

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

Oil and Gas Docket No. 7B-0307767

Complaint By Joe Max Walker That Harper, Clint (Operator No. 357854) Does Not Have a Good Faith Claim to Operate the Walker, Joe Max (30094) Lease, Well Nos. 2, 3, and Well No. 5 (Drilling Permit No. 682250), Throckmorton County Regular Field, Throckmorton County, Texas

FINAL ORDER

The Commission finds that after notice and opportunity for hearing, the operator of the captioned lease and permitted well failed to respond with evidence purporting to demonstrate that the operator maintains a "good faith claim" to operate the captioned lease and permitted well. 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. Harper, Clint ("Harper") Form P-5 *Organization Report* Operator No. 357854.
2. Harper is the P-4 Record Operator of the Walker, Joe Max (30094) Lease, Well Nos. 2 and 3, Throckmorton County Regular Field, Throckmorton County, Texas. Harper is the Operator of Well No. 5 (Drilling Permit No. 682250), Throckmorton County Regular Field, Throckmorton County, Texas.
3. On November 10, 2017, Complainant Joe Max Walker ("Walker") submitted to the Commission a request for the Walker, Joe Max (30094) Lease, Well Nos. 2, 3, and Well No. 5 (Drilling Permit No. 682250) Throckmorton County Regular Field, Throckmorton County, Texas, to be plugged. Walker states the lease contains a clause that requires the wells to be plugged and abandoned if there is no production for 90 days. Production was last reported in April 2013.
4. On November 13, 2017, the Administrative Law Judge requested in writing that Harper 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 December 13, 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.
5. Harper failed to submit any evidence of a good faith claim or to request a hearing.
6. Harper has a current, active Form P-5, with financial assurance in the form of a Letter of Credit for \$50,000.00 which expires on August 29, 2018.
7. Harper became the operator of the Walker, Joe Max (30094) Lease, Well No. 2, Throckmorton County Regular Field, Throckmorton County, Texas, by Form W-2 with a well completion date of May 16, 2007.

8. Harper became the operator of the Walker, Joe Max (30094) Lease, Well No. 3, Throckmorton County Regular Field, Throckmorton County, Texas, by Form W-2 with a well completion date of May 21, 2007.
9. Harper became the operator of the Walker, Joe Max, Well No. 5 (Drilling Permit No. 682250), Throckmorton County, Texas, by requesting and being approved for a drilling permit, issued July 29, 2009. A Commission District inspection made on November 9, 2017, confirmed the completion of the well.
10. The Walker, Joe Max (30094) Lease, Well Nos. 2 and 3, Throckmorton County Regular Field, Throckmorton County, Texas, had zero (0) production since May 2013. No production has been reported for Well No. 5 under the drilling permit, Permit No. 682250.
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. Harper failed to file any evidence to demonstrate Harper’s “good faith claim” to a continuing right to operate the Walker, Joe Max (30094) Lease, Well Nos. 2, 3, and Well No. 5 (Drilling Permit No. 682250) Throckmorton County Regular Field, Throckmorton County, Texas. Therefore, Harper does not have a “good faith claim” to operate the Walker, Joe Max (30094) Lease, Well Nos. 2, 3, and Well No. 5 (Drilling Permit No. 682250) Throckmorton County Regular Field, Throckmorton County, Texas.
13. Absent a “good faith claim” to operate, the subject wells are 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), any plugging extensions of Walker, Joe Max (30094) Lease, Well Nos. 2, 3, and Well No. 5 (Drilling Permit No. 682250) Throckmorton County Regular Field, Throckmorton County, Texas, should be cancelled pursuant to Statewide Rule 15(h).

CONCLUSIONS OF LAW

1. Proper notice of an opportunity for a hearing was timely issued to appropriate persons.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. Harper does not have a “good faith claim” to operate the Walker, Joe Max (30094) Lease, Well Nos. 2, 3, and Well No. 5 (Drilling Permit No. 682250) Throckmorton County Regular Field, Throckmorton County, Texas.
4. The Walker, Joe Max (30094) Lease, Well Nos. 2, 3, and Well No. 5 (Drilling Permit No. 682250) Throckmorton County Regular Field, Throckmorton County, Texas, are not eligible for an extension to the plugging requirements of Statewide Rule 15(e)(3).

5. Any plugging extensions for the Walker, Joe Max (30094) Lease, Well Nos. 2, 3, and Well No. 5 (Drilling Permit No. 682250) Throckmorton County Regular Field, Throckmorton County, Texas, should be cancelled pursuant to Statewide Rule 15(h).

THEREFORE, THE RAILROAD COMMISSION OF TEXAS HEREBY FINDS that Harper, Clint (Operator No. 357854) does not have a "good faith claim" to operate the Walker, Joe Max (30094) Lease, Well Nos. 2, 3, and Well No. 5 (Drilling Permit No. 682250) Throckmorton County Regular Field, Throckmorton County, Texas, and **HEREBY ORDERS** that any plugging extensions for the Walker, Joe Max (30094) Lease, Well Nos. 2, 3, and Well No. 5 (Drilling Permit No. 682250) Throckmorton County Regular Field, Throckmorton County, Texas, be cancelled and that Harper, Clint (Operator No. 357854) shall plug all wells on the Walker, Joe Max (30094) Lease, Well Nos. 2, 3, and Well No. 5 (Drilling Permit No. 682250) Throckmorton County Regular Field, Throckmorton County, Texas.

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 23rd day of January 2018, in Austin, Texas.

**RAILROAD COMMISSION OF TEXAS
(Order approved and signatures affixed
by Hearings Division Unprotested Master
Order dated January 23, 2018)**