

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
OIL AND GAS SECTION**

OIL AND GAS DOCKET NO. 08-0231748

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY MIOCENE OIL & GAS, LTD. (570315), AS TO THE SAVAGE (27005) LEASE, WELL NO. 2, SHAFTER LAKE (SAN ANDRES) FIELD, ANDREWS COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on December 9, 2002, and that the respondent, Miocene Oil & Gas, Ltd. (570315), failed to appear or respond to the notice. 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. Miocene Oil & Gas, Inc. (570315), ("Respondent") was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 Organization Report, which was signed and returned to the Commission.
2. The returned certified receipt (green card) that was attached to the Original Complaint and the Notice of Hearing Opportunity was signed and returned to the Commission on October 31, 2002. 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 December 21, 2001, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Manuel J. Munoz; President.
4. Respondent designated itself to the Commission as the operator of Well No. 2 on the Savage (27005) Lease ("subject well"/"subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on July 1, 2000.
5. According to Commission records the Respondent's Form P-5 (Organization Report) is active. Respondent submitted a \$50,000.00 Letter of Credit as financial assurance at the time of its last Form P-5 renewal.
6. The subject well has not properly plugged in accordance with, and is not otherwise in compliance with, Statewide Rule 14.

7. 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 well. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
8. A Commission district office inspection was conducted on April 25, 2002 for the Savage (27005) Lease. Respondent had caused or allowed the discharge of oil around a saltwater tank affecting an area approximately 30' x 30'.
9. A Commission district office inspection was conducted on July 8, 2002 for the Savage (27005) Lease. Respondent had cleaned up the 30' x 30' spill by removing the soil and the lease was in compliance.
10. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
11. 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, leaching into the ground, and percolation through soils into groundwater supplies.
12. A Commission district office inspection was conducted on April 25, 2002 for the Savage (27005) Lease. Well No. 2 was being used as an injection well but Respondent had not first obtained a permit. According to the pumper, Respondent began to use the well as an injection well beginning in September 2001, injecting 300 barrels per day until the date of the inspection. The well was not equipped with tubing, packer or monitoring devices. During the April 25, 2002 inspection, the inspector sealed the well. A Commission district office inspection report made on July 8, 2002 indicated that Well No. 2 remained sealed and that the Respondent had disconnected the line between the injection pump and the well. According to Commission records, the Savage (27005) Lease, Well No. 2 was permitted as a secondary recovery well, UIC No. 92384, on August 20, 2002.
13. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject lease and the subject well 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 8(d)(1) and 46(a).
4. Respondent is responsible for maintaining the subject well in compliance with Rule 8(d)(1), which prohibits the discharge of oil and gas wastes without a permit.

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5. Respondent is responsible for maintaining the subject lease in compliance with Rule 46(a), which requires that any person who engages in fluid injection operations in reservoirs productive of oil, gas, or geothermal resources must obtain a permit from the Commission.
6. Respondent is responsible for maintaining the subject lease in compliance with all applicable Commission rules and for properly plugging the subject well 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(c) (Vernon 2001).

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

1. Miocene Oil & Gas, Ltd. (570315), shall place the Savage (27005) Lease, Well No. 2, Shafter Lake (San Andres) Field, Andrews County, Texas in compliance with applicable Commission rules and regulations; and
2. Miocene Oil & Gas, Ltd. (570315), shall pay to 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. GOV'T 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 order is served on the parties.

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 April 2003.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated April 22, 2003)

SP/sa