

RAILROAD COMMISSION OF TEXAS

OIL AND GAS DOCKET NO. 00003132

**ENFORCEMENT ACTION AGAINST APEX ENERGY, INC. (OPERATOR NO. 027424)
FOR VIOLATIONS OF STATEWIDE RULES ON THE LENTZ LEASE, WELL NO. 1C
(GAS ID NO. 02-215071), VIC-WITT FIELD, DE WITT COUNTY, TEXAS**

FINAL ORDER

The Railroad Commission of Texas ("Commission") finds that after statutory notice of the captioned enforcement proceeding Apex Energy, Inc. ("Respondent"), 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 Commissioners 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. Respondent, Operator No. 027424, 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 delivered on June 17, 2020. The first-class mail was not returned. Record of the delivery or 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.
3. On March 5, 2018, Respondent, a corporation, filed a Form P-5 with the Commission reporting that its officers consist of the following individual: Judy Schultz.
4. Judy Schultz 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 violations of Commission rules committed by Respondent.
5. Respondent designated itself to the Commission as the operator of the Lentz Lease, Well No(s). 1 (Gas ID No. 02-215071), by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective April 1, 2018, approved April 25, 2018.
6. Commission District inspection reports made on August 6, 2019, and February 13, 2020, for the Lentz Lease, WELL NO. 1C C (Gas ID No. 02-215071), show that the sign or identification required by Statewide Rule 3(1), [16 Texas Administrative Code § 3.3(1)], to be posted at the lease entrance displayed incorrect information.

7. Commission District inspection reports made on August 6, 2019, and February 13, 2020 for the Lentz Lease, WELL NO. 1C C (Gas ID No. 02-215071) show that the sign or identification required by Statewide Rule 3(2), [16 Texas Administrative Code § 3.3(2)], to be posted at the well displayed incorrect information.
8. Commission District inspection reports made on August 6, 2019, and February 13, 2020, for the Lentz Lease, WELL NO. 1C C (Gas ID No. 02-215071) show that the sign or identification required by Statewide Rule 3(3), [16 Texas Admin. Code § 3.3(3)], to be posted at the tank displayed incorrect information.
9. In the event of a pollution or safety violation or other emergency, the lack of legible signs and identification displaying correct information may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency. Such confusion will cause delays in containing and remediating the violation or emergency.
10. Commission District inspection reports made on August 6, 2019, and February 13, 2020 on the Lentz Lease, WELL NO. 1C C (Gas ID No. 02-215071), and the absence of reported production since November 2008, showed that the Lentz Lease, WELL NO. 1C C (Gas ID No. 02-215071) has been inactive for a period greater than one year. Production from the subject lease ceased on or before October 2008.
11. No workovers, re-entries, or subsequent operations have taken place on the subject wells in this complaint within the last 12 months; the subject wells have not been plugged; and no plugging extensions are in effect for the subject wells as allowed by Statewide Rule 14.
12. Unplugged wellbores are likely to cause pollution of usable 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.
13. Pursuant to calculations by Commission District Office personnel, the total estimated cost to the State for plugging the Lentz Lease, WELL NO. 1C C (Gas ID No. 02-215071) is \$47,645.00. Commission records indicate that WELL NO. 1C C (Gas ID No. 02-215071) measure 5,408 feet deep.

CONCLUSIONS OF LAW

1. The Commission properly noticed 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 Lentz Lease, Well Nos. 1 (Gas ID No. 02-215071) in compliance with all applicable Commission rules and Texas Natural Resource Code §§ 89 and 91.

4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3(1), [16 Texas Administrative Code § 3.3(1)], which requires that a sign be posted at the principal entrance of the property with the name of the property as carried on the records of the Commission, the name of the operator, and the number of acres in the property.
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3(2), [16 Texas Administrative Code § 3.3(2)], which requires that a sign be posted at each well site with the name of the property, the name of the operator, and the well number.
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3(3), [16 Texas Admin. Code § 3.3(3)], which requires that sign or painted identification at each tank battery, satellite tank or approved crude oil measuring facility where tanks are not utilized, which must show the name of the property as carried on the records of the Commission, the name of the operator, the number of acres in the property, the Commission lease number for the formation from which the oil or gas is produced, and if applicable the number of the Commission permit that authorizes commingling of oil.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 14(b)(2) [16 Texas Administrative Code § 3.14(b)(2)], which requires the commencement of plugging operations on each dry or inactive well within one year after drilling or operations cease, unless the operator is eligible for and obtains an extension of the plugging deadline under Statewide Rule 15 [16 Texas Administrative Code § 3.15]. Under Statewide Rule 14(c)(1), the entity designated as the operator of a well specifically identified on the most recent Commission approved operator designation form filed on or after September 1, 1997 is responsible for properly plugging the well in accordance with Statewide Rule 14 and all other applicable Commission rules and regulations concerning plugging of wells.
8. Respondent is in violation of Statewide Rule 3(1), 3(2), 3(3), and 14(b)(2). 16 Tex. Administrative Code § 3.3(1), 3.3(2), 3.3(3), and 3.14(b)(2).
9. 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 Resource Code § 81.0531(c).
10. Pursuant to Texas Natural Resource 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.
11. An assessed administrative penalty in the amount of **NINE THOUSAND NINE HUNDRED EIGHT DOLLARS (\$9,908.00)** is justified considering the facts and violations at issue.

ORDERING PROVISIONS

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

1. Apex Energy, Inc. (Operator No. 027424) shall plug the Lentz Lease, Well Nos. 1 (Gas ID No. 02-215071), in compliance with Statewide Rule 14(b)(2) and otherwise place the subject leases in compliance with Statewide Rules 3(1), 3(2), 3(3), and 14(b)(2) and any other applicable Commission rules and statutes.
2. Apex Energy, Inc. (Operator No. 027424) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **NINE THOUSAND NINE HUNDRED EIGHT DOLLARS (\$9,908.00)**

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.

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 SEP 22 2020)

MAG/wcd