

OIL AND GAS DOCKET NO. 09-0302980

IN RE: COMMISSION CALLED HEARING TO PROVIDE DELFIN OPERATING, LLC (OPERATOR NO. 212175) AN OPPORTUNITY TO DEMONSTRATE THAT IT HAS A GOOD FAITH CLAIM TO OPERATE THE FOWLER (32869) LEASE, WAYWARD (HOLMES) FIELD, HARDEMAN COUNTY, TEXAS

FINAL ORDER

The Commission finds that after notice and opportunity for hearing, the prior operator of the captioned lease did not respond, and the docket proceeded as a default. The proceeding having been duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas, the Commission makes the following Findings of Facts and Conclusions of Law.

FINDINGS OF FACTS

1. Delfin Operating, LLC (“Delfin”) holds Form P-5 *Organization Report* Operator No. 212175.
2. Delfin is the current Form P-4 *Certificate of Compliance and Transportation Authority* operator of record for the Fowler (32869) Lease, Wayward (Holmes) Field, Hardeman County, Texas.
3. On or about December 28, 2016, Complainant Charles H. Fowler (“Complainant”) submitted to the Commission a complaint letter alleging that Delfin lacks authority to operate the Fowler (32869) Lease, Wayward (Holmes) Field, Hardeman County, Texas.
4. On or about January 3, 2017, the Administrative Law Judge requested in writing that Delfin either (1) provide evidence that it holds a good faith claim to a continuing right to operate the referenced property or (2) request a hearing on the matter on or before February 2, 2017. This writing expressly notified the operator that failure to timely request a hearing would constitute waiver of the opportunity to request a hearing on the matter. Delfin did neither.
5. At least ten days’ notice was given to Delfin and Complainant.
6. By failing to respond to notice and opportunity for hearing, Delfin chose to rely on informal disposition of this docket pursuant to TEX. GOV’T CODE §§ 2001.056 and 2001.062(e).

7. Delfin has an active Form P-5 with financial assurance in the form of a \$50,000 bond, which expires on October 31, 2018. Delfin is the operator of 48 wells, of which 3 are in Statewide Rule 14(b)(2) [16 TEX. ADMIN. CODE § 3.14(b)(2)] inactive status.
8. Delfin became the current Form P-4 *Certificate of Compliance and Transportation Authority* operator of record for the Fowler (32869) Lease, Wayward (Holmes) Field, Hardeman County, Texas, by filing a Form P-4 dated effective September 1, 2016.
9. The Fowler (32869) Lease, Wayward (Holmes) Field, Hardeman County, Texas, has had no reported production since October 2016.
10. The Fowler (32869) Lease, Wayward (Holmes) Field, Hardeman County, Texas, had zero (0) reported production from July 2015 through October 2016.
11. A “good faith claim” is defined in Commission Statewide Rule 15(a)(5) as “a factually supported claim based on a recognized legal theory to a continuing possessory right in the mineral estate, such as evidence of a currently valid oil and gas lease or a recorded deed conveying a fee interest in the mineral estate.” [16 TEX. ADMIN. CODE § 3.15(a)(5)].
12. Delfin did not present a “good faith claim” to operate the captioned lease and did not respond to a January 3, 2017, Commission letter requesting that it either provide a “good faith claim” to operate the subject lease, or request a hearing on the merits.
13. Absent a “good faith claim” to operate, the subject well is not eligible for an extension to the plugging requirements of Statewide Rule 15(e)(3).
14. Absent eligibility for an extension to the plugging requirements of Statewide Rule 15(e)(3), the plugging extension for the subject well should be cancelled pursuant to Statewide Rule 15(h).
15. The Fowler (32869) Lease, Wayward (Holmes) Field, Hardeman County, Texas, should be ordered plugged.

CONCLUSIONS OF LAW

1. Proper notice of an opportunity for a hearing was timely issued to appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. Delfin does not have a “good faith claim” to operate the Fowler (32869) Lease, Wayward (Holmes) Field, Hardeman County, Texas.

4. The Fowler (32869) Lease, Wayward (Holmes) Field, Hardeman County, Texas, is not eligible for an extension to the plugging requirements of Statewide Rule 15(e)(3).
5. The plugging extension for the Fowler (32869) Lease, Wayward (Holmes) Field, Hardeman County, Texas, should be cancelled pursuant to Statewide Rule 15(h).
6. The Fowler (32869) Lease, Wayward (Holmes) Field, Hardeman County, Texas, should be ordered plugged pursuant to the requirements of Statewide Rule 14(b)(2).

IT IS THEREFORE ORDERED that the plugging extension for the Fowler (32869) Lease, Wayward (Holmes) Field, Hardeman County, Texas, is hereby **CANCELLED**. Delfin Operating, LLC is hereby **ORDERED** to plug within 30 days of the date this order becomes final, the Fowler (32869) Lease, Wayward (Holmes) Field, Hardeman County, Texas, pursuant to the requirements of Statewide Rule 14(b)(2).

It is further **ORDERED** by the Commission that this order shall not be final and effective until 25 days after the Commission's order is signed, unless the time for filing a motion for rehearing has been extended under Tex. Gov't Code §2001.142, by agreement under Tex. Gov't Code §2001.147, or by written Commission Order issued pursuant to Tex. Gov't 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 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 Commission Order is signed. All pending motions and requests for relief not previously granted or granted herein are denied.

Done this 21st day of March, 2017, in Austin, Texas.

RAILROAD COMMISSION OF TEXAS
(Order approved and signatures affixed
by Hearings Division Unprotested Master
Order dated March 21, 2017)