

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL & GAS DOCKET NO. 01-0319842

COMMISSION CALLED HEARING AT THE REQUEST OF TOTAL ENERGY PARTNERS (TEXAS), LLC (862817) TO SHOW CAUSE WHY THE URBAN HEIRS (18792) LEASE, WELL NO. 1H, PEARSALL (BUDA, S.) FIELD, FRIO COUNTY, TEXAS, SHOULD NOT BE PLUGGED BY THE COMMISSION AND TOTAL ENERGY PARTNERS (TEXAS), LLC HELD LIABLE FOR THE PLUGGING COSTS

FINAL ORDER

The Railroad Commission of Texas ("Commission" or "RRC") finds that after statutory notice and opportunity for hearing regarding the captioned proceeding, the operator of the captioned lease, Total Energy Partners (Texas), LLC (Operator No. 862817) failed to appear at the hearing such that this docketed case can proceed 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.

FINDING OF FACT

1. In a letter dated February 25, 2019, Commission staff ("Staff") directed Total Energy Partners (Texas), LLC (Operator No. 862817) ("Total") to plug the Urban Heirs (18792) Lease, Well No. 1H ("Well"), Pearsall (Buda, S.), Field, Frio County, Texas because Staff determined that the Well is inactive, does not have an approved plugging extension, and is leaking or likely to be leaking salt water, oil or gas. In the letter, Staff gave Total the opportunity to request a hearing.
2. On or about April 30, 2019, Total filed a letter with the Hearings Division, requesting a hearing in response to Staff's February 25, 2019 letter regarding the directive to plug the well. Total stated in its letter that the well is productive.
3. On August 5, 2019, a Notice of Hearing ("Notice") setting the hearing for August 29, 2019, was sent to Staff and to Total. The Notice was sent by first-class mail to Total's address of record at the Commission as identified in Total's most recent filing of its Commission Form P-5 (*Organization Report*).
4. The hearing was convened on August 29, 2019, as noticed. Staff appeared. Total did not appear.
5. At least ten days' notice of the hearing was given to Total and Staff.
6. At the hearing, Staff submitted evidence including testimony and documentation showing the following:

- a. Total's P-5 status at the Commission is delinquent.
 - b. Total became the regulatory responsible operator of the Urban Heirs (18792) Lease, Well No. 1H ("Well"), Pearsall (Buda, S.), Field, Frio County, Texas by filing a Commission Form W-1, *Application for Permit to Drill, Recomplete, or Re-Enter*, received February 6, 2014, approved February 25, 2014. Subsequent to this filing, Total filed a Commission Form W-2, *Oil Well Potential Test, Completion or Recompletion Report, and Log*, Approved September 22, 2016 and a Commission Form P-4, *Certificate of Compliance and Transportation Authority*, Effective May 2, 2014
 - c. There has been no reported production on the Lease since the well was completed in May 2014.
 - d. No plugging extension exists for the Well.
 - e. A Commission District Inspection Report dated August 8, 2019, shows the subject Well to be inactive. The report states the Well is not equipped to produce and has tubing sticking out of the wellhead. The report also shows an area of 12 feet x 6 feet x 4 inches of contaminated soil with produced crude next to a produced water storage tank and various pits needing to be remediated and closed.
7. Total became the regulatory responsible operator of the Urban Heirs (18792) Lease, Well No. 1H ("Well"), Pearsall (Buda, S.), Field, Frio County, Texas by filing a Commission Form W-1, *Application for Permit to Drill, Recomplete, or Re-Enter*, received February 6, 2014, approved February 25, 2014. Subsequent to this filing, Total filed a Commission Form W-2, *Oil Well Potential Test, Completion or Recompletion Report, and Log*, Approved September 22, 2016 and a Commission Form P-4, *Certificate of Compliance and Transportation Authority*, Effective May 2, 2014.
 8. Statewide Rule 14(b)(2) requires the commencement of plugging operations on each dry or inactive well within one year after drilling or operations cease, unless the operator is eligible for and obtains an extension of the plugging deadline under Statewide Rule 14(b)(2). 16 Tex. Admin. Code § 3.14(b)(2).
 9. Absent a good faith claim to operate, the Well is not eligible for an extension to the plugging requirements in Statewide Rule 14 and 15 as provided for in Statewide Rule 15(e).
 10. 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).

11. No evidence was presented showing the Well is active.
12. No evidence was presented showing Total has a good faith claim to operate the Well.
13. The Well has been inactive for more than one year.
14. Total does not have a good faith claim to operate the Well.
15. The Well does not have a plugging extension.
16. The Well should be plugged.
17. Pursuant to Tex. Gov't Code §§ 2001.056 and 2001.062(e), Total was provided notice and an opportunity for hearing and failed to appear at the hearing.

CONCLUSIONS OF LAW

1. Proper notice of opportunity for hearing was timely issued 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. The Well is a delinquent inactive well. Tex. Nat. Res. Code § 89.002(7).
4. Total does not have a good faith claim, as that term is defined in Statewide Rule 15(a)(5), to continue operating the Wells. 16 Tex. Admin. Code § 3.15(a)(5).
5. The Well is not eligible for a plugging extension and the Well should be plugged. 16 Tex. Admin. Code § 3.15(e)(3).
6. If Total fails to plug the Well, the Well may be plugged by the Commission and reimbursement may be sought from Total. See, e.g., Tex. Nat. Res. Code §§ 89.043 and 89.083.

IT IS THEREFORE ORDERED that Total does not have a good faith claim to operate the Well, that a good-faith-claim hold be placed on any P-4 transfers for the Well. Total is **ORDERED** to plug the well and place the subject lease in compliance with Statewide Rules 8, 14, and 15 (16 Tex. Admin. Code §§ 3.8, 3.14 and 3.15), 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.

Signed on December 17, 2019.

RAILROAD COMMISSION OF TEXAS

(Order approved and signatures affixed by HD
Unprotested Master Order dated December 17,
2019)