

OIL AND GAS DOCKET NO. 10-0302981

IN RE: COMMISSION CALLED HEARING TO PROVIDE APACHE CORPORATION (OPERATOR NO. 027200) AN OPPORTUNITY TO DEMONSTRATE THAT IT HAS A GOOD FAITH CLAIM TO OPERATE THE PIERSON -C- (090607) LEASE, PERRYTON (MORROW, LOWER) FIELD, WELL NO. 1, OCHILTREE COUNTY, TEXAS

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. Apache Corporation ("Apache") holds Form P-5 *Organization Report* Operator No. 027200.
2. Apache is the current Form P-4 *Certificate of Compliance and Transportation Authority* operator of record for the Pierson -C- (090607) Lease, Perryton (Morrow, Lower) Field, Well No. 1, Ochiltree County, Texas.
3. On or about December 27, 2016, Complainants Russel R. Pierson, Jr. and Zelma Pierson Smith ("Complainants") submitted to the Commission a complaint letter alleging that Apache lacks authority to operate the Pierson -C- (090607) Lease, Perryton (Morrow, Lower) Field, Well No. 1, Ochiltree County, Texas.
4. On or about January 3, 2017, the Administrative Law Judge requested in writing that Apache either (1) provide evidence that it holds a good faith claim to a continuing right to operate the referenced property or (2) request a hearing on the matter on or before February 2, 2017. This writing expressly notified the operator that failure to timely request a hearing would constitute waiver of the opportunity to request a hearing on the matter. Apache did neither.
5. At least ten days' notice was given to Apache and Complainants.
6. By failing to respond to notice and opportunity for hearing, Apache chose to rely on informal disposition of this docket pursuant to TEX. GOV'T CODE §§ 2001.056 and 2001.062(e).

7. Apache has an active Form P-5 with financial assurance in the form of a \$250,000 bond, which expires on June 1, 2018. Apache is the operator of 12,844 wells, of which 1,178 are in Statewide Rule 14(b)(2) [16 TEX. ADMIN. CODE § 3.14(b)(2)] inactive status.
8. Apache became the current Form P-4 *Certificate of Compliance and Transportation Authority* operator of record for the Pierson -C- (090607) Lease, Perryton (Morrow, Lower) Field, Well No. 1, Ochiltree County, Texas, by filing a Form P-4 dated effective April 1, 2000.
9. The Pierson -C- (090607) Lease, Perryton (Morrow, Lower) Field, Well No. 1, Ochiltree County, Texas, has had no reported production since November 2016.
10. The Pierson -C- (090607) Lease, Perryton (Morrow, Lower) Field, Well No. 1, Ochiltree County, Texas, had zero (0) reported production from December 2013 through November 2016.
11. 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)].
12. Apache did not present a “good faith claim” to operate the captioned leases and did not respond to a January 3, 2017, Commission letter requesting that it either provide a “good faith claim” to operate the subject lease, or request a hearing on the merits.
13. Absent a “good faith claim” to operate, the subject well is not eligible for an extension to the plugging requirements of Statewide Rule 15(e)(3).
14. Absent eligibility for an extension to the plugging requirements of Statewide Rule 15(e)(3), the plugging extension for the subject well should be cancelled pursuant to Statewide Rule 15(h).
15. The Pierson -C- (090607) Lease, Perryton (Morrow, Lower) Field, Well No. 1, Ochiltree 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. Apache does not have a “good faith claim” to operate the Pierson -C- (090607) Lease, Perryton (Morrow, Lower) Field, Well No. 1, Ochiltree County, Texas.
4. The Pierson -C- (090607) Lease, Perryton (Morrow, Lower) Field, Well No. 1, Ochiltree County, Texas, is not eligible for an extension to the plugging requirements of Statewide Rule 15(e)(3).
5. The plugging extension for the Pierson -C- (090607) Lease, Perryton (Morrow, Lower) Field, Well No. 1, Ochiltree County, Texas, should be cancelled pursuant to Statewide Rule 15(h).
6. The Pierson -C- (090607) Lease, Perryton (Morrow, Lower) Field, Well No. 1, Ochiltree County, Texas, should be ordered plugged pursuant to the requirements of Statewide Rule 14(b)(2).

IT IS THEREFORE ORDERED that the plugging extension for the Pierson -C- (090607) Lease, Perryton (Morrow, Lower) Field, Well No. 1, Ochiltree County, Texas, is hereby **CANCELLED**. Apache Corporation is hereby **ORDERED** to plug within 30 days of the date this order becomes final, the Pierson -C- (090607) Lease, Perryton (Morrow, Lower) Field, Well No. 1, Ochiltree 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 21st day of March, 2017, in Austin, Texas.

RAILROAD COMMISSION OF TEXAS
(Order approved and signatures affixed
by Hearings Division Unprotested Master
Order dated March 21, 2017)