

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL & GAS DOCKET NO. 7B-0302533**

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**COMPLAINT OF ELIZABETH A. JONES AND TOMMY D. JONES THAT  
FORMATION RECOVERY LLC (OPERATOR NO. 276932) DOES NOT HAVE A GOOD  
FAITH CLAIM TO OPERATE THE SPENCE LEASE (LEASE NO. 123246), WELL NO.  
1, BBB&C, BLK. 3 (MARBLE FALLS) FIELD, BROWN COUNTY, TEXAS**

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**FINAL ORDER**

The Railroad Commission of Texas (“Commission” or “RRC”) finds that after statutory notice and an opportunity for hearing regarding the captioned proceeding, Formation Recovery LLC failed to request a hearing and did not otherwise respond such that this docket 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. The Commission received a complaint from Elizabeth A. Jones and Tommy D. Jones (“Complainants”) alleging Formation Recovery LLC (“Formation”), RRC Operator No. 276932, does not have a good faith claim to operate the Spence Lease, Lease No. 123246, Well No.1 (the “Well”) because the written lease relied upon by Formation has terminated due to lack of production.
2. Formation is the current RRC operator of record for the Well and became the RRC operator in October 2014.
3. In a letter dated December 8, 2016, a Commission Administrative Law Judge (“ALJ”) requested in writing that Formation 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 January 9, 2017. This writing expressly notified Formation 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. Formation 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 December 8, 2016 letter.
6. At least ten days' notice of an opportunity for hearing was given to Formation and Complainants.
7. To support their claim, Complainants submitted the following:
  - a. Deeds showing that they currently own property and mineral rights where the Well is located. They represent that they currently own all interest in the property where the Well is located; and
  - b. A lease, with Complainant Elizabeth A Jones as a lessor, covering the Well and dated February 1, 1983, that has a primary term of ten years and continues thereafter as long as oil or gas is produced. Complainants represent this is the only written lease that Formation has covering the Well.
8. There has been no reported production on the Well since October 2015.
9. Formation does not have a good faith claim to operate the Well.
10. 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).
11. The Well should be plugged and any plugging extensions relating to it should be revoked.
12. Pursuant to TEX. GOV'T CODE §§ 2001.056 and 2001.062(e), Formation 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. Formation 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 Formation is not eligible for plugging extensions for the Well. Formation 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 14<sup>th</sup> day of February, 2017, in Austin, Texas.

**RAILROAD COMMISSION OF TEXAS**  
(Order approved and signatures affixed by HD  
Unprotested Master Order dated February 14, 2017)

JNC/rnf