

**OIL AND GAS DOCKET NO. 03-0300008**

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**IN RE: COMMISSION CALLED HEARING TO PROVIDE PROGENIES OPERATING LLC (OPERATOR NO. 681161) AN OPPORTUNITY TO DEMONSTRATE THAT IT HAS A GOOD FAITH CLAIM TO OPERATE THE SAMELSON-KUNZE UNIT (169334) LEASE, WELL NO. 1, GIDDINGS (NORTH EDWARDS) FIELD, FAYETTE COUNTY, TEXAS, AND TO SHOW CAUSE WHY THE WELL SHOULD NOT BE ORDERED PLUGGED**

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**FINAL ORDER**

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

**FINDINGS OF FACTS**

1. Progenies Operating LLC (Progenies) holds Operator No. 681161.
2. Progenies is the P-4 Record Operator of the Samelson-Kunze Unit (169334) Lease, Well No. 1, Giddings (North Edwards) Field, located in Fayette County, Texas.
3. On March 24, 2016, Complainant Keith Kubiak (Complainant) submitted to the Commission a letter of complaint alleging that Progenies lacks authority to operate the Samelson-Kunze Unit (169334) Lease, Well No. 1, Giddings (North Edwards) Field, located in Fayette County, Texas.
4. On March 24, 2016, Complainant submitted to the Commission a Release of Oil and Gas Lease dated December 18, 2015, as evidence demonstrating that Progenies lacks authority to operate the Samelson-Kunze Unit (169334) Lease, Well No. 1, Giddings (North Edwards) Field, located in Fayette County, Texas.
5. Evidence of lease perpetuation was not submitted to the Commission.
6. At least ten days notice was given to Progenies, Respondent, and Keith Kubiak, Complainant. By letter dated March 28, 2016, Progenies was afforded the opportunity to submit evidence of a continuing right to operate the subject lease and well or request a hearing on the matter. Progenies did neither.
7. By failing to respond to notice and opportunity for hearing, Progenies chose to rely on informal disposition of the Docket pursuant to TEX. GOV'T CODE §§ 2001.056 and 2001.062(e).

8. Progenies has an active Form P-5 with financial assurance in the form of a \$50,000.00 letter of credit, which expires on March 1, 2017. Progenies is the operator of 47 wells, of which 18 are in Statewide Rule 14(b)(2) [16 TEX. ADMIN. CODE § 3.14(b)(2)] inactive status.
9. Progenies became the operator of the Samelson-Kunze Unit (169334) Lease, Well No. 1, Giddings (North Edwards) Field, located in Fayette County, Texas, by Form P-4 transfer with an effective date of June 1, 2013, and an approved date of September 20, 2013.
10. The Samelson-Kunze Unit (169334) Lease, Well No. 1, Giddings (North Edwards) Field, had zero (0) reported production from May 2015 through February 2016.
11. The Samelson-Kunze Unit (169334) Lease, Well No. 1, Giddings (North Edwards) Field, had no reported production for March 2016 and April 2016.
12. 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)].
13. Progenies did not present a “good faith claim” to operate the captioned lease and did not respond to a March 28, 2016, Commission letter requesting that it either provide a “good faith claim” to operate the subject lease or request a hearing.
14. Absent a “good faith claim” to operate, the subject well is not eligible for an extension to the plugging requirements of Statewide Rule 15(e)(3).
15. Absent eligibility for an extension to the plugging requirements of Statewide Rule 15(e)(3), the plugging extension of the subject well should be cancelled pursuant to Statewide Rule 15(h).
16. Any plugging extension for the Samelson-Kunze Unit (169334) Lease, Well No. 1, Giddings (North Edwards) Field, Fayette County, Texas, should be cancelled pursuant to Statewide Rule 15(h) and the well plugged.

#### **CONCLUSIONS OF LAW**

1. Proper notice of an opportunity for a hearing was timely issued to appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. Progenies does not have a “good faith claim” to operate the Samelson-Kunze Unit (169334) Lease, Well No. 1, Giddings (North Edwards) Field, Fayette County, Texas.

4. The Samelson-Kunze Unit (169334) Lease, Well No. 1, Giddings (North Edwards) Field, Fayette County, Texas, is not eligible for an extension to the plugging requirements of Statewide Rule 15(e)(3).
5. The plugging extension for the Samelson-Kunze Unit (169334) Lease, Well No. 1, Giddings (North Edwards) Field, Fayette County, Texas, should be cancelled pursuant to Statewide Rule 15(h).

**IT IS THEREFORE ORDERED** that the plugging extension for the Samelson-Kunze Unit (169334) Lease, Well No. 1, Giddings (North Edwards) Field, Fayette County, Texas, is **CANCELLED**. Progenies Operating LLC is hereby **ORDERED** to plug the Samelson-Kunze Unit (169334) Lease, Well No. 1, Giddings (North Edwards) Field, Fayette County, Texas, pursuant to the requirements of Statewide Rule 14(b)(2).

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 7<sup>th</sup> day of June, 2016, in Austin, Texas.

**RAILROAD COMMISSION OF TEXAS**  
**(Order approved and signatures affixed**  
**by Hearings Division Unprotested Master**  
**Order dated June 7, 2016)**