

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

OIL AND GAS DOCKET NO. 09-0261830

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY LATRICIA LOVELESS D/B/A MASADA OIL & GAS (531347), AS TO THE LOVELESS (24093) LEASE, WELL NO. 1 AND TANK BATTERY, C.E. (MISS) FIELD, HARDEMAN COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on September 24, 2009 and that the respondent, Latricia Loveless d/b/a Masada Oil & Gas (531347) , 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. Latricia Loveless d/b/a Masada Oil & Gas (531347), ("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 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 mailed to Respondent's most recent P-5 address, was signed and returned to the Commission on August 17, 2009. 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 September 9, 2008, Respondent filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Latricia Loveless; Owner.

4. Latricia Loveless, as sole proprietor, 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. 1 and Tank Battery on the Loveless (24093) Lease ("subject well"/"subject lease") by filing a Form P-4 (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on February 1, 1985.
7. According to Commission records the Respondent's Form P-5 (Organization Report) is active. Respondent has a \$50,000.00 Bond as its financial assurance.
8. Commission District inspections were conducted on June 12, 2008, December 4, 2008, January 20, 2009 and February 4, 2009 for the Loveless (24093) Lease. There are ten discrete contaminated areas existed on the subject lease as follows:
 - a.) A 175' x 75' x 8" area inside the containment dike, with approximately 20 barrels of freestanding water. This fluid tested at more than 100,000 ppm for chlorides.
 - b.) A 25' diameter area, around the leaking disposal pump, with 10" of freestanding produced water with stained and saturated soil. The disposal pump was still leaking after the February 4, 2009 inspection. This fluid also tested at more than 100,000 ppm for chlorides.
 - c.) A 50' x 50' x 4" area, around the bolted and frac tanks, with oil and produced water stained and saturated soil and 1 barrel of freestanding fluid. This fluid also tested at more than 100,000 ppm for chlorides.
 - d.) A 8" diameter area, between the three 210 barrel steel tanks, with 6" of oil and produced water stained and saturated soil from leaking equipment. Equipment was still leaking as of the February 4, 2009 inspection. This fluid also tested at more than 100,000 ppm for chlorides.
 - e.) A 30' diameter area, around the offloading tanks, with 5" oil and produced water stained and saturated soil and approximately 2 barrels of freestanding oil.
 - f.) A 50' x 50' x 12" area, behind the offloading tanks, with oil and produced water stained and saturated soil and approximately 1 barrel of freestanding fluid and a skim of oil. This fluid also tested at more than 100,000 ppm for chlorides.
 - g.) A 65' x 25' x 4" area, at the offloading tanks, with oil and produced water stained and saturated soil. Respondent had removed, or had caused to be removed, the freestanding fluid and the affected area was covered with soil; however, the area has not been turned and tilled.

- h.) A 30' x 30' x 4" area, inside the containment dike, with oil and produced water stained and saturated soil and approximately 10 barrels of freestanding fluids. This fluid also tested at more than 100,000 ppm for chlorides.
 - i.) A 150' x 50' x 3" area, running from the containment dike east into a field, which contained salt-stained and saturated soil, but no freestanding fluids.
 - j.) A 150' x 50' x 3" area, adjacent to the offloading area, with produced water stained and saturated soil and 5 barrels of freestanding fluid. This fluid also tested at more than 100,000 ppm for chlorides.
- 9. A Commission District inspection conducted on May 21, 2009 indicated that all of the spilled area had been remediated. A July 21, 2009 District inspection indicated there was a new spill around the storage facility in an area that was approximately 50' x 50' x 3" deep, with oil stained soil, salt deposits and 20 barrels of water.
- 10. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.
- 11. The unpermitted discharge 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.
- 12. Respondent was out of compliance from June 12, 2008 until at least May 21, 2009.
- 13. A Commission District inspection conducted on June 12, 2008 for the Loveless (24093) Lease, Well No. 1 and Tank Battery, indicated that there was a pressure on the tubing at 1650 psi. A Commission District inspection conducted on December 4, 2008 indicated that the pressure on the tubing was 1100 psi. Pressure on the casing (annulus) was at 1750 psi. There was no pressure on the Bradenhead. Commission District inspections conducted on January 20, 2009 and February 4, 2009 both indicted that the pressure on the tubing was at 500 psi. Pressure on the casing (annulus) was at 700 psi. There was no pressure on the Bradenhead. A followup Commission District inspection was conducted on July 10, 2009, there was no pressure on the tubing, casing or Bradenhead and the well has not been worked over, and Respondent has not performed an H-5 (Disposal/Injection Well Pressure Test), as requested. Respondent failed to report the pressure data to the District Office and failed to take corrective measures to repair the wellbore.
- 14. Commission District inspections made on June 12, 2008, December 4, 2008, January 20, 2009 and February 4, 2009 for the Loveless (24093) Lease indicated that Respondent failed to properly comply with permit conditions 10(b, d and f), which are necessary to limit discharges of waste.
 - 1.) Permit Condition 10(b) states, "Within 60 days after permit issuance a catch basin constructed of concrete, steel, or fiberglass must be installed to catch oil and gas waste which may spill as a result of connecting and disconnecting hoses or other apparatus while transferring oil and gas waste from tank trucks to the disposal facility." Respondent's catch basins while constructed, are not being used. They

are full of trash and the hoses are being laid on the ground.

- 2.) Permit Condition 10(d) states, "Within 60 days after permit issuance, dikes shall be placed around all waste storage, pretreatment, or disposal facilities. The dikes shall be designed so as to be able to contain a volume equal to the maximum holding capacity of all such facilities. Any liquids or wastes that do accumulate in the containment area shall be removed within 24 hours and disposed of in an authorized disposal facility." The containment dike will not hold the contents of the tank capacities.
 - 3.) Permit Condition 10(f) states, "Within 60 days after permit issuance, each storage tank shall be equipped with a device (visual gauge or alarm) to alert drivers when each tank is within 130 barrels of being full." The level gauges on storage tanks are not functioning, and some of the tanks have been overfilled.
15. The Respondent has not demonstrated good faith since it failed to place the subject lease and well in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
 16. Respondent has a prior history of Commission rule violations including the following docket(s):

Docket No. 09-0249545; Final Order Served: January 10, 2007;
Docket No. 09-0254014; Final Order Served: January 28, 2008; and
Docket No. 09-0254084; Final Order Served: January 28, 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 8(d)(1), 9(11)(D) and Tex. Nat. Res. Code Ann. §81.0531.
4. 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.
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 9(11)(D), which requires that the operator shall report to the appropriate District Office within 24 hours any significant pressure changes or other monitoring data indicating the presence of leaks in the well.

6. Respondent failed to comply with permit conditions of Amended Permit No. 3328 (Permit to Dispose of Non-Hazardous Oil and Gas Waste by Injection into a Porous Formation not Productive of Oil and Gas), resulting in violation of Tex. Nat. Res. Code Ann. §81.0531.
7. Respondent is responsible for maintaining the subject lease and subject well 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, Latricia Loveless, and any other organization in which she 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. Latricia Loveless d/b/a Masada Oil & Gas (531347) , shall place the Loveless (24093) Lease, and Tank Battery, C.E. (Miss) Field, Hardeman County, Texas in compliance with applicable Commission rules and regulations; and
2. Latricia Loveless d/b/a Masada Oil & Gas (531347), shall be pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **EIGHTEEN THOUSAND TWO HUNDRED FIFTY DOLLARS (\$18,250.00)**.

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 24th day of November 2009.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated November 24, 2009)

JD/sa