

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL & GAS DOCKET NO. 01-0308344**

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**SINGLE SIGNATURE P-4 FILING OF BENCHMARK TEXAS PETROLEUM, LLC. (OPERATOR NO. 064104) FOR THE JELKS LEASE (LEASE NO. 16232), WELL NO. 2, FENTRESS (1750) FIELD, CALDWELL COUNTY, TEXAS, TO CHANGE THE OPERATOR FROM HIGHER STANDARD OIL COMPANY, INC. (OPERATOR NO. 385715) TO BENCHMARK TEXAS PETROLEUM, LLC.**

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**FINAL ORDER**

The Railroad Commission of Texas (“Commission” or “RRC”) finds that after statutory notice and an opportunity for hearing regarding the captioned proceeding, Higher Standard Oil Company, Inc. failed to request a hearing and did not otherwise respond such that this docket 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 December 14, 2017, Benchmark Texas Petroleum, LLC. (“Benchmark”), RRC Operator No. 064104, 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 Jelks Lease, Lease No. 16232, Well No. 2 (“Well”). The Form P-4 did not contain the signature of the current Commission operator of record for the Well.
2. Higher Standard Oil Company, Inc. (“Higher Standard”), RRC Operator No. 385715, is the current Commission operator of record for the Well.
3. In a letter dated January 3, 2018, a Commission Administrative Law Judge (“ALJ”) requested in writing that Higher Standard 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 February 2, 2018. This letter was sent to Higher Standard’s Form P-5 address on file with the Commission and expressly notified Higher Standard that failure to timely request a hearing would constitute waiver of the provided opportunity to request a hearing for this proceeding. The letter was sent via first-class mail to Higher Standard’s address of record at the Commission as identified in Higher Standard’s most recent filing of Commission Form P-5 *Organization Report* (“Form P-5”).

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. Higher Standard failed to provide evidence that it holds a good faith claim to a continuing right to operate the Well, failed to respond to the ALJ’s January 3, 2018 letter and failed to request a hearing.
6. At least ten days’ notice of an opportunity for hearing was given to Benchmark and Higher Standard.
7. There has been no reported production for the Well since January 2013.
8. Higher Standard is delinquent in filing the annual Form P-5.
9. To demonstrate its good faith claim to operate the Well, Benchmark presented a notarized contractual lease giving it the right to operate and produce the minerals from the tract where the Well is located.
10. Benchmark has a current annual Commission Form P-5 *Organization Report* with a \$50,000 letter of credit as its financial assurance. Benchmark is currently the record operator of 28 wells, not counting the Well. Benchmark has sufficient financial assurance to operate the Well. Benchmark’s status at the Commission is active. See 16 TEX. ADMIN. CODE § 3.78(d) and (g).
11. Higher Standard does not have a good faith claim to operate the Well.
12. Pursuant to TEX. GOV’T CODE §§ 2001.056 and 2001.062(e), Higher Standard was provided an opportunity to request a hearing and failed to do so.
13. Benchmark has demonstrated a good faith claim to a continuing right to operate the Well.
14. The Well should be transferred to Benchmark 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 §§ 1.42, 1.45.
2. The Commission has jurisdiction in this case. See, e.g., TEX. NAT. RES. CODE § 81.051.

3. Higher Standard does not have a good faith claim, as that term is defined in Statewide Rule 15(a)(5), to continue operating the Well. 16 TEX. ADMIN. CODE § 3.15(a)(5).
4. Benchmark does have a good faith claim to operate the Well.

### Ordering Provisions

**IT IS THEREFORE ORDERED** that the application of Benchmark to change the RRC operator of record for the Well is **APPROVED** and Benchmark's submitted Form P-4 *Certificate of Compliance and Transportation Authority* reflecting itself as the current operator for the Well 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.

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

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 100 days from the date the Commission Order is signed.

Done this 27<sup>th</sup> day of February 2018, in Austin, Texas.

### RAILROAD COMMISSION OF TEXAS

(Order approved and signatures affixed by HD  
Unprotested Master Order dated February 27,  
2018)

JNC/mls