

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL & GAS DOCKET NO. 8A-0319666

SINGLE SIGNATURE P-4 FILING OF BORDERLINE OPERATING CORP. (OPERATOR NO. 082999) FOR THE SMITHEY-RACKLEY UNIT (67907) LEASE, WELL NO. 1, GIRARD, N. (TANNEHILL) FIELD, DICKENS COUNTY, TEXAS, TO CHANGE THE OPERATOR FROM TKP PETROLEUM, INC. (OPERATOR NO. 860891) TO BORDERLINE OPERATING CORP.

FINAL ORDER

The Commission finds that after notice and opportunity for hearing, the operator of the captioned lease did not respond, and the docket proceeded as a default. 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. At least twenty days' notice was given to TKP Petroleum, Inc. (Operator No. 860891), ("TKP"), and Borderline Operating Corp. (Operator No. 082999), ("Borderline").
2. TKP is the operator of record for the Smithey-Rackley Unit (67907) Lease, Well No. 1, Girard, N. (Tannehill) Field, Dickens County, Texas.
3. On or about April 12, 2019, Borderline submitted to the Commission a Form P-4 *Certificate of Compliance and Transportation Authority* requesting transfer of the Smithey-Rackley Unit (67907) Lease, Well No. 1, Girard, N. (Tannehill) Field, Dickens County, Texas, from TKP to Borderline, as operator of record.
4. All Commission correspondence to TKP was sent via United States Postal Service first-class mail to TKP's address of record, as set forth on TKP's most recent Form P-5 *Organization Report*.
5. All Commission correspondence to Borderline was sent via United States Postal Service first-class mail to Borderline's address of record, as set forth on Borderline's most recent Form P-5 *Organization Report*.
6. On or about April 26, 2019, the Administrative Law Judge requested in writing that TKP 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 May 28, 2019. 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.

7. TKP's Form P-5 is delinquent. TKP had a \$50,000.00 letter of credit as its financial assurance at the time of the last Form P-5 annual renewal submission.
8. Borderline's Form P-5 is active-ext. Borderline has a \$250,000.00 letter of credit as its financial assurance.
9. 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."
10. No production has been reported on the subject lease since September 2017.
11. TKP failed to reply to the Administrative Law Judge's letter dated April 26, 2019, with any documents that it holds a "good faith claim" to a continuing right to operate the subject lease and failed to timely request a hearing.
12. TKP does not have a "good faith claim" to operate the subject lease.
13. Pursuant to TEX. GOV'T CODE §§ 2001.056 and 2001.062(e), TKP and Borderline have waived the opportunity to request a hearing on the matter.
14. Borderline now asserts a "good faith claim" to a continuous right to operate the subject lease.
15. The Smithey-Rackley Unit (67907) Lease, Well No. 1, Girard, N. (Tannehill) Field, Dickens County, Texas, should be transferred to Borderline as operator of record.

CONCLUSIONS OF LAW

1. Proper notice of opportunity for hearing was timely issued to appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction has occurred.
3. Resolution of this docket is a matter committed to the jurisdiction of the Commission. TEX. GOV'T CODE §§ 81.051.
4. TKP does not have a "good faith claim" to continue to operate the Smithey-Rackley Unit (67907) Lease, Well No. 1, Girard, N. (Tannehill) Field, Dickens County, Texas.
5. Borderline does have a "good faith claim" to continue to operate the Smithey-Rackley Unit (67907) Lease, Well No. 1, Girard, N. (Tannehill) Field, Dickens County, Texas.

IT IS THEREFORE ORDERED that the application of Borderline Operating Corp. for transfer of the Form P-4 "Certificate of Compliance and Transportation Authority" 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, Borderline Operating Corp. has not met the requirements of the listed provisions, this Order shall be **VOID** and the subject Form P-4 shall be marked as *Unable to Process* and archived.

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.

Signed on June 18, 2019.

**Railroad Commission of Texas (Order approved
and signatures affixed by Hearings Division
Unprotested Master Order dated June 18, 2019)**