

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 08-0284186

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY M&M GENERAL CONTRACTORS, INC. (518587), AS TO THE HARDEE (00677) LEASE, WELL NOS. 1, 2, 3W, 4, 5 AND TANK BATTERY, COLEMAN RANCH, N. (CLEAR FORK) FIELD, MITCHELL COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on October 31, 2013, and that the respondent, M&M General Contractors, Inc. (518587), 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 [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. M&M General Contractors, Inc. (518587), ("Respondent"), was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent Form P-5 (Organization Report) address, which was signed and returned to the Commission.
2. The electronic certified receipt containing the Original Complaint and the Notice of Opportunity for Hearing, was signed and returned to the Commission on September 5, 2013. The certified signature receipt is included in the file and has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On June 1, 2012, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officer(s) consisted of the following individual(s): James A. Massengill, President; and Rebecca Crane, Vice-President.
4. James A. Massengill, 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.

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5. Rebecca Crane, 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.
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 Well Nos. 1, 2, 3W, 4, 5 and Tank Battery ("subject wells"/"subject lease") by filing a P-4 Form (Producers Transportation Authority and Certificate of Compliance) effective on July 1, 1992.
8. Respondent's P-5 (Organization Report) is active. Respondent has \$25,000 letter of credit as its financial assurance.
9. Commission District inspections were conducted on March 15, 2013 and June 27, 2013 for the Hardee (00677) Lease. There are numerous oil spills that have not been properly remediated. A Commission inspection conducted on September 5, 2013 indicates the District met with James Massengill to discuss all Statewide Rule 8 and 91 violations and will reinspect at a later date. The inspection from September 24, 2013 indicates all spills for this complaint have been clear. The time out of compliance is from March 15, 2013 to September 24, 2013.
10. No permit has been issued to Respondent for the discharge of oil and gas wastes on or from the subject lease.
11. The unpermitted discharges 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. Commission District inspections were conducted on June 27, 2013 and September 24, 2013 for the Hardee (00677) Lease. Well No. 5 has surface casing and production casing open to the atmosphere.
13. Commission District inspections were conducted on June 27, 2013 and September 24, 2013 for the Hardee (00677) Lease. Well No. 5 has surface casing not cemented to the ground surface.
14. Maintenance of surface control by wellhead assemblies is necessary to prevent the discharge of oil and gas wastes on the subject lease constituting a hazard to public health and safety because the discharges of oil and gas wastes onto land surface can migrate into surface or subsurface waters.
15. The Respondent has not demonstrated good faith since it failed to timely plug or otherwise place the subject lease and subject wells in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.

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), 13(b)(1)(B) and 13(b)(2)(B).
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8, 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 13(b)(1)(B), which requires that surface control of all wells be maintained with wellhead assemblies.
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 13(b)(2)(B), which requires that operators properly cement the annular space outside the casing.
7. Respondent is responsible for maintaining the subject lease and subject wells 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.
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, James A. Massengill, and any other organization in which he 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.

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

1. M&M General Contractors, Inc. (518587), shall place the Hardee (00677) Lease, Well Nos. 1, 2, 3W, 4, 5 and Tank Battery, Coleman Ranch, N. (Clear Fork) Field, Mitchell County, Texas in compliance with applicable Commission rules and regulations; and
2. M&M General Contractors, Inc. (518587), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **FOURTEEN THOUSAND ONE HUNDRED FORTY EIGHT DOLLARS (\$14,148.00)**.

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. 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 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 22nd day of May 2014.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated May 22, 2014)

MFE/sa