

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

OIL AND GAS DOCKET NO. 08-0222072

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY GERALD MORRIS RAY, SOLE PROPRIETOR, DOS CICADAS (224644), AS TO THE ARMADILLO (31432) LEASE, C.C. GUNN (CANYON REEF) FIELD, HOWARD COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on August 30, 1999, and that the respondent, Gerald Morris Ray, Sole Proprietor, Dos Cicadas (224644), 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. Gerald Morris Ray, Sole Proprietor, Dos Cicadas (224644), ("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) address, which signed and returned to the Commission.
2. The returned certified receipt (green card) that was attached to the Original Complaint and the Notice of Opportunity for Hearing, was signed and returned to the Commission on August 2, 1999. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. Respondent designated itself to the Commission as the operator of the Armadillo (31432) Lease ("subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission, effective on December 22, 1998.
4. A Commission district office inspection was conducted on January 26, 1999 for the Armadillo (31432) Lease. There was an oil and water spill partially covered with dirt, affecting an area approximately 15' x 50' at the water tank. A soil sample taken from the area at a depth of six inches tested at 8.38% TPH.
5. Commission district office inspections were conducted on April 27, 1999, May 4, 1999 and

OIL AND GAS DOCKET NO. 08-0222072

June 18, 1999 for the Armadillo (31432) Lease. The areas remained unchanged.

6. The respondent did not demonstrate good faith since it failed to place the subject lease 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 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 Rule 91(c).
4. Respondent is responsible for maintaining the subject lease in compliance with Rule 91(c), which requires that once all free oil has been removed, the area of contamination must be immediately delineated, both vertically and horizontally. The area of contamination means the affected area with more than 1.0% by weight total petroleum hydrocarbons.
5. Respondent is responsible for maintaining the subject lease in compliance with all applicable Statutes and Commission rules, specifically Statewide Rules 14, 58, and 79 and Chapters 89 and 91, Texas Natural Resources Code.
6. 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 1993).

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

1. Gerald Morris Ray, Sole Proprietor, Dos Cicadas (224644), shall place the Armadillo (31432) Lease, C.C. Gunn (Canyon Reef) Field, Howard County, Texas in compliance with applicable Commission rules and regulations; and
2. Gerald Morris Ray, Sole Proprietor, Dos Cicadas (224644), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00)**.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 20 days after it is actually mailed to the parties by the Commission; provided that if a motion for

OIL AND GAS DOCKET NO. 08-0222072

rehearing is filed by any party at interest within such 20-day period, this order shall not become final and effective until such motion is overruled, or if rehearing 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 16th day of November, 1999.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated November 16, 1999)

MFE/sa