

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

**OIL AND GAS DOCKET NO. 02-0315228**

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**ENFORCEMENT ACTION AGAINST PHERE OPERATING INC (OPERATOR NO. 661598) FOR VIOLATIONS OF STATEWIDE RULES ON THE TONEY, T. E. (01681) LEASE, WELL NO. 4, WEST RANCH (WARD) FIELD, JACKSON COUNTY; TONEY, T. E. (05540) LEASE, WELL NO. 6, WEST RANCH (MENELEE 5500) FIELD, JACKSON COUNTY; AND TONEY, T. E. (07183) LEASE, WELL NO. 3, WEST RANCH (TONEY) FIELD, JACKSON COUNTY, TEXAS**

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**FINAL ORDER**

The Railroad Commission of Texas ("Commission") finds that statutory notice of the captioned enforcement proceeding was provided pursuant to Commission rules, and that the respondent, Phere Operating Inc, failed to appear or respond to the **Notice of Opportunity for Hearing**. Pursuant to § 1.25 of the Commission's General Rules of Practice and Procedure, 16 Texas Administrative Code § 1.25, 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. Phere Operating Inc ("Respondent"), Operator No. 661598, 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.
2. The certified mail envelope containing the Original Complaint and Notice of Opportunity for Hearing addressed to the Respondent was returned to the Commission unopened on January 16, 2019. 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 a 30 day 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 August 7, 2015, Respondent, a corporation, filed a Form P-5 with the Commission reporting that its officers consist of the following individuals: Todd Dale Lanphere, President; Lisa Marie Lanphere, Secretary; and Timothy Michael Lanphere, Vice-President.
4. Respondent's Form P-5 is delinquent. Respondent had a \$50,000.00 bond as its financial assurance at the time of the last Form P-5 annual renewal submission.
5. Respondent designated itself to the Commission as the operator of the Toney, T. E. (01681) Lease, Well No. 4, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective October 6, 2010, approved October 12, 2010.

6. Respondent designated itself to the Commission as the operator of the Toney, T. E. (05540) Lease, Well No. 6, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective October 1, 2010, approved April 27, 2011.
7. Respondent designated itself to the Commission as the operator of the Toney, T. E. (07183) Lease, Well No. 3, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective October 6, 2010, approved October 12, 2010.
8. Commission inspection reports made on March 12, 2018, June 15, 2018, September 13, 2018, and January 4, 2019, and the absence of reported production since May 2013, show that the Toney, T. E. (01681) Lease, Well No. 4, has been inactive for a period greater than one year. Production from the subject lease ceased on or before April 2013.
9. Commission inspection reports made on March 12, 2018, June 15, 2018, September 13, 2018, and January 4, 2019, and the absence of reported production since April 2013, showed that the Toney, T. E. (05540) Lease, Well No. 6, has been inactive for a period greater than one year. Production from the subject lease ceased on or before March 2013.
10. Commission inspection reports made on March 12, 2018, June 5, 2018, September 13, 2018, and January 4, 2019, and the absence of reported production since April 2013, show that the Toney, T. E. (07183) Lease, Well No. 3, has been inactive for a period greater than one year. Production from the subject lease ceased on or before March 2013.
11. No workovers, re-entries, or subsequent operations have taken place on the subject well within the last twelve months and the subject wells have not been properly plugged in accordance with Statewide Rule 14, 16 Tex. Admin Code § 3.14. No plugging extensions are in effect for the subject wells as allowed by Statewide Rule 14.
12. Usable quality groundwater in the area can become contaminated by migrations or discharges of saltwater and other oil and gas waste from the subject well. Unplugged wellbores, in violation of Statewide Rule 14(b)(2), constitute a cognizable threat to the public health and safety because of the potential of pollution.
13. The total estimated cost to the State for plugging the Toney, T. E. (01681) Lease Well No. 4 is \$34,100.00, Toney, T. E. (05540) Lease, Well No. 6 is \$34,100.00, and Toney, T. E. (07183) Lease Well No. 3 is \$34,100.00.
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 wells in compliance with all applicable Commission rules and Texas Natural Resources Code, Chapters 89 and 91.

4. Respondent is in violation of Statewide Rule 14(b)(2). 16 Texas Administrative Code § 3.14(b)(2).
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 Texas Natural Resources Code § 81.0531(c).
6. Respondent is responsible for maintaining the subject wells in compliance with Statewide Rule 14(b)(2), which requires that plugging operations on each dry or inactive well shall be commenced within a period of one year after drilling or operations cease and shall proceed with due diligence until completed, unless the operator is eligible for and obtains an extension of the plugging deadline.
7. Pursuant to Texas Natural Resources 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.
8. An assessed administrative penalty in the amount of **TWENTY-TWO THOUSAND, NINE HUNDRED THIRTY-SIX DOLLARS (\$22,936.00)** is justified considering the facts and violations at issue.
9. Respondent violated Commission rules related to safety and the control of pollution. Any other organization in which an officer of this organization holds a position of ownership or control, is subject to the restriction in Texas Natural Resource Code § 91.114(a)(2).

### ORDERING PROVISIONS

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

1. Phere Operating Inc (Operator No. 661598) shall plug the Toney, T. E. (01681) Lease, Well No. 4, Toney, T. E. (05540) Lease, Well No. 6, and Toney, T. E. (07183) Lease, Well No. 3, and place the subject wells in compliance with Statewide Rule 14(b)(2), and any other applicable Commission rules and statutes.
2. Phere Operating Inc (Operator No. 661598) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWENTY-TWO THOUSAND, NINE HUNDRED THIRTY-SIX DOLLARS (\$22,936.00)**.

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 Texas Government Code § 2001.142, by agreement under Texas Government Code § 2001.147, or by written Commission order issued pursuant to Texas Government Code § 2001.146(e). 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 Texas Government 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 100 days from the date the Commission order is signed.

Any other organization in which an officer of this organization holds a position of ownership or control at the time Respondent violated Commission rules related to safety and the control of pollution **shall be subject to the restriction in Texas Natural Resource 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.

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 26<sup>th</sup> day of February 2019.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order  
dated February 26, 2019)

EMM/bt