



# RAILROAD COMMISSION OF TEXAS

## HEARINGS DIVISION

**OIL AND GAS DOCKET No. 01-0295967**

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**IN RE: COMMISSION-CALLED HEARING ON THE COMPLAINT OF ANNETTE TRIPP ALLEGING IMPROPER NOTICE FOR THE DRILLING PERMIT (PERMIT No. 800358) ISSUED TO FIVE-JAB, INC. FOR ITS LIEKE, OTTO WELL No. 3 (API No. 42-013-33991) IN THE FASHING (AUSTIN CHALK) FIELD, ATASCOSA COUNTY, TEXAS AND TO DETERMINE WHETHER THE PERMIT SHOULD BE REVOKED, SUSPENDED, OR CANCELLED**

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### FINAL ORDER

The Commission finds that after notice and opportunity for hearing, Respondent, Five-Jab, Inc., requested a hearing on the matter, but failed to appear. Complainant, Annette Tripp, having appeared at hearing prepared to proceed, 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. In a Mineral Distribution Deed Without Warranty dated December 18, 2000, recorded in Book 159, Page 92, Deed Records, Atascosa County, Texas, Lucille E. Garrow and Annette Tripp, as Independent Executors of the Estate of Julia Richter, deceased, conveyed to Annette L. Tripp (Complainant) an undivided 1/4 of all of Grantor's right, title and interest in and to the oil, gas and other minerals under a 96.2 acre tract of land (Land) located in Atascosa County, Texas.
2. By Release of Oil and Gas Lease dated August 24, 2012, recorded as Document Number 135219, Official Public Records, Atascosa County, Texas, SNG Black, LLC (SNG Black) released its interest in and to an Oil and Gas Lease dated August 22, 2008, recorded as Document Number 100575, Official Public Records, Atascosa County, Texas.
3. On December 26, 2014, Five-Jab, Inc., (Operator No. 271310), (Five-Jab), submitted to SNG Operating, Inc. (SNG Operating) a waiver of objection in order to obtain a Rule 37 exception for Five-Jab's Lieke, Otto Well No. 3 (API No. 42-013-33991) in the Fashing (Austin Chalk) Field, located in Atascosa County, Texas.

- a. On December 29, 2014, SNG Operating executed the waiver of objection.
  - b. No other waivers of objection were submitted to the Commission in connection with the application.
4. On January 20, 2015, Commission Staff issued to Five-Jab a Form W-1 Permit (Permit No. 800358), (Permit), to recomplete the Lieke, Otto Lease, Well No. 3, Fashing (Austin Chalk) Field (Well), located in Atascosa County, Texas, pursuant to the exception provided for in Statewide Rule 37(h)(2)(B).
- a. Statewide Rule 37(h)(2)(B) states that:

The director of the Oil and Gas Division or a delegate of the director may issue an exception permit for drilling, deepening, or additional completion, recompletion, or reentry in an existing well bore if written waivers of objection are received from all persons to whom notice would be given pursuant to subsection (a)(2) of this section. [16 TEX. ADMIN. CODE § 3.37(h)(2)(B)].
  - b. Statewide Rule 37(a)(2)(A) states that:

When an exception to only the minimum lease-line spacing requirement is desired, the applicant shall file a list of the mailing addresses of all affected persons, who, for tracts closer to the well than the greater of one-half of the prescribed minimum between-well spacing distance or the minimum lease-line spacing distance, include the designated operator; all lessees of record for tracts that have no designated operator; and all owners of record of unleased mineral interests. [16 TEX. ADMIN. CODE § 3.37(a)(2)(A)].
  - c. Special Field Rules for the Fashing (Austin Chalk) Field (Field No. 30379100) provide for a minimum lease line spacing of 467 feet.
  - d. As permitted, the subject Well is located 320 feet from the west lease line – being the same distance from the east line for the subject Land.
5. Complainant is an owner of an unleased mineral interest in the Fashing (Austin Chalk) Field in and under the subject Land.
- a. The subject Land is located closer to the well than the greater of one-half of the prescribed minimum between-well spacing distance or the minimum lease-line spacing distance.
  - b. Complainant was not provided notice of application for the subject Permit.
  - c. Complainant did not waive objection to the issuance of the subject Permit.

6. At least ten days notice was given to Five-Jab and Complainant. On February 26, 2015, Five-Jab stated that it “was not opposed to the show cause hearing, and additionally request(ed) that a companion hearing also be set for the same day to request a Statewide Rule 37 exception.”
  - a. After multiple continuations, a hearing on the matter was set for December 2, at 9:00 a.m.
  - b. Five-Jab failed to appear at hearing.
  - c. Complainant appeared at hearing with counsel prepared to proceed, and the docket advanced.
7. By failing to appear at hearing, Five-Jab chose to rely on informal disposition of the docket pursuant to TEX. GOV'T CODE §§ 2001.056 and 2001.062(e).
8. On December 4, 2015, Complainant filed with the Commission a letter stating that “an online review of records associated with the subject wellbore, as well as records associated with Five-Jab, Inc. revealed no completion papers for the Lieke Otto Well No. 3.”

#### 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. Pursuant to the requirements of Statewide Rule 37, Complainant is an “affected person” that was entitled to notice of application for the subject Permit.
4. Pursuant to the requirements of Statewide Rule 37, SNG Operating was not an entity entitled to waive objection to the issuance of the subject Permit.
5. Pursuant to the requirements of Statewide Rule 37, SNG Operating’s waiver of objection to the issuance subject Permit was ineffective.
6. Pursuant to the requirements of Statewide Rule 37, Form W-1 Permit (Permit No. 800358) to recomplete the Lieke, Otto Lease, Well No. 3, Fashing (Austin Chalk) Field, located in Atascosa County, Texas, was issued in error and should be cancelled.

**IT IS THEREFORE ORDERED** that Permit No. 800358 issued to Five-Jab, Inc. for its Lieke, Otto Well No. 3 (API No. 42-013-33991) in the Fashing (Austin Chalk) Field, Atascosa County, Texas is **CANCELLED**.

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 January 12, 2016, in Austin, Texas.

**RAILROAD COMMISSION OF TEXAS**

**(Order approved and signatures affixed  
by Hearings Division Unprotested Master  
Order dated January 12, 2016)**