

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL & GAS DOCKET NO. 03-0303698

COMPLAINT OF LAURIE WEBER VITALE THAT ENERVEST OPERATING, L.L.C. (OPERATOR NO. 252131) DOES NOT HAVE A GOOD FAITH CLAIM TO OPERATE THE CEDAR CREEK "A" AMARADO UNIT (LEASE NO. 21894), WELL NO. 1, GIDDINGS (AUSTIN CHALK-3) FIELD, FAYETTE 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, Enervest Operating, L.L.C. declined the opportunity for hearing 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 Laurie Weber Vitale ("Complainant") alleging Enervest Operating, L.L.C. ("Enervest"), RRC Operator No. 252131, does not have a good faith claim to operate the Cedar Creek "A" Amarado Unit (Lease No. 28194), Well No. 1 (the "Well") because the written lease relied upon by Enervest has terminated due to lack of production.
2. To support her claim, Complainant submitted a written notarized oil, gas and mineral lease dated February 19, 1992, covering the property where the Well is located with Complainant's father as a lessor; this lease has a primary term of three years and states that if production ceases for 90 days, the lease is terminated. Complainant represents that this is the written lease that Enervest relies on and that Complainant inherited a portion of the mineral interests from her parents.
3. Enervest became the operator of record in August 2007. There has been no reported production for the Well since June 2016.
4. In a letter dated February 27, 2017, a Commission Administrative Law Judge ("ALJ") requested in writing that Enervest 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 March 29, 2017.

5. 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).
6. On March 7, 2017, Enervest submitted a letter acknowledging that the written lease has terminated due to lack of production and that it intends to plug the Well.
7. At least ten days’ notice of an opportunity for hearing was given to Enervest and Complainant.
8. Enervest does not have a good faith claim to operate the Well.
9. 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).
10. The Well should be plugged and any plugging extensions relating to it should be revoked.
11. Pursuant to TEX. GOV’T CODE §§ 2001.056 and 2001.062(e), Enervest 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. Enervest 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 plugging extensions and the Well should be plugged.

IT IS THEREFORE ORDERED that Enervest is not eligible for plugging extensions for the Well. Enervest is hereby **ORDERED** to plug the Well and place the Cedar Creek “A” Amarado Unit (Lease No. 28194) in compliance with Statewide Rules 8, 14, and 15, and any other applicable Commission rules no later than 30 days after this order becomes final.

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 25th day of April, 2017, in Austin, Texas.

RAILROAD COMMISSION OF TEXAS

(Order approved and signatures affixed by HD
Unprotested Master Order dated April 25, 2017)

JNC/rnf