

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

OIL AND GAS DOCKET NO. 7B-0261124

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY SUNDIAL RESOURCES, INC. (829483), AS TO THE J&B -C- (11895) LEASE, WELL NOS. 1C AND 2, AND THE JONES-BURROUGHS (28290) LEASE, WELL NOS. 3 AND 5, J.S. LEWIS (MARBLE FALLS) FIELD, BROWN 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 Amended 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 Amended 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 First Amended Original Complaint and the Amended 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 Nos. 1C and 2 on the J&B -C- (11895) Lease and Well Nos. 3 and 5 on the Jones & Burroughs (28290) Lease ("subject wells"/"subject leases") by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on August 19, 2008.
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 Nos. 1C and 2 on the J&B -C- (11895) Lease ceased production on or before October 31, 2004.
9. Well No. 3 on the Jones & Burroughs (28290) ceased production on or before November 10, 2006.
10. The Statewide Rule 14(b)(2) plugging extension for Well Nos. 1C and 2 on the J&B -C- (11895) Lease were denied on June 4, 2008 for failure to file H-15's.
11. The Statewide Rule 14(b)(2) plugging extension for Well No. 3 on the Jones & Burroughs (28290) Lease was denied on June 4, 2008 for failure to file an H-15.
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 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.
14. The estimated cost to the State of plugging Well Nos. 1C and 2 on the J&B -C- (11895) Lease is \$31,100.00 and Well No. 3 on the Jones & Burroughs Lease is \$15,700.00.
15. A Commission District inspection was conducted on November 21, 2008 for the Jones & Burroughs (28290) Lease. The signs or identification required to be posted at Well No. 5 displayed incorrect information and was missing at the tank.
16. A Commission District inspection conducted on November 3, 2009 for the Jones & Burroughs (28290) Lease indicate that the signs are now in compliance.
17. Failure to properly identify a well by the posting of the sign required by Statewide Rule 3 has the potential for causing confusion and delay in remedying a violation or emergency and poses a threat to the public health and safety.
18. A Commission District inspection was conducted on November 26, 2008 for the Jones & Burroughs (28290) Lease. There was pollution inside the firewall at the tank battery consisting of hydrocarbon and produced water in an area 15' x 4' to a depth of 1".
19. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.
20. The unpermitted discharges of oil and gas wastes or other substances or materials on the

subject lease constitute a hazard to public health and safety because leaks and spills of oil and produced waters onto soils can migrate into surface water bodies causing contamination or can leach into the ground and percolate through soils into groundwater supplies.

21. Commission District inspection reports conducted on November 3, 2009 and November 1, 2010 show that the pollution has been corrected. The time out of compliance was from November 26, 2008 to November 3, 2009.
22. Commission records indicate no Form H-15 (Test on an Inactive Well More Than 25 Years Old) had been filed and approved for the J&B -C- (11895) Lease, Well Nos. 1C and 2. Commission records further show that the J&B -C- (11895) Lease, Well Nos. 1C and 2 were completed on August 27, 1970 and September 11, 1970, respectively, that an H-15 test was due on each in 2008, and that the wells had not been plugged. Subsequently approved tests were done on Well No. 1C on September 30, 2008 and on Well No. 2 on September 30, 2009. Commission records further indicate H-15 tests were due for Well Nos. 1C and 2, in May 2010 and are delinquent.
23. Commission records indicate no Form H-15 (Test on an Inactive Well More Than 25 Years Old) has been filed and approved for the Jones & Burroughs (28290) Lease, Well No. 3. Commission records further show that Jones & Burroughs (28290) Lease, Well No. 3 was completed on December 14, 1970, that an H-15 test was due in 2008, and that the well has not been plugged. Commission records further indicate an unapproved H-15 test was conducted on September 30, 2008.
24. 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.

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 3, 8(d)(1), 14(b)(2) and 14(b)(3).
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3, which requires that each property that produces oil, gas or geothermal resources and each oil, gas or geothermal resource well and tank, or other approved crude oil measuring facility shall post signs or identification.
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(1), which prohibits the discharge of oil and gas wastes without a permit.

6. 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.
7. 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.
8. 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(c).
9. 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 J&B -C- (11895) Lease, Well Nos. 1C and 2, and the Jones & Burroughs (28290) Lease, Well Nos. 3 and 5, J.S. Lewis (Marble Falls) Field, Brown 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 **THIRTEEN THOUSAND DOLLARS (\$13,000.00)**.

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