

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

OIL AND GAS DOCKET NO. 7C-0259800

ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY HIGHGROUND, INC. (385761), AS TO THE CLARA COUCH (08655) LEASE, CLARA COUCH FIELD, CROCKETT COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on October 29, 2009, and that the respondent, Highground, Inc. (385761), 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. Highground, Inc. (385761), ("Respondent") was given Notice of Opportunity for Hearing by certified mail, addressed to Respondent's most recent P-5 address, which was returned to the Commission marked "unclaimed."
2. The returned certified receipt containing the Original Complaint and the Notice of Opportunity for Hearing mailed to Respondent's most recent P-5 address, was returned to the Commission marked "unclaimed" on August 18, 2009. 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 February 4, 2008, Respondent, a Corporation, filed its most recent Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Ronda Hyatt; President.
4. Ronda Hyatt, 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.
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 the Clara Couch (08655) Lease ("subject lease") by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission effective on November 1, 2004.
7. According to Commission records the Respondent's Form P-5 (Organization Report) became delinquent on January 1, 2010. Respondent had a \$25,000.00 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
8. Commission District inspections were conducted on August 20, 2008 and March 18, 2009 for the Clara Couch (08655) Lease. There are two areas in the South dike that have oil saturated soil. Inside the fence, at the battery, oil has migrated to the surface through clean soil that has been placed on spills. There are two piles of oily soil inside the fence and another on the northeast side of the location, as well as oil saturated soil around the outside of the fence next to the tanks.
9. 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 March 5, 2008, July 23, 2008, August 20, 2008, September 17, 2008 and March 18, 2009 for the Clara Couch (08655) Lease. The firewall is low.
13. Commission District inspections were conducted on August 20, 2008, September 17, 2008 and March 18, 2009 for the Clara Couch (08655) Lease. The Respondent had failed to properly screen a open topped water tank.
14. The Respondent has not demonstrated good faith since it failed to timely place the subject lease 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), 21(j) and 22(b).

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 21(j), which requires that firewalls must be erected and kept around all permanent oil tanks, or battery of tanks, where such tanks are so located as to be deemed by the Commission to be an objectionable hazard.
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 22(b), which requires that an operator must screen, net, cover or otherwise render harmless to birds, open top tanks and pits associated with exploration, development and production of oil and gas, including transportation of oil and gas by pipeline.
7. Respondent is responsible for maintaining the subject lease 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(c).
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, Ronda Hyatt, and any other organization in which she 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. Highground, Inc. (385761), shall place the Clara Couch (08655) Lease, Clara Couch Field, Crockett County, Texas in compliance with applicable Commission rules and regulations; and
2. Highground, Inc. (385761), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00)**.

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.

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 9th day of February 2010.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order dated February 9, 2010)

ME/sa