

OIL AND GAS DOCKET NO. 7C-0301731

IN RE: COMMISSION CALLED HEARING TO PROVIDE SMC OIL & GAS, INC. (OPERATOR NO. 789634) AN OPPORTUNITY TO DEMONSTRATE THAT IT HAS A GOOD FAITH CLAIM TO OPERATE THE BYARS, M. D. (13308) LEASE, SMC (CANYON REEF) FIELD, SCHLEICHER COUNTY, TEXAS, AND TO SHOW CAUSE WHY THE WELLS SHOULD NOT BE ORDERED PLUGGED

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. SMC Oil & Gas, Inc. ("SMC") holds Operator No. 789634.
2. SMC is the current Form P-4 *Certificate of Compliance and Transportation Authority* operator of record for the Byars, M. D. (13308) Lease, SMC (Canyon Reef) Field, Schleicher County, Texas.
3. On September 14, 2016, Complainant Gardenia Investments, Ltd. ("Complainant") submitted to the Commission a complaint letter alleging that SMC lacks authority to operate the Byars, M. D. (13308) Lease, SMC (Canyon Reef) Field, Schleicher County, Texas.
4. At least ten days notice was given to SMC and Complainant. By letter dated September 15, 2016, SMC was afforded the opportunity to submit evidence of a "good faith claim"—as that term is defined in 16 Tex. Admin. Code § 3.15(a)(5)—to a continuing right to operate the subject lease and wells, or request a hearing on the merits. SMC did neither.
5. By failing to respond to notice and opportunity for hearing, SMC chose to rely on informal disposition of this Docket pursuant to TEX. GOV'T CODE §§ 2001.056 and 2001.062(e).
6. SMC has an active Form P-5 with financial assurance in the form of a \$50,000.00 letter of credit, which expires on February 1, 2018. SMC is the operator of 36 wells, of which 13 are in Statewide Rule 14(b)(2) [16 TEX. ADMIN. CODE § 3.14(b)(2)] inactive status.

7. SMC became the current Form P-4 *Certificate of Compliance and Transportation Authority* operator of record for the Byars, M. D. (13308) Lease, SMC (Canyon Reef) Field, Schleicher County, Texas, by filing a Form P-4 dated September 9, 1992.
8. The Byars, M. D. (13308) Lease, SMC (Canyon Reef) Field, Schleicher County, Texas, had zero (0) reported production from September 2006 through July 2016.
9. The Byars, M. D. (13308) Lease, SMC (Canyon Reef) Field, Schleicher County, Texas, has had no reported production since July 2016.
10. 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)].
11. SMC did not present a “good faith claim” to operate the captioned lease and did not respond to a September 16, 2016, Commission letter requesting that it either provide a “good faith claim” to operate the subject lease, or request a hearing on the merits.
12. Absent a “good faith claim” to operate, the subject wells are not eligible for an extension to the plugging requirements of Statewide Rule 15(e)(3).
13. Absent eligibility for extensions to the plugging requirements of Statewide Rule 15(e)(3), the plugging extensions for the subject wells should be cancelled pursuant to Statewide Rule 15(h).
14. The Byars, M. D. (13308) Lease, SMC (Canyon Reef) Field, Schleicher 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. SMC does not have a “good faith claim” to operate the Byars, M. D. (13308) Lease, SMC (Canyon Reef) Field, Schleicher County, Texas.
4. The Byars, M. D. (13308) Lease, SMC (Canyon Reef) Field, Schleicher County, Texas, is not eligible for an extension to the plugging requirements of Statewide Rule 15(e)(3).

5. The plugging extensions for the Byars, M. D. (13308) Lease, SMC (Canyon Reef) Field, Schleicher County, Texas, should be cancelled pursuant to Statewide Rule 15(h).
6. The Byars, M. D. (13308) Lease, SMC (Canyon Reef) Field, Schleicher County, Texas, should be ordered plugged pursuant to the requirements of Statewide Rule 14(b)(2).

IT IS THEREFORE ORDERED that the plugging extensions for the Byars, M. D. (13308) Lease, SMC (Canyon Reef) Field, Schleicher County, Texas, are hereby **CANCELLED**. SMC Oil & Gas, Inc. is hereby **ORDERED** to plug the Byars, M. D. (13308) Lease, SMC (Canyon Reef) Field, Schleicher 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 15th day of November, 2016, in Austin, Texas.

RAILROAD COMMISSION OF TEXAS
(Order approved and signatures affixed
by Hearings Division Unprotested Master
Order dated November 15, 2016)