

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

**OIL AND GAS DOCKET NO. 09-0263010**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY SUNDIAL RESOURCES, INC. (829483), AS TO THE WILKINS -B- (00361) LEASE, WELL NO. 5, AND THE WILKINS "A" (21759) LEASE, WELL NOS. A1, 2, 4, 9, 10 AND 11, ARCHER COUNTY REGULAR FIELD, ARCHER COUNTY, TEXAS**

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**FINAL ORDER**

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on November 4, 2010 and that the respondent, Sundial Resources, Inc. (829483), failed to appear or respond to the Notice of Hearing. Pursuant to § 1.49 of the Commission's General Rules of Practice and Procedure [Tex. R. R. Comm'n, 16 TEX. ADMIN. CODE § 1.49] and after being duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law.

**FINDINGS OF FACT**

1. Sundial Resources, Inc. (829483), ("Respondent") was given Notice of Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 Organization Report, which was returned to the Commission marked "unclaimed."
2. The returned certified receipt containing the Original Complaint and the Notice of Hearing mailed to Respondent's most recent P-5 address, was returned to the Commission marked "unclaimed" on November 9, 2010. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On July 17, 2009, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Andrew A. McDermett; President.
4. Andrew A. McDermett, was a person in a position of ownership or control of respondent, as defined by Texas Natural Resources Code Section 91.114, during the time period of the violations of Commission rules committed by respondent.
5. The violations of Commission rules committed by respondent are related to safety and the control of pollution.

6. Respondent designated itself to the Commission as the operator of Well No. 5 on the Wilkins -B- (00361) Lease and Well Nos. A1, 2, 4, 9, 10 and 11 on the Wilkins "A" (21759) Lease ("subject wells"/"subject leases") by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on July 1, 2003.
7. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on May 1, 2010. Respondent had a \$50,000.00 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
8. Well No. 5 on the Wilkins -B- (00361) Lease ceased production in February 1995.
9. Well Nos. 2, 4, 9, 10 and 11 on the Wilkins "A" (21759) Lease ceased production on or before February 2001.
10. Well No. A1 on the Wilkins "A" (21759) Lease is a permitted saltwater injection well and ceased injection in July 1993.
11. The Statewide Rule 14(b)(2) plugging extension for Well No. 5 on the Wilkins -B- (00361) Lease was denied on August 6, 2004 for failure to file an H-15.
12. The Statewide Rule 14(b)(2) plugging extension for Well No. A1 on the Wilkins "A" (21759) Lease was denied on March 29, 2004 for an H-5 (Mechanical Integrity) issue.
13. The Statewide Rule 14(b)(2) plugging extension for Well No. 2 on the Wilkins "A" (21759) Lease was denied on July 31, 2003 for an H-15 problem.
14. The Statewide Rule 14(b)(2) plugging extensions for Well Nos. 4, 9, 10 and 11 on the Wilkins "A" (21759) Lease were denied on August 6, 2004 for failure to file H-15's.
15. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
16. Usable quality groundwater in the area is likely to be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject wells. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
17. The estimated cost to the State of plugging Well No. 5 on the Wilkins -B- (00361) Lease is \$3,100.00.
18. The estimated cost to the State of plugging Well Nos. A1, 2, 4, 9, 10 and 11 on the Wilkins "A" (21759) Lease is \$22,500.00.

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19. Commission records indicate no Form H-15 (Test on an Inactive Well More Than 25 Years Old) has been filed and approved for the Wilkins -B- (00361) Lease, Well No. 5. Commission records further show the Wilkins -B- (00361) Lease, Well No. 5, was built on January 12, 1984 and an H-15 test was due in May 2004.
20. Commission records indicate no Form H-15 (Test on an Inactive Well More Than 25 Years Old) has been filed and approved for the Wilkins -A- (21759) Lease, Well Nos. 2, 4, 9, 10 and 11. Commission records further show Wilkins -A- (21759) Lease, Well 2 was completed on May 6, 1938 and had an unapproved H-15 test conducted on August 19, 2003; Well Nos. 4 and 9 were completed on January 12, 1984 and the H-15 tests were due in May 2004; Wilkins -A- (21759) Lease, Well No. 10 was completed on November 11, 1963 and an H-15 test was due in May 2004; and Wilkins -A- (21759) Lease, Well No. 11 was completed on November 14, 1963 and an H-15 test was due in May 2004.
21. Commission District inspections report were conducted on December 1, 2008, August 12, 2009 and October 28, 2010 for the Wilkins -A- (21759) Lease, Well No. A1. This well was permitted as an injection well and requires a five year mechanical integrity pressure test. Commission records indicate the last mechanical integrity test performed and approved on the Wilkins -B- (21759) Lease, Well No. A1, was dated September 5, 1992.
22. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject leases and wells in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
23. Respondent has a prior history of Commission rule violations including the following docket(s):  
  
Docket No. 09-0248585; Agreed Order Served: April 24, 2008; and  
Docket No. 09-0256289; Agreed Order Served: August 12, 2008.

## **CONCLUSIONS OF LAW**

1. Proper notice was issued by the Railroad Commission to Respondent and to all other appropriate persons legally entitled to notice.
2. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties in this hearing have been performed or have occurred.
3. Respondent is in violation of Commission Statewide Rules 14(b)(2), 14(b)(3) and 46(j).
4. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 14(b)(3), which requires the operator of any well more than 25 years old that becomes inactive shall plug the well or successfully conduct a fluid level or hydraulic pressure test establishing that the well does not pose a potential threat of harm to natural resources, including surface and subsurface water, oil and gas.

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5. Respondent is responsible for maintaining the subject lease in compliance with 46(j), which requires that the mechanical integrity of an injection well shall be evaluated by conducting pressure tests to determine whether the well tubing, packer, or casing have sufficient mechanical integrity.
6. Respondent is responsible for maintaining the subject leases and subject wells in compliance with all applicable Commission rules according to Statewide Rules 14, 58, and 79 and Chapters 89 and 91 of the Texas Natural Resources Code.
7. The documented violations committed by the respondent constitute acts deemed serious, a hazard to the public health, and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE ANN. §81.0531©.
8. 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, Andrew A. McDermott, and any other organization in which he may hold a position of ownership or control, shall be subject to the restrictions of Texas Natural Resource Code Section 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, whichever is earlier.

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

1. Sundial Resources, Inc. (829483), shall plug the Wilkins -B- (00361) Lease, Well No.5 and the Wilkins "A" (21759) Lease, Well Nos. A1, 2, 4, 9, 10 and 11, Archer County Regular Field, Archer County, Texas in compliance with applicable Commission rules and regulations; and
2. Sundial Resources, Inc. (829483), shall pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWENTY NINE THOUSAND DOLLARS (\$29,000.00)**.

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It is further **ORDERED** by the Commission that this order shall not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing 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. GOVT. 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 90 days from the date the parties are notified of the order.

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 \$10,000.00 per day per violation.

Done this 22nd day of March 2011.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated March 22, 2011)

CH/sa