

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL & GAS DOCKET NO. 7B-0296716

COMMISSION-CALLED HEARING TO PROVIDE WHITT OIL & GAS, INC. (OP. NO. 921150) AN OPPORTUNITY TO DEMONSTRATE THAT IT HAS A GOOD FAITH CLAIM TO OPERATE THE YOUNG LEASE, WELL NO. 1 (LEASE NO. 26519), PARSONS (GRAY) FIELD AND THE MCWHORTER LEASE, WELL NO. 1 (LEASE NO. 27348), WILDCAT FIELD, CALLAHAN COUNTY, TEXAS

FINAL ORDER

The Commission finds that after notice and opportunity for hearing, the prior operator of the captioned lease did not properly 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 Fact and Conclusions of Law.

FINDINGS OF FACT

1. At least ten days notice was given to Whitt Oil & Gas, Inc. (Op. No. 921150), Respondent, and Andrew L. Guinn, the Complainant. By letter dated June 10, 2015, the President of Whitt Oil & Gas, Inc., Mr. Whitt, was offered the opportunity to submit evidence of a continuing right to operate the subject leases and wells or request a hearing on the matter. Mr. Whitt responded on September 15, 2015 with an incomplete Oil, Gas and Mineral Lease, dated September 17th, 2007. The president, W.J. Whitt promised to get the Commission necessary information soon, but since that time has not provided to the Commission any further documentation for Examiner review.
2. By failing to properly respond to the notice and opportunity for hearing, Mr. Whitt chose to rely on informal disposition of the docket pursuant to Tex. Gov't Code §§2001.056 and 2001.062(e).
3. Whitt Oil & Gas, LLC currently has an active P-5 with the Commission.
4. A "good faith claim" is defined by 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. Cod §3.15(a)(5)]
5. In the Oil, Gas and Mineral Lease, dated September 17, 2007, between Harold Elledge, Lessor, and E & D Bell, LLC, ("the Lease") provided by Mr. Guinn in his original complaint, Item 5 states the following:

"If at the expiration of the primary term and extensions thereof, oil, gas or mineral is not being produced on said land, or from the pooled unit therewith, but Lessee is then engaging in drilling or reworking operations thereon, or shall have completed a dry hole thereon prior to the end of the primary term or extensions thereto, this lease shall remain in force so long as operations on said well or for drilling or reworking of any additional well are prosecuted with no cessation of more than 60 days, and if the result is the production of oil, gas or other mineral, and so long thereafter as oil, gas or other mineral produced from said land, or from land pooled therewith."

6. The Lease has a continuous operation clause that indicates that the lease remains valid if operations to produce oil and gas continue with no lease over a period of 60 days.
7. The Young Lease (Lease No. 26519) only had an oil disposition of 16 barrels in June 2012. Aside from this instance, there has been no reported production on this lease for five (5) calendar years. The McWhorter Lease (Lease No. 27348) had an oil disposition of 10 barrels in June of 2012. Aside from this instance, there has been no reported production on this lease for five (5) calendar years. By the terms outlined in Item 5 of the Lease, it appears the terms and conditions of the Lease have expired.
8. In his response to the Commission, dated September 15, 2015, Mr. Whitt provided an incomplete copy of the Lease, initially provided by Mr. Guinn in his complaint. Mr. Whitt states that “Item #6 gives me the right to be on the property at any time until the wells are plugged, therefore I believe this gives me the authority to continue as operator, so far as the RRC is concerned, but not the right to produce oil and/or gas from these wells.” Item 6 of the Lease states the following:

“Lessee shall have the right at any time during or after the expiration of this lease to remove property and fixtures on said land, including the right to draw and remove all casing. When requested by the Lessor, Lessee will bury all pipelines below ordinary plow depth, and no well will be drilled within two hundred (200) feet of any residence or barn now on said land without Lessor’s consent.”
9. The Young Lease (Lease No. 26519), Well No. 1 has a currently denied SWR 14(b)(2) plugging extension. The McWhorter Lease (Lease No. 27348), Well No. 1 has a currently accepted SWR 14(b)(2) plugging extension.
10. The phrase “but not the right to produce oil and/or gas from these wells” indicates that the Lease has expired.
11. The right to retrieve property from a lease does not indicate the validity of the other terms of the Lease.

CONCLUSIONS OF LAW

1. Proper notice of hearing was timely issued to the appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. Mr. Whitt failed to timely and adequately provide a proper and complete response to Mr. Guinn’s complaint.
4. Mr. Whitt’s claim that Item 6 of the Lease addresses the complaint of Mr. Guinn is not valid.
5. Mr. Whitt, by extension, has no good faith claim to the above referenced leases.

IT IS ORDERED THEREFORE that the plugging extension for the McWhorter Lease (Lease No. 27348), Well No. 1, in the Wildcat Field is **CANCELLED**. Whitt Oil & Gas, Inc. is hereby **ORDERED** to plug the Young Lease, (Lease No. 26519), Well No. 1, and McWhorter Lease (Lease No. 27348), Well

No. 1 in the Wildcat Field, Callahan County, Texas, pursuant to the requirements of Statewide Rule 14 (b)(2).

It is further **ORDERED** that this order shall not be final and effective until 25 days after a party is notified of the Commission's Order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. 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. GO'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 the order.

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

Done this 3rd day of November, 2015, in Austin, Texas

LMV/rnf

RAILROAD COMMISSION OF TEXAS

**(Order approved and signatures affixed by
Hearings Division Unprotected Master Order
Dated November 3, 2015)**