

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 03-0304015

COMPLAINT BY JENNIFER S. CALLOWAY THAT PROGENIES OPERATING LLC (OP. NO.681161) DOES NOT HAVE A GOOD FAITH CLAIM TO OPERATE THE K.S. UNIT (LEASE #18813), GIDDINGS (AUSTIN CHALK-3) FIELD, FAYETTE COUNTY, TEXAS

FINAL ORDER

The Commission finds that after notice and opportunity for hearing, the operator of the captioned lease failed to respond with evidence purporting to demonstrate that the operator maintains a "good faith claim" to operate the captioned lease. 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 Form P-5 *Organization Report Operator* No. 681161. Progenies is the current Form P-4 *Certificate of Compliance and Transportation Authority* operator of record for the K.S.Unit (18813) Lease, Giddings (Austin Chalk-3) Field, located in Fayette County, Texas.
2. On or about February 22, 2017, Jennifer S. Calloway, submitted to the Commission a complaint letter alleging that Progenies lacks authority to operate the K.S.Unit (18813) Lease, Giddings (Austin Chalk-3) Field.
3. On or about March 9, 2017, the Administrative Law Judge requested in writing that Progenies 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 April 14, 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.
4. Progenies failed to submit any evidence of a good faith claim or to request a hearing.
5. Progenies has an active Form P-5 with financial assurance in the form of a \$50,000 Letter of Credit, which expires on March 1, 2018.
6. Progenies became the current Form P-4 *Certificate of Compliance and Transportation Authority* operator of record for the K.S.Unit (18813) Lease, Giddings (Austin Chalk-3) Field, Fayette County, Texas, by filing a Form P-4 dated effective January 1, 2013. The K.S.Unit (18813) Lease, Giddings (Austin Chalk-3) Field, Fayette County, Texas, has no reported oil production since June, 2016 and no gas production since September, 2016.
7. 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)].

8. Progenies failed to file any evidence to demonstrate Progenies's "good faith claim" to a continuing right to operate the K.S.Unit (18813) Lease, Giddings (Austin Chalk-3) Field, Fayette County, Texas. Therefore, Progenies does not have a "good faith claim" to operate the K.S.Unit (18813) Lease, Giddings (Austin Chalk-3) Field, Fayette County.
9. 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).
10. Absent eligibility for an extension to the plugging requirements of Statewide Rule 15(e)(3), any plugging extensions of the K.S.Unit (18813) Lease, Giddings (Austin Chalk-3) Field, Fayette 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. Progenies does not have a "good faith claim" to operate the K.S.Unit (18813) Lease, Giddings (Austin Chalk-3) Field, Fayette County, Texas.
4. The K.S.Unit (18813) Lease, Giddings (Austin Chalk-3) Field, Fayette County, Texas, is not eligible for an extension to the plugging requirements of Statewide Rule 15(e)(3).
5. Any plugging extensions for the K.S.Unit (18813) Lease, Giddings (Austin Chalk-3) Field, Fayette County, Texas, should be cancelled pursuant to Statewide Rule 15(h).

THEREFORE, THE RAILROAD COMMISSION OF TEXAS HEREBY FINDS that Progenies Operating, LLC (Operator No. 681161) does not have a "good faith claim" to operate the K.S.Unit (18813) Lease, Giddings (Austin Chalk-3) Field, Fayette County, Texas, and **HEREBY ORDERS** that any plugging extensions for the K.S.Unit (18813) Lease, Giddings (Austin Chalk-3) Field, Fayette County, Texas, be cancelled and that Progenies Operating LLC shall plug all wells on the K.S.Unit (18813) Lease, Giddings (Austin Chalk-3) Field, Fayette 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 10th day of May, 2017, in Austin, Texas.

**RAILROAD COMMISSION OF TEXAS
(Order approved and signatures affixed
by Hearings Division Unprotested Master
Order dated May 10, 2017)**