

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL AND GAS DOCKET NO. 03-0304194**

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**ENFORCEMENT ACTION AGAINST LAVACA RIVER OPERATING CO., LLC (OPERATOR NO. 489720) FOR VIOLATIONS OF STATEWIDE RULES ON THE MYSKA, ROBERT (22768) LEASE, WELL NO. 1, BOLING FIELD, FORT BEND COUNTY, TEXAS**

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**FINAL ORDER**

The Railroad Commission of Texas ("Commission") finds that after statutory notice the captioned enforcement proceeding was heard by a Commission Administrative Law Judge on July 20, 2017, and that the respondent, Lavaca River Operating Co., LLC, failed to appear or respond to the **Notice of Opportunity for Hearing**. Pursuant to § 1.49 of the Commission's General Rules of Practice and Procedure, 16 TEX. ADMIN. CODE § 1.49, and after being duly submitted to the Commission at a conference held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law.

**FINDINGS OF FACT**

1. Lavaca River Operating Co., LLC ("Respondent"), Operator No. 489720, was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first-class mail, addressed to the most recent Commission Form P-5 (Organization Report) ("Form P-5") address. Respondent's agent and officer as identified on the Form P-5—Roland R. Baker, Filing Agent and Thomas L. Pellegrini, Managing Member—were sent the Original Complaint and Notice of Opportunity for Hearing by certified and first-class mail, addressed to their last known address.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent and Thomas L. Pellegrini were received on June, 7, 2017. The Certified Mail envelopes addressed to Roland R. Baker was received on June 6, 2017. The first-class mail was not returned. Record of the delivery and return of certified mail has been on file with the Commission for more than 15 days, exclusive of the day of receipt and day of issuance. Respondent was given more than 30 days' notice of the Original Complaint and Notice of Opportunity for Hearing. Respondent has not entered into an agreed settlement order, filed an answer, or requested a hearing.
3. On July 22, 2016, Respondent, a Limited Liability Company filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Thomas L. Pellegrini.

4. Thomas L. Pellegrini was in a position of ownership or control of Respondent, as defined in TEX. NAT. RES. CODE § 91.114, during the time period of the violations of Commission rules committed by Respondent.
5. Respondent's Form P-5 is delinquent. Respondent had a \$50,000.00 cash deposit as its financial assurance at the time of the last Form P-5 annual renewal submission.
6. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.
7. Respondent designated itself to the Commission as the operator of the Myska, Robert (22768) Lease, Well No. 1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective September 22, 2010, approved September 27, 2010.
8. Commission records show that on July 2, 2016, the Commission received a complaint (Complaint No. 03-622) for the Myska, Robert (22768) Lease, reporting that the tanks on the subject lease were leaking. A Commission district inspection report made on July 14, 2016 for the subject lease showed that the tank battery had leaked approximately seven barrels of oil and produced water and was still leaking. The leaking fluids had escaped the firewall and had migrated onto the adjacent pasture and into an adjacent pond, which according to the landowner/complainant were used to graze and water cattle. Commission records indicate that the Respondent failed to notify the Commission district office of the spill and did not provide a letter giving a full description of the event.
9. Unreported discharges, in violation of Statewide Rule 20(a)(1), can contaminate land surface and may eventually be discharged to surface or subsurface waters, causing pollution.
10. Commission records reflect that on May 23, 2016, the Commission gave Respondent notice by certified mail of the alleged facts or conduct on the Myska, Robert (22768) Lease, that appeared to violate the oil and gas conservation laws of this state, or rules or orders of the Commission adopted under those laws, to warrant the cancellation of the certificate of compliance. Said notice gave Respondent an opportunity to show compliance with all requirements of law for retention of the certificate of compliance.
11. Commission records reflect that Respondent did not timely show compliance with all requirements of law and the certificate of compliance for the Myska, Robert (22768) Lease, was cancelled on June 22, 2016.
12. Production reports filed by Respondent with the Commission for the Myska, Robert (22768) Lease, show that Respondent produced approximately two barrels of oil in July 2016, after the certificate of compliance had been cancelled and before a new certificate of compliance had been issued
13. The Respondent has no prior history of violations of Commission Rules.

### CONCLUSIONS OF LAW

1. Proper notice was issued by the 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 have been performed or have occurred.
3. Respondent is responsible for maintaining the subject lease in compliance with all applicable Commission rules and TEX. NAT. RES. CODE, Chapters 89 and 91.
4. Respondent is in violation of Statewide Rules 20(a)(1), and 73(i) and Texas Natural Resources Code 91.706. 16 TEX. ADMIN. CODE §§ 3.20(a)(1), and 3.73(i) and TEX. NAT. RES. CODE § 91.706.
5. The documented violations committed by Respondent constitute acts deemed serious, and a hazard to the public health, and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE § 81.0531(c).
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 20(a), which requires that operators immediately provide notice to the appropriate Commission District Office by telephone or telegraph of a fire, leak, spill or break. A leak of crude oil can contaminate the land surface, affect the health of humans and animals, and may eventually be discharged to surface or subsurface waters, causing pollution.
7. Respondent is responsible for maintaining the subject well in compliance with Statewide Rule 73(i) and Tex. Nat. Res. Code § 91.706, which requires the operator, upon notice from the Commission that a certificate of compliance has been cancelled, to not produce oil, gas, or geothermal resources until a new certificate of compliance has been issued by the Commission.
8. Pursuant to TEX. NAT. RES. CODE § 81.0531, the Commission may assess administrative penalties against Respondent for the subject violations of up to \$10,000 per day for each violation, with each day such violations continue constituting a separate violation.
9. An assessed administrative penalty in the amount of **SIX THOUSAND DOLLARS (\$6,000.00)** is justified considering the facts and violations at issue.
10. 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, Thomas L. Pellegrini, and any other organization in which this individual may hold a position of ownership or control, is subject to the restriction in TEX. NAT. RES. CODE § 91.114(a)(2).

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

1. Respondent shall place the Myska, Robert (22768) Lease, Well No. 1, in compliance with Statewide Rules 20(a)(1), and 73(i), and any other applicable Commission rules and statutes; and,
2. Respondent shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SIX THOUSAND DOLLARS (\$6,000.00)**.

It is further **ORDERED** that 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, Thomas L. Pellegrini, and any other organization in which this individual may hold a position of ownership or control, **shall be subject to the restriction in TEX. NAT. RES. CODE § 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.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 25 days after the Commission's Order is signed, unless the time for filing a motion for rehearing has been extended under TEX. GOV'T CODE § 2001.142, by agreement under TEX. GOV'T CODE § 2001.147, or by written Commission Order issued pursuant to TEX. GOV'T CODE § 2001.146(e). If a timely motion for rehearing of an application 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 Commission Order is signed.

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 15<sup>th</sup> day of August 2017.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master  
Order dated August 15, 2017)