

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL & GAS DOCKET NO. 7B-0302603

COMPLAINT BY L. W. LESIKAR THAT MYERS, A. J. (OPERATOR NO. 597440) DOES NOT HAVE A GOOD FAITH CLAIM TO OPERATE THE POOLVILLE UNIT 7 (LEASE NO. 018474), WELL NO. 1, TOTO (BEND CONGL., LOWER) FIELD, PARKER 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, Myers, A. J. 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. The Commission received a complaint from L.W. Lesikar (“Complainant”) alleging Myers, A. J. (“Myers”), RRC Operator No. 597440, does not have a good faith claim to operate the Poolville Unit 7 (Lease No. 018474), Well No. 1 (the “Well”) because the written lease relied upon by Myers has terminated due to lack of production.
2. Myers is the current RRC operator of record for the Well and became the RRC operator in December 2004.
3. In a letter dated December 13, 2016, a Commission Administrative Law Judge (“ALJ”) requested in writing that Myers 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 12, 2017. This writing expressly notified Myers 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. Myers 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 13, 2016 letter.

6. At least ten days' notice of an opportunity for hearing was given to Myers and Complainant.
7. To support his claim, Complainant submitted:
 - a. A filed warranty deed showing Complainant as grantee of property and mineral rights where the Well is located. Complainant also represents that he currently owns the property and mineral rights where the Well is located; and
 - b. A written lease, covering the Well and dated April 26, 1948, that has a primary term of ten years and continues thereafter as long as oil or gas is produced. Complainant represents this is the written lease that Myers relies on to operate the Well.
8. There has been no reported production on the Well since July 2016. From October 2015 to present reported production is as follows:

Month	Monthly reported gas production in 1000 cubic feet (MCF)
October-15	0
November-15	0
December-15	10
January-16	5
February-16	10
March-16	10
April-16	10
May-16	0
June-16	10
July-16	0
August-16	NO RPT
September-16	NO RPT
October-16	NO RPT
November-16	NO RPT
December-16	NO RPT
January-17	NO RPT

Complainant states that despite Myers' report of "very small" production, according to the Well meter, there has been no production.

9. Myers 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 per 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), Myers 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. Myers 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 Myers is not eligible for plugging extensions for the Well. Myers is hereby **ORDERED** to plug the Well and place the Well 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 28th day of February, 2017, in Austin, Texas.

RAILROAD COMMISSION OF TEXAS
(Order approved and signatures affixed by HD
Unprotested Master Order dated February 28, 2017)

JNC/rnf