

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 04-0304948

ENFORCEMENT ACTION AGAINST LAMAY CORPORATION (OPERATOR NO. 484025) FOR VIOLATIONS OF STATEWIDE RULES AT THE TANK BATTERY ON THE MUSTANG ISLAND STATE PARK TRACT2 LEASE, WELL NO. 1 (RRC NO. 214035), SHELL POINT (5-B) FIELD; THE MUSTANG ISLAND STATE PARK TR 2 LEASE, WELL NO. 2 U (RRC NO. 102472), SHELL POINT (G-1) FIELD; THE MUSTANG ISLAND STATE PARK TR. 2 LEASE, WELL NO. 2 L (RRC NO. 124926), SHELL POINT (MID. H) FIELD; AND THE MUSTANG ISLAND STATE PARK TR 2 LEASE, WELL NO. 4 (RRC NO. 118857), SHELL POINT (6A) FIELD, (COMMINGLE PERMIT NO. 04-2341), NUECES COUNTY, TEXAS

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 August 17, 2017 and that the respondent, Lamay Corporation, failed to appear or respond to the Notice of Hearing. Pursuant to § 1.45 of the Commission's General Rules of Practice and Procedure, 16 TEX. ADMIN. CODE § 1.45, 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. Lamay Corporation ("Respondent"), Operator No. 484025, was sent the Original Complaint and Notice of Hearing by certified and first-class mail.
2. The certified mail envelope containing the Original Complaint and Notice of Hearing addressed to Respondent was received July 17, 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 Hearing. Respondent has not entered into an agreed settlement order, filed an answer or requested a hearing.
3. On July 2, 2015, Respondent, a corporation, filed a Commission Form P-5 (Organization Report) ("Form P-5") reporting that its officers consist of the following individuals: Barbara F. May, Edward J. May and Lavern C. May
4. Barbara F. May 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. Edward J. May 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.
6. Lavern C. May 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.
7. Respondent's Form P-5 is delinquent. Respondent had a \$170,000 letter of credit as its financial assurance at the time of the last Form P-5 annual renewal submission.
8. A May 16, 2016 Commission inspection of the tank battery operating under Commingling Permit No. 04-2341 and serving the Mustang Island State Park Tract2 Lease, Well No. 1 (RRC No. 214035), the Mustang Island State Park Tr 2 Lease, Well No. 2 U (RRC No. 102472), the Mustang Island State Park Tr. 2 Lease, Well No. 2 L (RRC No. 124926) and the Mustang Island State Park Tr 2 Lease, Well No. 4 (RRC No. 118857) show the firewall area is filled with oil and produced water affecting a 120' x 90' x 1.5' deep area, oil has overflowed from the tank battery and has collected in a 40' x 25' x 1' deep area, a leaking drum has released oil affecting a 50' x 15' x 1' deep area, a 400-barrel tank is leaking produced water and oil has collected to the south of the tank battery under the lease road with a visible oil sheen on top of the water in the culvert. Although an emergency state-funded clean-up was conducted at the tank battery between May 18 and May 20, 2016 to stop any active threats of pollution, Respondent has failed to take any action to clean the affected areas, which still require remediation.
9. Respondent did not have a permit for the discharges, nor were they authorized under Statewide Rules 8(d)(3), 8(e), 9, 46 or 98.
10. Unpermitted discharges of oil and gas waste, in violation of Statewide Rule 8(d)(1), can contaminate the land surface, affect the health of humans and animals, and may eventually be discharged to surface or subsurface waters, causing pollution.
11. A May 16, 2016 Commission inspection of the tank battery operating under Commingling Permit No. 04-2341 and serving the Mustang Island State Park Tract2 Lease, Well No. 1 (RRC No. 214035), the Mustang Island State Park Tr 2 Lease, Well No. 2 U (RRC No. 102472), the Mustang Island State Park Tr. 2 Lease, Well No. 2 L (RRC No. 124926), and the Mustang Island State Park Tr 2 Lease, Well No. 4 (RRC No. 118857) show multiple spill/leak areas of oil and produced water.
12. Respondent failed to notify the appropriate Commission district office of the spills/leaks or provide any details such as a description of the event and the volume of crude oil lost.
13. Unreported discharges, in violation of Statewide Rule 20(a)(1), may result in improper or inadequate clean-up of the affected areas which can cause

contamination of land surface and may eventually be discharged to surface or subsurface waters, causing pollution.

14. 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 8(d)(1) and 20(a)(1). 16 TEX. ADMIN. CODE §§ 3.8(d)(1), 3.20(a)(1).
5. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 8(d)(1), which prohibits the discharge of oil and gas waste without a permit.
6. Respondent is responsible for maintaining the subject leases 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.
7. 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).
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 continued constituting a separate violation.
9. An assessed administrative penalty in the amount of **THIRTEEN THOUSAND TWO HUNDRED SEVENTY-FIVE DOLLARS (\$13, 275.00)** is justified considering the facts and violations at issue.

ORDERING PROVISIONS

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

1. Lamay Corporation shall place the subject leases and tank battery in compliance with Statewide Rules 8(d)(1) and 20(a)(1), and any other applicable Commission rules and statutes.
2. Lamay Corporation shall pay to the Commission, for disposition as provided by law, an administrative penalty in the amount of **THIRTEEN THOUSAND TWO HUNDRED SEVENTY-FIVE DOLLARS (\$13, 275.00)**.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 25 days after the 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 per day per violation.

Done this 19th day of September 2017.

RAILROAD COMMISSION OF TEXAS
(Signatures affixed by Default Master
Order dated September 19, 2017)

JNC/rnf