

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 6E-0276178

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY INLAND PRODUCTS, INC. (464625), AS TO THE KILGORE GREGG COUNTY RECLAMATION FACILITY, PERMIT TO OPERATE A RECLAMATION PLANT (PERMIT NO. R-9 06-1971), AND AUTHORITY TO REUSE PROCESSED MATERIAL FROM RECLAMATION PLANT TO CREATE ROAD BASE MATERIAL (STF-025), GREGG COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on July 31, 2014, and that the respondent, Inland Products, Inc. (464625), failed to appear or respond to the Amended Notice of 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. Inland Products, Inc. (464625), ("Respondent"), was given Amended Notice of Hearing by certified mail, addressed to the most recent Form P-5 (Organization Report) address.
2. The certified envelope containing the First Amended Original Complaint and the Amended Notice of Hearing, was signed for on July 7, 2014, by Stephen J. Zayler, Bankruptcy Trustee for the Respondent. The electronic receipt has been on file with the Commission for 15 days.
3. Respondent is responsible as the operator of the Kilgore - Gregg County Reclamation Facility pursuant to the Reclamation Plant Permit No. R-9 06-1971, initially granted on August 6, 1985, and Re-Use Permit No. STF-025, effective March 3, 2000.
4. The violations of Commission rules committed by respondent are related to safety and the control of pollution.

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5. Commission District inspections were conducted between July 10, 2009 and June 5, 2012 for the Kilgore-Gregg County Reclamation Facility. The inspections indicated there were 11 separate unauthorized discharges of oil and gas wastes. The unauthorized discharges are set out in the Original Compliant, dated January 23, 2013. Inspections from August 27, 2013 and February 27, 2014, indicate the site was abandoned and there has been no clean up, violations are as follows:
 1. At tank battery number one there is oil contaminated soil, sludge and freestanding water within the firewalls. The most recent inspection conducted on June 5, 2012 shows the area has not been cleaned;
 2. At tank battery number two there is oil-saturated soil and freestanding oil on the ground or floating on top of water. A June 6, 2011 inspection showed that approximately 80 barrels of oil were floating on top of water inside the firewalls. The most recent inspection conducted on June 5, 2012 shows the area has not been cleaned;
 3. At tank battery number three there is oil-saturated soil and sludge within the firewalls. The most recent inspection conducted on June 5, 2012 shows the contaminated soil and sludge remain and have not been remediated;
 4. At the 30,000 barrel tank there is oily vegetation and sludge within the firewall;
 5. At the clean-out pits there was an area affected by oil which was first cited in July 2009, and then reportedly cleaned in June 2011. A second high chlorides spill was noted on the January 17, 2012 inspection report, which has yet to have been reported as being cleaned;
 6. At the off-loading area there is oil-contaminated soil. The most recent inspection conducted on June 5, 2012 shows the contaminated soil remains and has not been cleaned;
 7. Storm water from the facility was found being discharged into a drainage way during a January 17, 2012 and March 21, 2012 inspection as a result of a berm having been removed;
 8. Fluids inside the firewall around the 30,000 barrel tank was pumped out and discharged into a drainage-way as described in the February 8, 2010 inspection report;
 9. Oil was found to have run over the berm of the southeast corner of the mixing area, running outside of the fence and settling into the grass at the corner of Hwy 42 and Gulf Camp Road as described in the January 8, 2010 inspection report;

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10. On the west side of the facility an approximate 3.35-acre area is being used to mix dirt with oil and gas wastes without creating a final product, thereby resulting in an area of contaminated soil, as detailed in the January 17, 2012 inspection report. The affected area has not been cleaned, nor is the extent of pollution being monitored.
11. Large amounts of waste from the TexMud facility are being stored on the ground in the road base "mixing area". Some of this waste is in liquid form and is soaking into the piles of material already stored there and/or is soaking directly into the ground. The most recent inspection report of June 5, 2012 shows the site has not been remediated.
6. No permit has been issued to the Respondent for the discharge of oil and gas wastes on or from the subject lease.
7. 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.
8. A Commission District inspection was conducted on January 8, 2010 for the Kilgore-Gregg County Reclamation Facility indicating the Respondent is using and maintaining an unauthorized and unpermitted earthen pit to store oil sludge. Subsequent inspections indicate the earthen pit remains with oil sludge and mud.
9. A Commission District inspection conducted on September 26, 2011 for the Kilgore-Gregg County Reclamation Facility indicates Respondent is using and maintaining unauthorized and unpermitted washout pits at the washout facility. Follow up inspections indicate the washout pits remain active. Commission records indicate Respondent has filed an application to use the washout pits, however, the application had not been approved.
10. Respondent did not have a permit to dispose of or store oilfield fluids or oil and gas wastes in a pit on the subject lease.
11. A Commission District inspection conducted on March 29, 2011 for the Kilgore-Gregg County Reclamation Facility shows Respondent failed to construct firewalls around the frac tanks being used at the TexMud location. Follow up inspections indicate that firewalls were not constructed.
12. A Commission District inspection conducted on January 17, 2012 for the Kilgore-Gregg County Reclamation Facility shows Respondent failed to construct firewalls around the frac tanks used at the green tank battery.

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13. On March 3, 2000, Respondent was granted Permit No. STF-025, Authority to Re-Use Processed Material from Reclamation Plant to Create Road Base Material. Pursuant to Item No. 7 of the permit, dikes must be constructed to a height of at least 2' and a width at the base of at least 6' to completely surround the area where processed materials are stored and blended. The dikes must be maintained such that no stormwater runoff may enter or exit the area. In addition, pursuant to Item No. 8 of the permit, no more than 5,000 cubic yards of processed material may be stockpiled at the facility at any one time.
14. Commission District inspections conducted between March 18, 2010 and June 5, 2012 for the Calgary-Gregg County Reclamation Facility indicate Respondent has failed to construct berms measuring at least 2' high and 6' wide to surround the area where processed materials are stored and blended. The inspections further show that Respondent has consistently stockpiled in excess of 5,000 cubic yards of processed material at the facility.
15. By failing to construct berms measuring at least 2' high and 6' wide to surround the area where processed materials are stored and blended, and by stockpiling in excess of 5,000 cubic yards of processed material at the facility, Respondent has violated the terms and conditions of Permit No. STF-025, Authority to Re-Use Processed Material from Reclamation Plant to Create Road Base Material.
16. The Respondent has not demonstrated good faith since it failed to timely place the subject Facility in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.
17. Respondent's Permit No. R-9 06-1971 (Reclamation Plant Permit) is hereby cancelled.
18. Respondent's Permit No. STF-025 (Authority to Re-Use Processed Material from Reclamation Plant to Create Road Base Material) is hereby cancelled.

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), 8(d)(2) and 21(j).
4. 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.
5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(2), which prohibits a person from maintaining or using any pit for storage of oilfield fluids without a permit.

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5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 21(j), which requires that firewalls must be erected and kept around all permanent oil tanks, or battery of tanks.
6. Respondent is responsible for maintaining the subject facility 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.
7. 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.

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

1. Inland Products, Inc. (464625), shall place the Calgary Gregg County Reclamation Facility, Permit to Operate a Reclamation Plant (Permit No. R-9 06-1971), and Authority to Re-Use Processed Material From Reclamation Plant to Create Road Base Material (STF-025), Gregg County, Texas in compliance with applicable Commission rules and regulations; and
2. Inland Products, Inc. (464625), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **EIGHTY THOUSAND FIVE HUNDRED DOLLARS (\$80,500.00)**.

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.

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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 16th day of September 2014.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated September 16, 2014)

TJJ/sa