

RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL

OIL AND GAS DOCKET NO. 03-0314773

ENFORCEMENT ACTION AGAINST FLAMINGO OPERATING, LLC (OPERATOR NO. 271635) FOR VIOLATIONS OF STATEWIDE RULES ON THE EL DORADO (26934) LEASE, WELL NO. 1, FT TRINIDAD-BARRETT, E. (DEXTER) FIELD, MADISON COUNTY, TEXAS

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, Flamingo Operating, LLC, 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. Flamingo Operating, LLC ("Respondent"), Operator No. 271635, 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 February 11, 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 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 November 8, 2017, Respondent, a limited liability company, filed a Form P-5 with the Commission reporting that its officer consists of the following individual: Omar Minhaj, Manager and Jamie Ernesto Castilla Luna, Manger.
4. Respondent's Form P-5 is currently active. Respondent has a \$50,000.00 cash deposit as its financial assurance on file with the Commission.
5. Respondent designated itself to the Commission as the operator of the El Dorado (26934) Lease, Well No. 1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective December 2, 2014, approved March 18, 2016.
6. Commission inspection reports made on May 31, 2018 and June 8, 2018 for the El Dorado (26934) Lease showed unauthorized discharges of oil and gas waste with crude oil impacting

- a 100'x 25' area and approximately 20 barrels of free oil impacting a 150' x 150' x 2" around Well No. 1.
7. A Commission District inspection report made on July 26, 2018 showed the site was remediated using emergency state cleanup funds. Reimbursement for the clean-up is being pursued under Oil and Gas Docket No. 03-0314101.
 8. 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.
 9. 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.
 10. Respondent failed to give notice of the unauthorized discharge of oil and gas wastes, including 20 barrels of free oil, which impacted a 100'x 25' area and a 150'x 150' area to the Houston District Office.
 11. 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.
 12. Respondent has the following history of violations of Commission Rules: Oil and Gas Docket No. 08-0307804 - violations of Statewide Rules 3(3), 8(d)(1) and 36(C)(5)(B), Order entered June 29, 2018.

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 Texas Natural Resources 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) and 3.20(a)(1).
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 lease in compliance with Statewide Rule 8(d)(1), which prohibits the discharge of oil and gas waste without a permit.

7. 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.
8. 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.
9. An assessed administrative penalty in the amount of **SIXTEEN THOUSAND DOLLARS (\$16,000.00)** 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, and any other organization in which this individual may hold a position of ownership or control, is subject to the restriction in Texas Natural Resources 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. Flamingo Operating, LLC (Operator No. 271635) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **SIXTEEN THOUSAND DOLLARS (\$16,000.00)**.

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 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 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 Resources 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 18th day of June 2019.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated June 18, 2019)

EMM/bt