

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL & GAS DOCKET NO. 7B-0318349: COMPLAINT BY CHERYL SMITH THAT ATLAS OPERATING LLC (OPERATOR NO. 036587) DOES NOT HAVE A GOOD FAITH CLAIM TO OPERATE THE LAMKIN, C.W. NCT-2 LEASE (LEASE NO. 17676), WELL NOS. 1 AND 2, WHITE (GARDNER) FIELD AND THE LAMKIN, C.W. LEASE (LEASE NO. 02941), WELL NO. 3, HYLTON, NW. (CAMBRIAN) FIELD, NOLAN COUNTY, TEXAS

FINAL ORDER

The Railroad Commission of Texas ("Commission" or "RRC") finds that after statutory notice and an opportunity for hearing regarding the captioned proceeding, Atlas Operating LLC failed to appear at the hearing such that this case can proceed as a default. This proceeding having duly been submitted to the Commission at a conference held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. The Commission received a complaint from Cheryl Smith ("Complainant") alleging Atlas Operating LLC ("Atlas"), RRC Operator No. 036587, does not have a good faith claim to operate the following leases and wells ("Leases and Wells") because the written leases relied upon by Atlas have terminated due to lack of production:
 - Lamkin, C.W. NCT-2 Lease (Lease No. 17676), Well Nos. 1 and 2, White (Gardner) Field, Nolan County, Texas; and
 - Lamkin, C.W. Lease (Lease No. 02941), Well No. 3, Hylton, NW. (Cambrian) Field, Nolan County, Texas
2. Atlas is the current RRC operator of record for the Leases and became the RRC record operator in April 2010.
3. In a letter dated February 28, 2019, a Commission Administrative Law Judge ("ALJ") requested in writing that Atlas either (1) provide evidence that it holds a "good faith claim" to a continuing right to operate the Leases and Wells or (2) request a hearing on the matter on or before April 1, 2019.
4. In response to the ALJ's February 28, 2019 letter, Atlas requested a hearing, and a hearing date of September 12, 2019, was set.

5. On August 14, 2019, a Notice of Hearing ("Notice") setting the hearing for September 12, 2019, was sent by first class mail to Complainant and to Atlas. Atlas's Notice was sent to its address of record at the Commission as identified in its most recent filing of the Commission Form P-5 Organization Report ("Form P-5").
6. On September 3, 2019, complainant Cheryl Smith ("Complainant") submitted an agreed motion for continuance ("Motion"). On September 10, Complainant provided an agreed date of December 3 as a proposed new date for the hearing. On September 10, 2019, an order was issued granting the Motion and rescheduling the hearing for December 3, 2019, at 9:00 a.m. The order was sent to both Complainant and Atlas. Complainant appeared and presented evidence at the hearing on December 3, 2019; Atlas did not appear.
7. At least ten days' notice of the hearing was given to Atlas and Complainant.
8. Complainant submitted evidence including testimony and documentation showing the following:
 - a. Complainant owns mineral rights and surface where the Leases are located.
 - b. The contractual leases relied on by Atlas have terminated due to lack of production
 - i. They were executed August 11, 2000.
 - ii. According to the contractual leases, the leases remain in effect for three years and so long thereafter as there is production of hydrocarbons
 - iii. There has been no reported injection on the Lamkin, C.W. NCT-2 Lease (Lease No. 17676) since March 2000.
 - iv. There has been no reported production on the Lamkin, C.W. Lease (Lease No. 02941) since June 2005.
 - v. Complainant testified there has been no production or operations on the Leases for years.
 - vi. Complainant testified that Atlas has not maintained the contractual leases by paying rental fees.
9. 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).

10. Atlas does not have a good faith claim to operate the Leases and Wells.
11. Absent a good faith claim to operate, the Wells are not eligible for extensions to the plugging requirements in Statewide Rule 14 and 15 as provided for in Statewide Rule 15(e).
12. The Wells should be plugged and any plugging extensions relating to them should be revoked.
13. Pursuant to Tex. Gov’t Code §§ 2001.056 and 2001.062(e), Atlas was provided notice and an opportunity for hearing and failed to appear at the hearing.

CONCLUSIONS OF LAW

1. Proper notice of opportunity for hearing was timely issued to persons entitled to notice. See, e.g., Tex. Gov’t Code § 2001.051; 16 Tex. Admin. Code § 1.45(a).
2. The Commission has jurisdiction in this case. See, e.g., Tex. Nat. Res. Code § 81.051.
3. Atlas does not have a good faith claim, as that term is defined in Statewide Rule 15(a)(5), to continue operating the Leases and Wells. 16 Tex. Admin. Code § 3.15(a)(5).
4. The Wells are not eligible for plugging extensions and should be plugged.

IT IS THEREFORE ORDERED that Atlas does not have a good faith claim to operate the Wells, that any plugging extensions for the Wells be cancelled, and that a good-faith-claim hold be placed on any P-4 transfers for the Leases. Atlas is **ORDERED** to plug the Wells and place the Leases in compliance with Statewide Rules 8, 14, and 15 (16 Tex. Admin. Code §§ 3.8, 3.14 and 3.15), and any other applicable Commission rules no later than 30 days after this order becomes final.

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 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 this order in accordance with Tex. Gov't Code § 2001.144.

All pending motions and requests for relief not previously granted or granted herein are denied.

Done this 11th day of February, 2020, in Austin, Texas.

RAILROAD COMMISSION OF TEXAS

(Order approved and signatures affixed by HD
Unprotested Master Order dated February 11,
2020)

JNC/mls