCKET NO. 09-0315461

ENFORCEMENT ACTION AGAINST POSTPEAK, LLC (OPERATOR NO. 671885) FOR VIOLATIONS OF STATEWIDE RULES ON THE OLIVER (25655) LEASE, WELL NOS. 1, G 1, G 3, G 4, 6, 7, 10, 11, 20, 25, 26, 27, 31, 32, 33, 38, 40, 44, 45, 46, 51, 53, 54, 59, 60, 61, 62, 66, 68, AND 202, ARCHER COUNTY REGULAR FIELD, ARCHER COUNTY, TEXAS

FINAL ORDER

The Railroad Commission of Texas ("Commission") finds that statutory notice of the captioned enforcement proceeding was provided pursuant to Commission rules, and that the respondent, Postpeak, LLC, failed to appear or respond to the **Notice of Opportunity for Hearing**. Pursuant to § 1.25 of the Commission's General Rules of Practice and Procedure, 16 Texas Administrative 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. Postpeak, LLC ("Respondent"), Operator No. 671885, 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.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent was received on July 12, 2019. 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. On April 25, 2017, Respondent, a limited liability company, filed a Form P-5 with the Commission reporting that its officer consists of the following individual:
4. Respondent's Form P-5 is delinquent. Respondent had a \$50,000.00 letter of credit as its financial assurance at the time of the last Form P-5 annual renewal submission.
5. Steven M. Harris was in a position of ownership or control of Respondent, as defined in Texas Natural Resources Code § 91.114, during the time period of the cited violations of Commission rules committed by Respondent.
6. Greig S. Latham was in a position of ownership or control of Respondent, as defined in Texas Natural Resources Code § 91.114, during the time period of the cited violations of Commission rules committed by Respondent.

7. Respondent designated itself to the Commission as the operator of the Oliver (25655) Lease, Well Nos. 1, G 1, G 3, G 4, 6, 7, 10, 11, 20, 25, 26, 27, 31, 32, 33, 38, 40, 44, 45, 46, 51, 53, 54, 59, 60, 61, 62, 66, 68, and 202, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective November 1, 2011, approved November 14, 2011.
8. Commission inspection reports made on August 15, 2018, and September 10, 2018 for the Oliver (25655) Lease, Well Nos. G 1, G 3, G 4, and 202 show that the signs or identification required to be posted at the well locations were missing for Well Nos. G 3 and 202 and incorrect for Well Nos. G 1 and G 4.
9. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rule 3(2), may cause confusion as to the responsible operator to be contacted and the actual location of a violation or emergency, which can result in delays in remedying a violation or emergency.
10. Commission inspection reports made on August 15, 2018, and September 10, 2018 for the Oliver (25655) Lease, show the following areas of oil and gas contaminated soil: 60 square feet at Well No. 10, 144 square feet at Well No. 31, 144 square feet at Well No. 32, 120 square feet at Well No. 35, and 60 square feet at Well No. 45.
11. 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.
12. 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.
13. Commission district inspection reports made on August 15, 2018, and September 10, 2018 for the Oliver (25655) Lease show that Well Nos. 38, 40, and 202 were open to the atmosphere.
14. Wells left uncontrolled or open to the atmosphere, in violation of Statewide Rule 13(a)(6)(A), may discharge oil and gas waste onto the land surface and affect the health of humans and animals; these discharges may eventually make their way to surface or subsurface waters, causing pollution.
15. Commission inspection reports made on August 15, 2018, and September 10, 2018, and the absence of reported production since June 2017, showed that the Oliver (25655) Lease, Well Nos. 1, G 1, G 3, G 4, 6, 7, 10, 20, 25, 26, 27, 31, 32, 33, 38, 40, 44, 45, 46, 51, 53, 54, 59, 60, 61, 62, 66, 68, and 202 have been inactive for a period greater than one year. Production from the subject lease ceased on or before May 2017.
16. 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.
17. 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.

18. The total estimated cost to the State for plugging the Oliver (25655) Lease Well Nos. 1, G 1, G 3, G 4, 6, 7, 10, 20, 25, 26, 27, 31, 32, 33, 38, 40, 44, 45, 46, 51, 53, 54, 59, 60, 61, 62, 66, 68, and 202 is \$41,823.36.
19. Commission District inspection reports made on August 15, 2018, and September 10, 2018 on the Oliver (25655) Lease, Well No. 40, and a review of Commission records, show that Respondent reported that this well was plugged and abandoned on April 25, 2013, but that the well was open to the atmosphere, Commission staff did not tag any cement five feet downhole, and the casing has not been cut off at least three feet below the ground surface.
20. Improperly plugged wells may cause pollution of useable quality ground water and surface water, as defined in Statewide Rule 8(a)(28) [16 Texas Administrative Code § 3.8(a)(28)], by serving as a conduit for the passage of oil, gas, saltwater, and other substances from one stratum or formation to another or to the surface or from the surface downward.
21. Commission District inspection reports made on August 15, 2018, and September 10, 2018 on the Oliver (25655) Lease, Well No. 11, 26, 66, and 68, and a review of Commission records, indicate that mechanical integrity tests have not been run and no Form H-5 has been filed for Well No. 11, 26, 66, and 68.
22. Failure to test an injection well may lead to failure to detect fluid leaks and lead to pollution.
23. 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 Texas Natural Resources Code, Chapters 89 and 91.
4. Respondent is in violation of Statewide Rules 3(2), 8(d)(1), 13(a)(6)(A), 14(b)(2), 14(d)(8), and 46(j). 16 Texas Administrative Code §§ 3.3(2), 3.8(d)(1), 3.13(a)(6)(A), 3.14(b)(2), 3.14(d)(8), and 3.46(j).
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 Texas Natural Resources Code § 81.0531(c).
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3(2), which requires that each well site that produces oil, gas, or geothermal resources shall post signs or identification showing the name of the property, name of the operator and the well number.

7. 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.
8. Respondent is responsible for maintaining surface control of a well by using wellhead assemblies in compliance with Statewide Rule 13(a)(6)(A). Maintenance of surface control is necessary not only to prevent fluids from being discharged from the wellbore onto the ground surface, but also to prevent any oil and gas wastes present in the wellbore from being displaced to surface by influxes of surface water into the open wellbore.
9. 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.
10. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 14(d)(8), which requires that when an onshore well is plugged, a ten-foot cement plug must be placed in the top of the well and the casing must be cut off three feet below the ground surface.
11. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 46(j), which require that each injection well shall be pressure-tested at least once every five years to determine if there are leaks in the casing, tubing, or packer.
12. Pursuant to Texas Natural Resources 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.
13. An assessed administrative penalty in the amount of **ONE HUNDRED NINE THOUSAND, THREE HUNDRED NINETY-FIVE DOLLARS (\$109,395.00)** is justified considering the facts and violations at issue.
14. Respondent violated Commission rules related to safety and the control of pollution. Any other organization in which an officer of this organization holds a position of ownership or control, is subject to the restriction in Texas Natural Resources Code § 91.114.

ORDERING PROVISIONS

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

1. Postpeak, LLC (Operator No. 671885) shall place the Oliver (25655) Lease, Well Nos. 1, G 1, G 3, G 4, 6, 7, 10, 11, 20, 25, 26, 27, 31, 32, 33, 38, 40, 44, 45, 46, 51, 53, 54, 59, 60, 61, 62, 66, 68, and 202, in compliance with Statewide Rules 3(2), 8(d)(1), 13(a)(6)(A), 14(b)(2), 14(d)(8), and 46(j), and any other applicable Commission rules and statutes.

2. Postpeak, LLC (Operator No. 671885) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **ONE HUNDRED NINE THOUSAND, THREE HUNDRED NINETY-FIVE DOLLARS (\$109,395.00)**.

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 Texas Government Code § 2001.142, by agreement under Texas Government Code § 2001.147, or by written Commission order issued pursuant to Texas Government 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 Texas Government 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.

Any other organization in which an officer of this organization holds a position of ownership or control at the time Respondent violated Commission rules related to safety and the control of pollution, **shall be subject to the restriction in Texas Natural Resources 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.

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.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order

dated IAN 14 2020)

MAG/wcd