

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL & GAS DOCKET NO. 7B-0300823

COMPLAINT OF DILLER-PALMER RANCH, LP THAT GROTHE BROS., INC. (OPERATOR NO. 335430) DOES NOT HAVE A GOOD FAITH CLAIM TO OPERATE THE DILLER, MILDRED ETAL LEASE (LEASE NO. 05964), WELL NOS. 1, 3, 5, 6, 7, 8, 10, AND 11, SHACKELFORD COUNTY REGULAR FIELD, SHACKELFORD COUNTY, TEXAS

FINAL ORDER

The Commission finds that after statutory notice and an opportunity for hearing regarding the captioned proceeding, Grothe Bros., Inc. failed to respond and did not request a hearing. This proceeding having been duly submitted to the Railroad Commission of Texas ("Commission" or "RRC") 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. At least ten days' notice was given to Grothe Brothers, Inc. ("Grothe"), RRC Operator No. 335410.
2. Grothe is the RRC operator of record for the Diller, Mildred Etal Lease (Lease No. 05964), Well Nos. 1, 3, 5, 6, 7, 8, 10, and 11 ("Subject Wells").
3. On June 3, 2016, the Commission received a complaint from Diller-Palmer Ranch, LP ("Complainant") alleging Grothe does not have a good faith claim to operate the Subject Wells and the Subject Wells should be plugged. Complainant is the surface and mineral estate owner of the property where the Subject Wells are located. Complainant asserts that Grothe does not have any lease or other agreement which is in force and effect. The Complainant provided the following documentation to support its claim:
 - a. A Special Warranty Deed and Bill of Sale granting Complainant all of the real property (including surface, oil, gas, mineral and royalty interests) where the Subject Wells are located; and
 - b. A Quit-Claim Deed filed in Shackelford County generally deeding to Grothe "all of the interest in oil, gas, working interest and other minerals in and under" Stephens, Shackelford, and Callahan Counties that is owned by the grantors—Nancy Grothe Pracht, John Kinslow Hendley, Brian Jeffrey Hendley, Kevin Andre Hendley, and Steven Dean Hendley.

4. 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).
5. In a letter dated June 15, 2016, a Commission Administrative Law Judge (“ALJ”) requested in writing that Grothe either (1) provide evidence that it holds a “good faith claim” to a continuing right to operate the referenced well or (2) request a hearing on the matter on or before July 15, 2016. This writing expressly notified Grothe that failure to timely request a hearing would constitute waiver of the opportunity given to request a hearing.
6. Grothe failed to provide evidence that it holds a “good faith claim” to a continuing right to operate the Subject Wells, failed to request a hearing, and failed to otherwise respond to the ALJ’s June 15, 2016 letter.
7. Grothe is delinquent in filing the annual Commission Organization Report (Form P-5). Its last Form P-5 filing was July 23, 2014. Grothe had a \$50,000 letter of credit as its financial assurance at the time of its last Form P-5 annual renewal submission.
8. Grothe has 34 inactive wellbores subject to Statewide Rule 14(b)(2). 16 TEX. ADMIN. CODE § 3.14(b)(2). Grothe has been denied plugging extensions for all of the 34 inactive wells.
9. Grothe became the RRC operator of record for the Subject Wells in June 2011. There has been no reported production for the Subject Wells since November 2014.
10. Grothe does not hold a “good faith claim” to operate the Subject Wells.
11. Absent a "good faith claim" to operate, the Subject 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 Subject Wells should be plugged and any plugging extensions relating to the Subject Wells should be revoked.
13. Pursuant to TEX. GOV’T CODE §§ 2001.056 and 2001.062(e), Grothe was provided an opportunity to request a hearing and failed to do so.

CONCLUSIONS OF LAW

1. Proper notice of hearing was timely issued to appropriate 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. Grothe does not have a “good faith claim,” as that term is defined in Statewide Rule 15(a)(5), to continue operating the Subject Wells. 16 TEX. ADMIN. CODE § 3.15(a)(5).
4. The Subject Wells are not eligible for a plugging extension and the Subject Wells should be plugged.

IT IS THEREFORE ORDERED that Grothe is not eligible for plugging extensions for the Subject Wells. Grothe is hereby **ORDERED** to plug the Subject Wells and place the Subject Wells in compliance with Statewide Rules 14 and 15.

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) and 16 TEX. ADMIN. CODE § 1.149(c), 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 Commission Order is signed.

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

Done this 27th day of September, 2016, in Austin, Texas.

RAILROAD COMMISSION OF TEXAS

(Order approved and signatures affixed by HD
Unprotested Master Order date September 27,
2016)

JNC/rnf