

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

OIL AND GAS DOCKET NO. 09-0264642

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY SUNDIAL RESOURCES, INC. (829483), AS TO THE MEDLEN (15105) LEASE, WELL NO. 3, AND THE MEDLEN (17493) LEASE, WELL NO. 1, YOUNG COUNTY REGULAR FIELD, YOUNG COUNTY, TEXAS

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. 3 on the Medlen (15105) Lease and the Medlen (17493) Lease, Well No. 1 (“subject wells”/subject leases”) by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on October 1, 2005.
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. 3 on the Medlen (15105) Lease ceased injection in January 2003.
9. Well No. 1 on the Medlen (17493) Lease ceased production on or before April 2003.
10. The Statewide Rule 14(b)(2) plugging extension for Well No. 3 on the Medlen (15105) Lease was denied for other violations.
11. The Statewide Rule 14(b)(2) plugging extension for Well No.1 on the Medlen (17493) Lease was denied on July 24, 2006 for failure to file an H-15 test.
12. The subject wells have not been properly plugged in accordance with, and are not otherwise in compliance with, Statewide Rule 14.
13. Usable quality groundwater could have been 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.
14. The estimated cost to the State of plugging Well No. 3 on the Medlen (15105) Lease was \$2,300.00.
15. The estimated cost to the State of plugging Well No. 1 on the Medlen (17493) Lease was \$9,400.00.
16. The Medlen (15105) Lease, Well No. 3, was permitted as a saltwater disposal well on April 28, 1967 (Permit No. 08139). Commission records indicated that Respondent has failed to annually report to the Commission the results of its monitoring of the Medlen (15105) Lease, Well No. 3. The last annual injection well monitoring report for this well was for the period December 2006 thru November 2007.
17. Commission records indicate no Form H-15 (Test on an Inactive Well More Than 25 Years Old) had been filed and approved for the Medlen (17493) Lease, Well No. 1. Commission records further show that the Medlen (17493) Lease, Well No. 1 was completed on July 27, 1974, that an H-15 test was due in May 2006. A successful H-15 test was conducted and approved on January 30, 2010. The well has not been plugged.

18. The Respondent did not demonstrate 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.
19. Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 09-0248585; Agreed Order Served: April 24, 2008;
Docket No. 09-0256289; Agreed Order Served: August 12, 2008;
Docket No. 09-0259767; Final Order Served: September 29, 2009; and
Docket No. 09-0254087; Agreed Order Served: November 24, 2009.
18. On March 10, 2011, a P-4 transfer for the Medlen (15105) Lease was approved for Endure Exploration Company, Inc., becoming effective on March 1, 2011.
19. On August 24, 2010, a P-4 transfer for the Medlen (17493) Lease was approved for Endure Exploration Company, Inc., becoming effective on August 19, 2010.

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 was in violation of Commission Statewide Rules 9(11)(B), 14(b)(2) and 14(b)(3).
4. Respondent was responsible for maintaining the subject leases in compliance with Statewide Rule 9(11)(B), which requires that the results of the monitoring shall be reported annually to the Commission on the required form..
5. Respondent was responsible for maintaining the subject lease in compliance with 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.
6. Respondent was 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 pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **NINETEEN THOUSAND EIGHT HUNDRED DOLLARS (\$19,800.00)**.

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