

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

OIL AND GAS DOCKET NO. 00001611

ENFORCEMENT ACTION AGAINST KODY PETROLEUM CO., INC. (OPERATOR NO. 473774) FOR VIOLATION OF STATEWIDE RULE ON THE LONG (03-03184) LEASE, WELL NOS. 3D, 4D, 21, 21A, 23, 24, AND 26, NOME FIELD, JEFFERSON 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, Kody Petroleum Co., Inc., 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. Kody Petroleum Co., Inc. ("Respondent"), Operator No. 473774, 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 May 13, 2020. 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 February 12, 2018, Respondent, a corporation, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Patricia A. Harrison, President/Secretary.
4. Respondent's Form P-5 is delinquent. Respondent had a \$50,000.00 cash deposit as its financial assurance at the time of the last Form P-5 annual renewal submission.
5. Respondent designated itself to the Commission as the operator of the Long (03-03184) Lease, Well Nos. 3D, 4D, 21, 21A, 23, 24, and 26, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective April 1, 2011, approved November 3, 2011.
6. Well Nos. 3D and 4D of the Long (03-03184) Lease are permitted disposal wells. Commission District inspection reports made on June 11, 2019, August 13, 2019, September 30, 2019 and

April 15, 2020, and the absence of reported injection since December 2017 for Well No. 3D, and January 2018 for Well No. 4D, and the absence of reported production since February 2017, show that the Long (03-03184) Lease has been inactive for a period greater than one year. Injection into Well No. 3D ceased in November 2017, and injection into Well No. 4D ceased in December 2017. Production from Well Nos. 21, 21A, 23, 24 and 26 ceased in January 2017.

7. No workovers, re-entries, or subsequent operations have taken place on the subject wells within the last twelve months and the subject wells have not been properly plugged in accordance with Statewide Rule 14. 16 Tex. Admin. Code § 3.14. No plugging extensions are in effect for the subject wells as allowed by Statewide Rule 14.
8. 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.
9. The total estimated cost to the State for plugging the Long (03-03184) Lease, Well Nos. 3D, 4D, 21, 21A, 23, 24, and 26, is \$250,000.00.
10. Well Nos. 3D and 4D of the Long (03-03184) Lease are permitted disposal wells. According to Commission records, the subject wells were due for disposal/injection well pressure tests on April 30, 2017. Commission records show Respondent has failed to pressure test Well Nos. 3D and 4D of the Long (03-03184) Lease. Respondent violated Statewide Rule 9(12).
11. Disposal wells must pass a pressure test at least once every five years, or as required by permit, to show that the well is not leaking, and that the usable quality water zones are properly isolated. Any disposal of fluid down a wellbore could be a potential source of pollution. Without testing and supporting documentation, as required by Statewide Rule 9(12), the Commission cannot determine if a well poses a threat to natural resources.
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 Texas Natural Resources Code, Chapters 89 and 91.
4. Respondent is in violation of Statewide Rule 14(b)(2) and 9(12). 16 Tex. Admin. Code §§ 3.14(b)(2) and 3.9(12).

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 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 9(12), which requires operators who engage in disposal operations evaluate the mechanical integrity of each disposal well by conducting pressure tests to determine whether the well tubing, packer or casing have sufficient mechanical integrity to meet the performance standards of this rule.
8. 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.
9. An assessed administrative penalty in the amount of **SEVENTY-ONE THOUSAND SIX HUNDRED SEVENTY-SIX DOLLARS (\$71,676.00)** is justified considering the facts and violations at issue.
10. 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. Kody Petroleum Co., Inc. (Operator No. 473774) shall PLUG the Long (03-03184) Lease, Well Nos. 3D, 4D, 21, 21A, 23, 24, and 26, in compliance with Statewide Rule 14(b)(2) and shall place the wells into compliance with Statewide Rule 9(12), and any other applicable Commission rules and statutes.
2. Kody Petroleum Co., Inc. (Operator No. 473774) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SEVENTY-ONE THOUSAND SIX HUNDRED SEVENTY-SIX DOLLARS (\$71,676.00)**.

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 SEP 22 2020)

EMM/bt