

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

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**Oil & Gas Docket No. 02-0311915:** Complaint of Lloyd Livingston II that TOP OP, LLC (862562) Does Not have a Good Faith Claim to Operate the McCann SWD (275833) Lease, Well No. T 1, McFaddin, North (4500) (59373270) Field, Victoria County, Texas.

**Oil & Gas Docket No. 02-0311916:** Complaint of Lloyd Livingston II that TOP OP, LLC (862562) Does Not have a Good Faith Claim to Operate the McCan (253269) Lease, Well No. T 6, McFaddin, North (5680) (59373650) Field, Victoria County, Texas.

**Oil & Gas Docket No. 02-0311917:** Complaint of Lloyd Livingston II that TOP OP, LLC (862562) Does Not have a Good Faith Claim to Operate the McCan (253269) Lease, Well No. T 2, McFaddin, North (5600) (59373600) Field, Victoria County, Texas.

**Oil & Gas Docket No. 02-0311918:** Complaint of Lloyd Livingston II that TOP OP, LLC (862562) Does Not have a Good Faith Claim to Operate the McCan (11289) Lease, Well No. T 7, McFaddin, North (5350) (59373450) Field, Victoria County, Texas.

**Oil & Gas Docket No. 02-0311919:** Complaint of Lloyd Livingston II that TOP OP, LLC (862562) Does Not have a Good Faith Claim to Operate the McCan (231310) Lease, Well No. T 3, McFaddin, North (6350) (59373940) Field, Victoria County, Texas.

**Oil & Gas Docket No. 02-0311920:** Complaint of Lloyd Livingston II that TOP OP, LLC (862562) Does Not have a Good Faith Claim to Operate the McCan (246666) Lease, Well No. T 8, McFaddin, North (5400) (59373470) Field, Victoria County, Texas.

**Oil & Gas Docket No. 02-0311921:** Complaint of Lloyd Livingston II that TOP OP, LLC (862562) Does Not have a Good Faith Claim to Operate the McCan (11115) Lease, Well No. T 4, McFaddin, North (5200) (59373330) Field, Victoria County, Texas.

**Oil & Gas Docket No. 02-0311922:** Complaint of Lloyd Livingston II that TOP OP, LLC (862562) Does Not have a Good Faith Claim to Operate the McCan (259549) Lease, Well No. R 1C, McFaddin, North (4900) (59373285) Field, Victoria County, Texas.

**Oil & Gas Docket No. 02-0311923:** Complaint of Lloyd Livingston II that TOP OP, LLC (862562) Does Not have a Good Faith Claim to Operate the McCan (232306) Lease, Well No. T 5, McFaddin, North (5350) (59373450) Field, Victoria County, Texas.

**Oil & Gas Docket No. 02-0311924:** Complaint of Lloyd Livingston II that TOP OP, LLC (862562) Does Not have a Good Faith Claim to Operate the McCan (259551) Lease, Well No. R 1 T, McFaddin, North (5350) (59373450) Field, Victoria County, Texas.

**Oil & Gas Docket No. 02-0311925:** Complaint of Lloyd Livingston II that TOP OP, LLC (862562) Does Not have a Good Faith Claim to Operate the McCan (265468) Lease, Well No. R 3, McFaddin, North (5100 -B-) (59373320) Field, Victoria County, Texas.

**Oil & Gas Docket No. 02-0311926:** Complaint of Lloyd Livingston II that TOP OP, LLC (862562) Does Not have a Good Faith Claim to Operate the McCan (261911) Lease, Well No. R 2, McFaddin, North (5200) (59373330) Field, Victoria County, Texas.

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**FINAL ORDER**

The Commission finds that after notice and opportunity for hearing, the operator of the captioned leases failed to respond with evidence purporting to demonstrate that the operator maintains a "good faith claim" to operate the captioned leases. 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.

**FINDING OF FACT**

1. TOP OP, L.L.C. ("TOP OP") holds Form P-5 *Organization Report* Operator No. 862562. TOP OP is the current Form P-4 *Certificate of Compliance and Transportation Authority* operator of record for the subject leases.
2. On or about June 7, 2018, Lloyd Livingston II submitted to the Commission a complaint letter alleging that TOP OP lacks authority to operate the subject leases.
3. On or about June 29, 2018, the Administrative Law Judge requested in writing that TOP OP either: (1) provide evidence that it holds a good faith claim to a continuing right to operate the referenced properties; or (2) request a hearing on the matter on or before July 29, 2018. 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. TOP OP failed to submit any evidence for a good faith claim or to request a hearing.
5. TOP OP's Form P-5 is active. TOP OP has a \$50,000.00 bond as its financial assurance.
6. TOP OP became the Form P-4 *Certificate of Compliance and Transportation Authority* operator of record for the:
  - a. McCann SWD (275833) Lease, Well No. T 1, McFaddin, North (4500) (59373270) Field, Victoria County, Texas effective February 1, 2015. Injection was last reported November 2017.

- b. McCan (253269) Lease, Well No. T 6, McFaddin, North (5680) (59373650) Field, Victoria County, Texas effective August 6, 2013. Production was last reported March 2012.
  - c. McCan (253269) Lease, Well No. T 2, McFaddin, North (5600) (59373600) Field, Victoria County, Texas effective August 6, 2013. Production was last reported March 2012.
  - d. McCan (11289) Lease, Well No. T 7, McFaddin, North (5350) (59373450) Field, Victoria County, Texas effective May 1, 2016. Production was last reported May 2018.
  - e. McCan (231310) Lease, Well No. T 3, McFaddin, North (6350) (59373940) Field, Victoria County, Texas effective August 6, 2013. Production was last reported July 2012.
  - f. McCan (246666) Lease, Well No. T 8, McFaddin, North (5400) (59373470) Field, Victoria County, Texas effective August 6, 2013. Production was last reported February 2009.
  - g. McCan (11115) Lease, Well No. T 4, McFaddin, North (5200) (59373330) Field, Victoria County, Texas effective August 8, 2014. Production was last reported May 2018.
  - h. McCan (259549) Lease, Well No. R 1C, McFaddin, North (4900) (59373285) Field, Victoria County, Texas effective August 6, 2013. Production was last reported July 2012.
  - i. McCan (232306) Lease, Well No. T 5, McFaddin, North (5350) (59373450) Field, Victoria County, Texas effective August 6, 2013. Production was last reported October 2012.
  - j. McCan (259551) Lease, Well No. R 1 T, McFaddin, North (5350) (59373450) Field, Victoria County, Texas effective August 6, 2013. Production was last reported July 2012.
  - k. McCan (265468) Lease, Well No. R 3, McFaddin, North (5100 -B-) (59373320) Field, Victoria County, Texas effective August 6, 2013. Production was last reported December 2009.
  - l. McCan (261911) Lease, Well No. R 2, McFaddin, North (5200) (59373330) Field, Victoria County, Texas effective August 6, 2013. Production was last reported July 2012.
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. TOP OP failed to file any evidence to demonstrate TOP OP's "good faith claim" to a continuing right to operate the subject leases. Therefore, TOP OP does not have a "good faith claim" to operate the subject leases.
9. Absent a "good faith claim" to operate, the subject leases are 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 subject leases should be cancelled pursuant to Statewide Rule 15(h).

#### **CONCLUSIONS OF LAW**

1. Proper notice of hearing was timely issued to appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. TOP OP does not have a "good faith claim" to operate the subject leases.
4. The subject leases are not eligible for an extension to the plugging requirements of Statewide Rule 15(e)(3).
5. Any plugging extensions for the subject leases should be cancelled pursuant to Statewide Rule 15(h).

**THEREFORE, THE RAILROAD COMMISSION OF TEXAS HEREBY FINDS** that TOP OP, L.L.C. (Operator No. 862562) does not have a "good faith claim" to operate the:

- a. McCann SWD (275833) Lease, Well No. T 1, McFaddin, North (4500) (59373270) Field, Victoria County, Texas.
- b. McCan (253269) Lease, Well No. T 6, McFaddin, North (5680) (59373650) Field, Victoria County, Texas.
- c. McCan (253269) Lease, Well No. T 2, McFaddin, North (5600) (59373600) Field, Victoria County, Texas.
- d. McCan (11289) Lease, Well No. T 7, McFaddin, North (5350) (59373450) Field, Victoria County, Texas.
- e. McCan (231310) Lease, Well No. T 3, McFaddin, North (6350) (59373940) Field, Victoria County, Texas.
- f. McCan (246666) Lease, Well No. T 8, McFaddin, North (5400) (59373470) Field, Victoria County, Texas.
- g. McCan (11115) Lease, Well No. T 4, McFaddin, North (5200) (59373330) Field, Victoria County, Texas.

- h. McCan (259549) Lease, Well No. R 1C, McFaddin, North (4900) (59373285) Field, Victoria County, Texas.
- i. McCan (232306) Lease, Well No. T 5, McFaddin, North (5350) (59373450) Field, Victoria County, Texas.
- j. McCan (259551) Lease, Well No. R 1 T, McFaddin, North (5350) (59373450) Field, Victoria County, Texas.
- k. McCan (265468) Lease, Well No. R 3, McFaddin, North (5100 -B-) (59373320) Field, Victoria County, Texas.
- l. McCan (261911) Lease, Well No. R 2, McFaddin, North (5200) (59373330) Field, Victoria County, Texas.

and **HEREBY ORDERS** that any plugging extensions for the:

- a. McCann SWD (275833) Lease, Well No. T 1, McFaddin, North (4500) (59373270) Field, Victoria County, Texas.
- b. McCan (253269) Lease, Well No. T 6, McFaddin, North (5680) (59373650) Field, Victoria County, Texas.
- c. McCan (253269) Lease, Well No. T 2, McFaddin, North (5600) (59373600) Field, Victoria County, Texas.
- d. McCan (11289) Lease, Well No. T 7, McFaddin, North (5350) (59373450) Field, Victoria County, Texas.
- e. McCan (231310) Lease, Well No. T 3, McFaddin, North (6350) (59373940) Field, Victoria County, Texas.
- f. McCan (246666) Lease, Well No. T 8, McFaddin, North (5400) (59373470) Field, Victoria County, Texas.
- g. McCan (11115) Lease, Well No. T 4, McFaddin, North (5200) (59373330) Field, Victoria County, Texas.
- h. McCan (259549) Lease, Well No. R 1C, McFaddin, North (4900) (59373285) Field, Victoria County, Texas.
- i. McCan (232306) Lease, Well No. T 5, McFaddin, North (5350) (59373450) Field, Victoria County, Texas.
- j. McCan (259551) Lease, Well No. R 1 T, McFaddin, North (5350) (59373450) Field, Victoria County, Texas.
- k. McCan (265468) Lease, Well No. R 3, McFaddin, North (5100 -B-) (59373320) Field, Victoria County, Texas.

- I. McCan (261911) Lease, Well No. R 2, McFaddin, North (5200) (59373330) Field, Victoria County, Texas.

be cancelled, that a good-faith-claim hold be placed on any P-4 transfers for such wells, that UIC Permit No. 98949 be canceled, and that TOP OP, L.L.C. shall plug and abandon such wells in accordance with Statewide Rule 14 for the:

- a. McCann SWD (275833) Lease, Well No. T 1, McFaddin, North (4500) (59373270) Field, Victoria County, Texas.
- b. McCan (253269) Lease, Well No. T 6, McFaddin, North (5680) (59373650) Field, Victoria County, Texas.
- c. McCan (253269) Lease, Well No. T 2, McFaddin, North (5600) (59373600) Field, Victoria County, Texas.
- d. McCan (11289) Lease, Well No. T 7, McFaddin, North (5350) (59373450) Field, Victoria County, Texas.
- e. McCan (231310) Lease, Well No. T 3, McFaddin, North (6350) (59373940) Field, Victoria County, Texas.
- f. McCan (246666) Lease, Well No. T 8, McFaddin, North (5400) (59373470) Field, Victoria County, Texas.
- g. McCan (11115) Lease, Well No. T 4, McFaddin, North (5200) (59373330) Field, Victoria County, Texas.
- h. McCan (259549) Lease, Well No. R 1C, McFaddin, North (4900) (59373285) Field, Victoria County, Texas.
- i. McCan (232306) Lease, Well No. T 5, McFaddin, North (5350) (59373450) Field, Victoria County, Texas.
- j. McCan (259551) Lease, Well No. R 1 T, McFaddin, North (5350) (59373450) Field, Victoria County, Texas.
- k. McCan (265468) Lease, Well No. R 3, McFaddin, North (5100 -B-) (59373320) Field, Victoria County, Texas.
- l. McCan (261911) Lease, Well No. R 2, McFaddin, North (5200) (59373330) Field, Victoria 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 100 days from the date Commission Order is signed. All pending motions and requests for relief not previously or herein granted are denied.

Done this 21th day of August 2018, Austin, Texas.

**Railroad Commission of Texas (Order approved  
and signatures affixed by Hearings Division  
Unprotested Master Order dated August 21, 2018)**