

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL & GAS DOCKET NO. 06-0314815

SINGLE SIGNATURE P-4 FILING OF GAITHER PETROLEUM CORPORATION (OPERATOR NO. 292850) FOR THE WHITE, J. B. (14030) LEASE, WELL NOS. 39 AND 13A, FOREST HILL (SUB-CLARKSVILLE 1ST) FIELD, WOOD COUNTY, TEXAS, TO CHANGE THE OPERATOR FROM PERGERSON ENERGY, L.L.C. (OPERATOR NO. 653595) TO GAITHER PETROLEUM CORPORATION

FINAL ORDER

The Railroad Commission of Texas (“Commission” or “RRC”) finds that after statutory notice and an opportunity for hearing regarding the captioned proceeding, Pergerson Energy, L.L.C. 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 September 6, 2018, Gaither Petroleum Corporation (“Gaither”), RRC Operator No. 292850, 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 White, J. B. Lease, Lease No. 14030, Well Nos. 39 and 13A (“Wells”). The Form P-4 did not contain the signature of the current Commission operator of record for the Wells.
2. Pergerson Energy, L.L.C. (“Pergerson”), RRC Operator No. 653595, is the current Commission operator of record for the Wells.
3. In a letter dated September 11, 2018, a Commission Administrative Law Judge (“ALJ”) requested in writing that Pergerson 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 October 11, 2018. This letter expressly notified Pergerson that failure to timely request a hearing would constitute waiver of the opportunity to request a hearing for this proceeding. The letter was sent via first-class mail to Pergerson’s address of record at the Commission as identified in Pergerson’s most recent filing of 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. Pergerson failed to provide evidence that it holds a good faith claim to a continuing right to operate the Wells, failed to respond to the ALJ’s September 11, 2018 letter and failed to request a hearing.
6. At least ten days’ notice of an opportunity for hearing was given to Gaither and Pergerson.
7. To demonstrate its good faith claim to operate the Wells, Gaither provided documentation showing Gaither has the right to operate and produce the Wells.
8. Gaither has a current Form P-5. Gaither’s status at the Commission is active.
9. Pergerson does not have a good faith claim to operate the Wells.
10. Pursuant to TEX. GOV’T CODE §§ 2001.056 and 2001.062(e), Pergerson was provided an opportunity to request a hearing and failed to do so.
11. Gaither has demonstrated a good faith claim to a continuing right to operate the Wells.
12. The Wells should be transferred to Gaither 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. Pergerson does not have a good faith claim, as that term is defined in Statewide Rule 15(a)(5), to continue operating the Wells. 16 TEX. ADMIN. CODE § 3.15(a)(5).
4. Gaither does have a good faith claim to operate the Wells.

Ordering Provisions

IT IS THEREFORE ORDERED that the application of Gaither to change the RRC operator of record for the Wells is **APPROVED** and Gaither’s submitted Form P-4 *Certificate of Compliance and Transportation Authority* reflecting itself as the current operator for the Wells is hereby **APPROVED** subject to the provisions of TEX. NAT. RES. CODE §§ 91.1041, 91.1042, 91.107, 91.114, 91.142 and TEX. ADMIN. CODE § 3.15, 3.58,

and 3.78. If after 90 days after the order becomes final, Gaither has not met the requirements of the listed provisions, this Final Order shall be **VOID** and the subject Form P-4 shall be marked as *Unable to Process* and archived.

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 § 1.128(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 the Commission Order is signed.

Done this 13th day of November 2018, in Austin, Texas.

RAILROAD COMMISSION OF TEXAS

(Order approved and signatures affixed by HD
Unprotested Master Order dated November 13,
2018)

JNC/mls