



# RAILROAD COMMISSION OF TEXAS

## HEARINGS DIVISION

### **OIL AND GAS DOCKET NO. 01-0299310**

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**IN RE: COMMISSION CALLED HEARING TO PROVIDE VISTAR OIL TEXAS LLC (OPERATOR NO. 886286) AN OPPORTUNITY TO DEMONSTRATE THAT IT HAS A GOOD FAITH CLAIM TO OPERATE THE LYSSY-DEERING (18228) LEASE, WELL NO. 1H, MARCELINA CREEK (BUDA) FIELD, WILSON COUNTY, TEXAS, AND TO SHOW CAUSE WHY THE WELL SHOULD NOT BE ORDERED PLUGGED**

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### **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. Vistar Oil Texas LLC (Vistar) holds Operator No. 886286.
2. Vistar is the P-4 Record Operator of the Lyssy-Deering (18228) Lease, Well No. 1H, Marcelina Creek (Buda) Field, located in Wilson County, Texas.
  - a. The Lyssy-Deering (18228) Lease, Well No. 1H, Marcelina Creek (Buda) Field, is physically located in the M. Barrera Survey, Abstract No. 4, Wilson County, Texas (Land).
3. On December 29, 2015, Complainant Nell Lyssy (Complainant) submitted to the Commission a letter of complaint alleging that Vistar lacks authority to operate the Lyssy-Deering (18228) Lease, Well No. 1H, Marcelina Creek (Buda) Field, Wilson County, Texas.
  - a. In that letter, Complainant alleged that "Vistar Oil Texas LLC ceased production of the Lyssy-Deering 1H" in May 2014.
4. On December 29, 2015, Complainant submitted to the Commission an oil, gas and mineral lease dated August 15, 2008, recorded in Volume 1997, Page 555,

Official Public Records, Wilson County, Texas, purporting to cover the subject Land.

- a. The oil, gas and mineral lease provided for a three (3) year primary term with a two (2) year option to extend the primary term.
  - b. Evidence of lease perpetuation was not submitted to the Commission.
5. At least ten days notice was given to Vistar and Complainant. By letter dated January 6, 2016, Vistar was afforded the opportunity to submit evidence of a continuing right to operate the subject lease and well or request a hearing on the matter. Vistar did neither.
  - a. Vistar submitted to the Commission a letter dated January 12, 2016, which states that:

Vistar lacks financial resources to continue its oil and gas operations and is no longer pursuing the production of oil and gas in the State of Texas.

Vistar elects to forfeit its paid-in-full P-5 bond and requests that the Commission dismiss all active dockets regarding Vistar.
6. By failing to respond to notice and opportunity for hearing, Vistar chose to rely on informal disposition of the Docket pursuant to TEX. GOV'T CODE §§ 2001.056 and 2001.062(e).
7. Vistar has a current, active Form P-5 with financial assurance in the form of a \$25,000 cash deposit, which expires on March 31, 2016. Vistar is the operator of 1 well, which is not in Statewide Rule 14(b)(2) [16 TEX. ADMIN. CODE § 3.14(b)(2)] inactive status.
8. Vistar became the operator of the Lyssy-Deering (18228) Lease, Well No. 1H, Marcelina Creek (Buda) Field, Wilson County, Texas, by "new lease" with an effective date of October 15, 2013, and an approved date of May 14, 2015.
9. The Lyssy-Deering (18228) Lease, Well No. 1H, Marcelina Creek (Buda) Field, Wilson County, Texas, was spud on August 23, 2013, and completed on September 30, 2013.
10. There has been no reported production on the Lyssy-Deering (18228) Lease, Marcelina Creek (Buda) Field, Wilson County, Texas, since May 2014.
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. Vistar did not present a “good faith claim” to operate the Lyssy-Deering (18228) Lease, Well No. 1H, Marcelina Creek (Buda) Field Wilson County, Texas and did not respond to a January 6, 2016, Commission letter requesting that it either provide a “good faith claim” to operate the subject lease or request a hearing.
13. Absent a “good faith claim” to operate, the Lyssy-Deering (18228) Lease, Well No. 1H, Marcelina Creek (Buda) Field Wilson County, Texas, is not eligible for an extension to the plugging requirements of Statewide Rule 15(e)(3) and the well should be plugged, pursuant to the requirements of Statewide Rule 14(b)(2).

#### **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. Vistar does not have a “good faith claim” to operate the Lyssy-Deering (18228) Lease, Well No. 1H, Marcelina Creek (Buda) Field, Wilson County, Texas.
4. The Lyssy-Deering (18228) Lease, Well No. 1H, Marcelina Creek (Buda) Field, Wilson County, Texas, is not eligible for an extension to the plugging requirements of Statewide Rule 15(e)(3).
5. The Lyssy-Deering (18228) Lease, Well No. 1H, Marcelina Creek (Buda) Field, Wilson County, Texas, should be plugged, pursuant to the requirements of Statewide Rule 14(b)(2).

**IT IS THEREFORE ORDERED** that Vistar Oil Texas LLC plug the Lyssy-Deering (18228) Lease, Well No. 1H, Marcelina Creek (Buda) Field, Wilson County, Texas, pursuant to the requirements of Statewide Rule 14(b)(2).

It is further **ORDERED** that any plugging extension relating to the Lyssy-Deering (18228) Lease, Well No. 1H, Marcelina Creek (Buda) Field, Wilson County, Texas, is hereby revoked and cancelled in all respects.

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 23<sup>rd</sup> day of February, 2016, in Austin, Texas.

**RAILROAD COMMISSION OF TEXAS**

**(Order approved and signatures affixed  
by Hearings Division Unprotested Master  
Order dated February 23, 2016)**