

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

OIL AND GAS DOCKET NO. 7B-0264189

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY DIAMOND S MASADA, L.L.C. (216984), AS TO THE ALVEY ESTATE (17206) LEASE, WELL NOS. 2, 2WS, 3-5, 7, 9-11, 13, 17-20, 24, 25, 27 AND 28, CALLAHAN COUNTY REGULAR FIELD, CALLAHAN COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on October 7, 2010 and that the respondent, Diamond S Masada, L.L.C. (216984), 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. Diamond S Masada, L.L.C. (216984), ("Respondent") was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 Organization Report, which was signed and returned to the Commission.
2. The returned certified receipt (green card) that was attached to the Original Complaint and the Notice of Opportunity for Hearing mailed to Respondent's most recent P-5 address, was signed and returned to the Commission on February 4, 2010. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On March 1, 2006, Respondent filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Pete Lippincott; Manager.
4. Pete Lippincott, was 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.
5. The violations of Commission rules committed by respondent are related to safety and the control of pollution.

6. Respondent designated itself to the Commission as the operator of Well Nos. 2, 2WS, 3-5, 7, 9-11, 13, 17-20, 24, 25, 27 and 28 on the Alvey Estate (17206) Lease ("subject wells"/"subject lease") by filing a P-4 Form (Producers Transportation Authority and Certificate of Compliance) with the Commission effective on March 1, 2006.
7. Commission records indicate that Respondent's Form P-5 (Organization Report) is active. Respondent has a \$50,000.00 Letter of Credit as its financial assurance.
8. Commission District inspections were conducted on November 2, 2009 and November 12, 2009 for the Alvey Estate (17206) Lease. The signs or identification required to be posted at Well Nos. 2WS, 4, 9, 13, 18, 19, 25 and 27 were missing.
9. Failure to properly identify a lease, well or tank battery by the posting of the sign required by Statewide Rule 3 has the potential for causing confusion and delay in remedying a violation or emergency and poses a threat to the public health and safety.
10. Commission District inspections were conducted on August 13, 2009, September 21, 2009, November 2, 2009 and November 12, 2009 for the Alvey Estate (17206) Lease, Well No. 3. There was an area approximately 15' x 8' x 2" of saturated soil resulting from a hydrocarbon leak on the wellhead assembly.
11. Commission District inspections were conducted on August 13, 2009, September 21, 2009, November 2, 2009 and November 12, 2009 for the Alvey Estate (17206) Lease, Well No. 4. There was an area approximately 1' x 1' x 2" of saturated soil resulting from a hydrocarbon leak on the swage connection.
12. Commission District inspections were conducted on August 13, 2009, September 21, 2009, November 2, 2009 and November 12, 2009 for the Alvey Estate (17206) Lease, Well No. 7. There was an area approximately 3' x 3' x 3" of saturated soil resulting from a hydrocarbon leak on the wellhead assembly.
13. Commission district inspections were conducted on August 13, 2009, September 21, 2009, November 2, 2009 and November 12, 2009 for the Alvey Estate (17206) Lease, Well No. 10. There was an area approximately 10' x 10' x 3" of saturated soil resulting from a hydrocarbon leak on the wellhead assembly.
14. Commission District inspections were conducted on August 13, 2009, September 21, 2009, November 2, 2009 and November 12, 2009 for the Alvey Estate (17206) Lease, Well No. 25. There was an area approximately 4' x 3' x 2" of saturated soil resulting from a hydrocarbon leak on the wellhead assembly.
15. No permit has been issued to the Respondent for the discharges of oil and gas wastes on or from the subject lease.
16. 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 onto the ground and percolate through soils into groundwater supplies.
17. Commission District inspections were conducted on August 13, 2009, September 21, 2009,

November 2, 2009 and November 12, 2009 for the Alvey Estate (17206) Lease. There was an open dry workover pit approximately 20' x 10' x 4' located at Well No. 28.

18. Unfilled pits constitute a hazard to public health and safety because of the potential for illegal dumping in the pits and the potential for surface run-off to collect in the pit and seep into subsurface waters.
19. Commission District inspections were conducted on August 13, 2009, September 21, 2009, November 2, 2009 and November 12, 2009 for the Alvey Estate (17206) Lease. Well Nos. 3, 4, 10, 20 and 25 have tubing and casing open to the atmosphere and are not equipped with adequate wellhead control. A followup Commission District inspection conducted on February 18, 2010 show the wells to be equipped with adequate wellhead control and are no longer open to the atmosphere.
20. The time out of compliance was from August 13, 2009 to February 18, 2010.
21. 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.
22. Commission records indicate the Alvey Estate (17206) Lease, Well No. 5 was permitted as a secondary recovery well on April 7, 1999 (Permit No. 12506); the Alvey Estate (17206) Lease, Well No. 11 was permitted as a secondary recovery well on May 9, 1990 (Permit No. 12506); the Alvey Estate (17206) Lease, Well No. 17 was permitted as a secondary recovery well on March 7, 1999 (Permit No. 12506); the Alvey Estate (17206) Lease, Well No. 20 was permitted as a secondary recovery well on October 27, 2000 (Permit No. 12506); and the Alvey Estate (17206) Lease, Well No. 24 was permitted as a secondary recovery well on October 27, 2000 (Permit No. 12506). Commission District inspections conducted on August 13, 2009, September 21, 2009, November 2, 2009 and November 12, 2009 for the Alvey Estate (17206) Lease showed that Well No. 11 had no operable valve on the tubing or annulus, and that Well Nos. 5, 17, 20 and 24 were not equipped with an operable tubing pressure observation valve. A follow up inspection conducted on February 18, 2010 show the wells to be equipped with operable valves.
23. The time out of compliance was from August 13, 2009 to February 18, 2010.
24. The Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject lease and 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 3, 8(d)(1), 8(d)(4)(G)(i)(III), 13(b)(1)(B) and 46(g)(2).
4. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 3, which requires that each property that produces oil, gas or geothermal resources and each oil, gas or geothermal resource well and tank, or other approved crude oil measuring facility shall post signs or identification.
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(1), which prohibits the discharge of oil and gas wastes without a permit.
6. Respondent was responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(4)(G)(i)(III), which requires workover pits to be dewatered, filled and compacted within 120 days from completion of workover operations.
7. Respondent was 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.
8. Respondent was responsible for maintaining the subject lease in compliance with Statewide Rule 46(g)(2), which requires that the wellhead shall be equipped with a pressure observation valve on the tubing and for each annulus of the well.
9. 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.
10. 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.
11. 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, Pete Lippincott 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.

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

1. Diamond S Masada, L.L.C. (216984), shall place the Alvey Estate (17206) Lease, Well Nos. 2, 2WS, 3-5, 7, 9-11, 13, 17-20, 24, 25, 27 and 28, Callahan County Regular Field, Callahan County, Texas in compliance with applicable Commission rules and regulations;
2. Diamond S Masada, L.L.C. (216984), shall pay the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **NINE THOUSAND DOLLARS (\$9,000.00)**.

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. GOVT. 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 30th day of November 2010.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated November 30, 2010)

JMD/sa