

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL & GAS DOCKET NO. 09-0304546**

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**APPLICATION OF A.E.R.O. (OPERATOR NO. 000245) TO SUPERSEDE PROVISIONS IN THE FINAL ORDER ENTERED ON AUGUST 12, 2014 IN OIL & GAS DOCKET NO. 09-0284271 REQUIRING D.J. PULLING, P.C. (OPERATOR NO. 196211) TO PLUG THE CRESCENT SWD SERVICES, LP LEASE (LEASE NO. 30710), WELL NO. 1, NEWARK, EAST (BARNETT SHALE) FIELD, PARKER COUNTY, TEXAS, AND TO APPROVE A.E.R.O. AS THE OPERATOR OF RECORD**

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**FINAL ORDER**

The Railroad Commission of Texas ("Commission" or "RRC") finds that after statutory notice the above-captioned proceeding was heard by a Commission Administrative Law Judge and Technical Examiner on May 1, 2017. Having been duly submitted to the Railroad Commission of Texas 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. A.E.R.O. ("AERO"), RRC Operator No. 259791, filed an application to supersede provisions in the Final Order ("Prior Order") entered on August 12, 2014 in Oil & Gas Docket No. 09-0284271 requiring D.J. Pulling, P.C. ("DJ"), RRC Operator No. 196211, to plug the Crescent SWD Services, LP Lease, RRC Lease No. 30710, Well No. 1 (the "Well"). With its application, AERO filed a Form P-4 "Certificate of Compliance and Transportation Authority" ("Form P-4") requesting that it be designated the Commission operator of record for the Well. The Form P-4 contained the signature of AERO as well as the signature of DJ, who is the current Commission operator of record for the Well.
2. The Prior Order finds that production of the Well ceased in August 2008, that DJ was denied plugging extensions and that there were unauthorized discharges in the area around the Well. The Prior Order has ordering provisions requiring DJ to plug the Well. Because the Prior Order requires DJ to plug the Well, there is an RRC hold preventing AERO from becoming the Commission record operator for the Well.
3. On April 17, 2017, Commission staff sent a Notice of Hearing via first class mail to both AERO and DJ setting a hearing date of May 1, 2017. Consequently, both parties received more than 10 days' notice. The Notice of Hearing contained (1) a statement of the time, place, and nature of the hearing; (2) a statement of the legal

authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and rules involved; and (4) a short and plain statement of the matters asserted.

4. At the hearing May 1, 2017, AERO appeared. DJ failed to appear.
5. DJ is delinquent in filing the annual Commission Form P-5 (Organization Report) ("Form P-5").<sup>1</sup>
6. DJ became the Commission record operator for the Well effective on October 1, 2009.
7. At the hearing AERO presented exhibits and testimony establishing the following:
  - a. AERO provided testimony a General Warranty Deed and Commercial Contract – Improved Property demonstrating AERO is the surface owner of and owns mineral rights in the real property where the Well is located.
  - b. AERO remediated the discharges around the Well that are described in the Prior Order and after an RRC inspection, no contamination was noted.
  - c. AERO plans to engage in commercial operations on the real property that are unrelated to the Well.
  - d. AERO has communicated with DJ and does not believe DJ will plug the Well.
  - e. AERO wants to plug the Well and requests to become the Commission operator of record to have authority to do so.
  - f. AERO does not operate any other Wells and is not otherwise engaged in activities regulated by the Commission.
  - g. AERO estimates that plugging the Well will cost \$100,000 and requests six months to plug the Well.
  - h. If AERO is not provided authority to plug the Well, it will likely remain unplugged and potentially cause pollution.

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<sup>1</sup> At the hearing, official notice was taken of relevant Commission records pursuant to TEX. GOV'T CODE § 2001.090.

8. AERO status at the Commission is active and AERO has a current Form P-5 with a \$17,200 cash deposit as its financial assurance on file with the Commission. AERO does not operate any other wells and the Well has a total well depth of 8,600 feet. See 16 TEX. ADMIN. CODE § 3.78(d), (g).
9. AERO has demonstrated a good faith claim to a continuing right to operate the Well.
10. The Well should be transferred to AERO as operator of record and ordered plugged.
11. The Well should be plugged.
12. Pursuant to TEX. GOV'T CODE §§ 2001.056 and 2001.062(e), DJ was provided an opportunity for hearing and failed to appear. DJ declined to be a party in this case.
13. AERO agreed on the record that the Final Order in this case is to be effective when the Master Order is signed.

#### **CONCLUSIONS OF LAW**

1. Proper notice of opportunity for hearing was provided to 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. AERO has 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 should be plugged.
5. An Order superseding provisions of the Prior Order is necessary to prevent waste.
6. Pursuant to § 2001.144(a)(4) of the Texas Government Code, and the agreement of the parties, this Final Order can be effective when a Master Order relating to this Final Order is signed.

**IT IS THEREFORE ORDERED** that the provision in the Prior Order requiring DJ to plug the Well is hereby superseded. All other provisions of the Prior Order shall remain in full force and effect.

It is **ORDERED** that the application of AERO to change the RRC operator of record for the Well is **APPROVED** and AERO's submitted Form P-4 "Certificate of Compliance and Transportation Authority" reflecting itself as the current operator for the Well is hereby **APPROVED** subject to the provisions of TEX. NAT. RES. CODE §§ 91.107, 91.114 and 91.142, and 16 TEX. ADMIN. CODE § 3.15.

It is **ORDERED** that the RRC transfer hold on the Well due to the Prior Order be canceled to allow transfer of the Well to AERO.

AERO is **ORDERED** to plug the Well no later than six months after this order becomes final.

It is **ORDERED** that this Final Order shall be effective when the Master Order relating to this Final Order is signed.

All pending motions and requests for relief not previously granted or granted herein are denied.

Done this 6<sup>th</sup> day of June, 2017, in Austin, Texas.

**RAILROAD COMMISSION OF TEXAS**

(Order approved and signatures affixed by  
Hearings Division Unprotested Master Order  
dated June 6, 2017)