

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL & GAS DOCKET NO. 09-0304918

IN RE: SINGLE SIGNATURE P-4 TRANSFER OF RECORD OPERATOR FOR THE NORMAN, T. E. LEASE (LEASE NO. 02605), ZEIGLER (STRAWN) FIELD, COOKE COUNTY, TEXAS, FROM THE ESTATE OF E. L. CUNNINGHAM (OPERATOR NO. 194561) TO TEXAS INDEPENDENT OIL COMPANY, LLC (OPERATOR NO. 846536)

FINAL ORDER

The Railroad Commission of Texas (“Commission” or “RRC”) finds that after statutory notice and an opportunity for hearing regarding the captioned proceeding, the Estate of E. L. Cunningham failed to request a hearing and did not otherwise respond such that this case can proceed as a default. This proceeding having been duly submitted to the Commission at a conference held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. On or about May 11, 2017, Texas Independent Oil Company, LLC (“Texas Independent”), RRC Operator No. 846536, filed a single-signature Form P-4 *Certificate of Compliance and Transportation Authority* (“Form P-4”) requesting that it be designated the Commission operator of record for the T.E. Norman Lease (the “Lease”), Lease No. 02605. The Form P-4 did not contain the signature of the current Commission operator of record for the Lease.
2. The Estate of E. L. Cunningham (“Cunningham”), RRC Operator No. 194561, is the current Commission operator of record for the Lease. The Lease currently contains three active wells.
3. In a letter dated May 18, 2017, a Commission Administrative Law Judge (“ALJ”) requested in writing that Cunningham 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 June 19, 2017. This writing expressly notified Cunningham that failure to timely request a hearing would constitute waiver of the provided opportunity to request a hearing for this proceeding.
4. 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).
5. Cunningham failed to provide evidence that it holds a good faith claim to a continuing right to operate the Lease, failed to respond to the ALJ’s May 18, 2017 letter, and failed to request a hearing.
 6. At least ten days’ notice of an opportunity for hearing was given to Texas Independent and Cunningham.
 7. Cunningham is delinquent in filing the annual Commission Form P-5 *Commission Organization Report* (“Form P-5”).
 8. Cunningham became the RRC operator of record for the Lease in July 1998. There has been no reported production for the Lease since at least July 1998.
 9. To demonstrate its good faith claim to operate the Lease, Texas Independent presented a notarized Paid Up Oil & Gas Lease identifying Texas Independent as the Lessee and granting the Lessee the right to operate and produce oil on the tracts encompassing the Lease.
 10. Texas Independent has a current annual Form P-5 with a \$50,000 cash deposit as its financial assurance. Texas Independent is currently the record operator of nine wells, not counting the wells on the Lease. Texas Independent has sufficient financial assurance to operate the wells on the Lease. Texas Independent’s status at the Commission is active. See 16 TEX. ADMIN. CODE § 3.78(d) and (g).
 11. Cunningham does not have a good faith claim to operate the Lease.
 12. Pursuant to TEX. GOV’T CODE §§ 2001.056 and 2001.062(e), Cunningham was provided an opportunity to request a hearing and failed to do so.
 13. Texas Independent has demonstrated a good faith claim to a continuing right to operate the Lease.
 14. The Lease should be transferred to Texas Independent as operator of record.

CONCLUSIONS OF LAW

1. Proper notice of hearing was timely issued to appropriate 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. Cunningham does not have a good faith claim, as that term is defined in Statewide Rule 15(a)(5), to continue operating the Lease. 16 TEX. ADMIN. CODE § 3.15(a)(5).
4. Texas Independent does have a good faith claim to operate the Lease.

IT IS THEREFORE ORDERED that the application of Texas Independent to change the RRC operator of record for the Lease is **APPROVED** and Texas Independent's submitted Form P-4 *Certificate of Compliance and Transportation Authority* reflecting itself as the current operator for all wells on the Lease is hereby **APPROVED** subject to the provisions of TEX. NAT. RES. CODE §§ 91.107, 91.114 and 91.142, and 16 TEX. ADMIN. CODE § 3.15.

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) and 16 TEX. ADMIN. CODE § 1.149(c), 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 Commission Order is signed.

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

Done this 1st day of August, 2017, in Austin, Texas.

RAILROAD COMMISSION OF TEXAS

(Order approved and signatures affixed by HD
Unprotected Master Order date August 1,
2017)

JNC/rnf