

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL & GAS DOCKET NO. 7C-0302073

COMPLAINT OF BALLINGER INDEPENDENT SCHOOL DISTRICT THAT EASTERN SHELF OPERATING, LLC (OPERATOR NO. 239210) DOES NOT HAVE A GOOD FAITH CLAIM TO OPERATE THE BEARCAT 4 LEASE (LEASE NO. 19068), WELL NO. 1, BALLINGER (PALO PINTO) FIELD, RUNNELS 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, Eastern Shelf Operating, LLC failed to request a hearing and did not otherwise respond such that this docketed 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. On October 12, 2016, the Commission received a complaint from Ballinger Independent School District (“BISD”) alleging Eastern Shelf Operating, LLC (“Eastern Shelf”), RRC Operator No. 239210, does not have a right to operate the Bearcat 4 Lease (the “Lease”), Lease No. 19068, Well No. 1 (the “Well”) because the written lease relied upon by Eastern Shelf has terminated due to lack of production.
2. Eastern Shelf is the current RRC operator of record for the Well.
3. In a letter dated October 13, 2016, a Commission Administrative Law Judge (“ALJ”) requested in writing that Eastern Shelf either (1) provide evidence that it holds a “good faith claim” to a continuing right to operate the Well or (2) request a hearing on the matter on or before November 14, 2016. This writing expressly notified Eastern Shelf that failure to timely request a hearing would constitute waiver of the provided opportunity given to request a hearing.
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. Eastern Shelf failed to provide evidence that it holds a good faith claim to a continuing right to operate the Well, failed to request a hearing, and failed to otherwise respond to the ALJ’s October 13, 2016 letter.

6. At least ten days' notice of an opportunity for hearing was given to Eastern Shelf and BISD.
7. To support its claim, BISD submitted a notarized Oil, Gas and Mineral Lease, with BISD as the Lessor, entered on August 31, 2012 covering the real property where the Well is located. The Oil, Gas and Mineral Lease has a primary term of two years and continues thereafter as long as oil or gas is produced in paying quantities. BISD represents that it is the surface owner and mineral interest owner where the Well is located.
8. There has been no reported production on the Lease since Eastern Shelf became the current record operator in November 2015.
9. Eastern Shelf is delinquent in filing a current annual Commission Organization Report (Form P-5).
10. Eastern Shelf does not have a good faith claim to operate the Well.
11. Absent a good faith claim to operate, the Well is not eligible for extensions to the plugging requirements in Statewide Rule 14 and 15 as provided for in Statewide Rule 15(e).
12. The Well should be plugged and any plugging extensions relating to it should be revoked.
13. Pursuant to TEX. GOV'T CODE §§ 2001.056 and 2001.062(e), Eastern Shelf was provided an opportunity to request a hearing and failed to do so.

CONCLUSIONS OF LAW

1. Proper notice of opportunity for 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. Eastern Shelf does not have a good faith claim, as that term is defined in Statewide Rule 15(a)(5), to continue operating the Well. 16 TEX. ADMIN. CODE § 3.15(a)(5).
4. The Well is not eligible for a plugging extension and the Well should be plugged.

IT IS THEREFORE ORDERED that Eastern Shelf is not eligible for plugging extensions for the Well. Eastern Shelf is hereby **ORDERED** to plug the Well and place the Lease in compliance with Statewide Rules 8, 14, and 15, and any other applicable Commission rules.

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 24th day of January, 2017, in Austin, Texas.

RAILROAD COMMISSION OF TEXAS

(Order approved and signatures affixed by HD
Unprotested Master Order dated January 24, 2017)

JNC/rnf