OIL & GAS DOCKET NO. 7B-0249737

COMMISSION CALLED HEARING ON THE COMPLAINT OF CHARLES G. JUSTIS, JR. SEEKING THE VOIDING OF THE FORM P-5 ORGANIZATION REPORT OF N/J PRODUCTION AND THE VOIDING AND RECISSION OF ALL FORM P-4 CERTIFICATES OF COMPLIANCE TRANSFERRING VARIOUS LEASES AND WELLS IN DISTRICT 7B TO N/J PRODUCTION

APPEARANCES:

FOR COMPLAINANT:	**COMPLAINANT:**
Dick Marshall Charles G. Justis, Jr.	Charles G. Justis, Jr.

FOR INTERVENORS:

Lloyd Muennink Roland Baker	IPACT Roland Baker
Dwight Northcutt	Dwight Northcutt

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

DATE COMPLAINT FILED:	November 13, 2006
DATE OF NOTICE OF HEARING:	November 21, 2006
DATES OF HEARING:	December 4 and 19, 2006
HEARD BY:	James M. Doherty, Hearings Examiner Donna Chandler, Technical Examiner
DATE TRANSCRIPT RECEIVED:	January 8, 2007
DATE PFD CIRCULATED:	January 26, 2007

STATEMENT OF THE CASE

This is a bizarre case in which the complainant, Charles G. Justis, Jr. ("Justis") alleges that: (1) N/J Production (Operator No. 598620) was organized with the Commission as a sole proprietorship owned by Justis by the filing of a Form P-5 organization report on June 8, 2006, without his knowledge or authorization, bearing a signature for Justis which is a forgery; and (2) contemporaneous with the filing of the Form P-5, Forms P-4 (Certificate of Compliance and Transportation Authority) were filed, signed by a purported N/J agent who had no authority to act as an agent for Justis, transferring 22 leases and 54 wells from IPACT to N/J Production. Justis seeks revocation of the N/J Production Form P-5 organization report and recission or revocation of the administrative approvals of the Forms P-4 transferring the referenced leases and wells from IPACT to N/J.

Hearing in this docket commenced and was partially completed on December 4, 2006. Justis and intervenors IPACT, Roland Baker, and Dwight Northcutt appeared and participated. Because two of the intervenors, IPACT and Roland Baker, alleged that they had not received the notice of hearing a full ten days in advance of December 4, 2006, the hearing was recessed until December 19, 2006, to allow the intervenors additional time to prepare and to take any desired depositions. Justis and Dwight Northcutt were ordered to provide to counsel for IPACT and Baker certain requested documents by 5:00 p.m. on December 11, 2006, and Northcutt was ordered to appear at the continued hearing on December 19, 2006. The hearing was reconvened and concluded on December 19, 2006, and Justis and Northcutt were present and available for any further examination by counsel for IPACT and Baker.

DISCUSSION OF THE EVIDENCE

Justis

Charles G. Justis, Jr. is a retired Baptist minister, with no experience in the oil and gas business. His wife Betty Justis is a part owner of the mineral estate of the 688 acre Jones & Burroughs Ranch in Brown County. On April 21, 2005, Betty Justis' uncle, Charles Ray Jones, who is also a part owner of the mineral estate of the Jones & Burroughs Ranch, made an oil and gas lease of 520 acres to Dwight Northcutt dba Northcutt Production. According to this oil and gas lease, there are several existing wells on the 520 acres, including the Jones-Burroughs Lease, Well No. 11 (RRC No. 055004), Well No. 2 (RRC No. 142421), Well No. 6 (RRC No. 142424), Well No. 7 (RRC No. 142426), and Well No. 9 (RRC No. 142427), the Jones & Burroughs (28290) Lease, Well Nos. 3 and 5, and the Jones-Burroughs (11897) Lease, Well Nos. 1, 8, and 10.

Soon after the making of the oil and gas lease by Charles Ray Jones to Northcutt, a meeting was had between Northcutt and Justis. Justis agreed to enter into what he understood to be a "partnership" with Northcutt to operate the lease. To accomplish this purpose, Northcutt and Justis signed an operating agreement dated August 19, 2005, relating to the 520 acre Jones & Burroughs lease. The operating agreement recited that Northcutt was selling to Justis a 50% working interest

in the lease and provided that Northcutt would be the actual operator. The operating agreement provided for compensation to Northcutt of $150.00 per month for performing the duties of operator and provided also that Justis would pay $2,500 each for the reworking of two wells on the Jones & Burroughs lease. Justis was required to pay 50% of the operating expenses of the lease. The operating agreement also recited that the parties were "putting up a bond with the Railroad Commission," and each party would pay his share of the cost of the bond. The operating agreement also recited that Northcutt "would do the monthly paperwork necessary to satisfy the Railroad Commission." On August 19, 2005, Northcutt delivered an assignment of a 50% working interest in the Jones & Burroughs Lease to Justis.

In signing the operating agreement, it was Justis' intent to enter into a "partnership" with Northcutt to operate the Jones & Burroughs lease, which is the only lease referenced in the operating agreement. Justis understood that the partnership would operate under the name "N/J Production." Justis never discussed with Northcutt the operation of any leases or wells other than the Jones & Burroughs lease, and never agreed to participate in or assume responsibility for any other leases or wells.

At the time he entered into the operating agreement with Northcutt relating to the Jones & Burroughs lease, Justis knew very little about what needed to be filed with the Railroad Commission to accomplish the purposes of the operating agreement. He knew that N/J Production needed to be bonded, and he and Northcutt paid $1,050 each to obtain a bond. He also knew that a "form" needed to be filed with the Railroad Commission in Austin. Northcutt was to handle this filing, and Justis understood that the form would indicate that N/J Production was a partnership, and Northcutt and Justis were the partners.

The examiners have officially noticed that Dwight Northcutt currently is subject to the restrictions of Texas Natural Resources Code §91.114, which prohibits the Commission from approving an organization report for any organization in which Northcutt is an officer, director, partner, or 25% or more beneficial owner, and these same restrictions applied at the time the operating agreement between Northcutt and Justis was signed and N/J Production was organized with the Commission. These restrictions stem from unresolved final enforcement orders against Northcutt Production.[1]

The examiners have also officially noticed from official records of the Commission a Form P-5PB(2) for N/J Production which shows that on June 1, 2006, a $50,000 blanket bond was filed with the Commission for N/J. The bond form is dated May 1, 2006, and is signed by "Dwight Northcutt, Partner" for N/J Production as principal. The examiners have further officially noticed Railroad Commission of Texas Administrative Division - Oil & Gas Receipt No. 101038 dated June 1, 2006, that shows that on June 1, 2006, a $300 Form P-5 filing fee was paid for N/J Production by Dwight O. Northcutt Company Check No. 5692.

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[1] See Oil & Gas Docket Nos. 7B-0230361, 7B-0236046, and 7B-0236047.

On June 8, 2006, a Form P-5 completed in handwriting was filed with the Commission for N/J Production. Without Justis' knowledge, consent, or approval, this Form P-5 organized N/J Production with the Commission as a sole proprietorship, with Charles G. Justis, Jr. named as owner. Roland Baker was named as agent for the sole proprietorship, even though Justis did not know Baker, had never spoken with him, and had not authorized him to act as agent for Justis or N/J. The address shown for N/J on the P-5 was the office address for Dwight Northcutt dba Northcutt Production. A signature for Charles G. Justis, Jr. was affixed to the Form P-5 which Justis says is a forgery, as is shown by comparison with Justis' real signature on the August 19, 2005, operating agreement with Northcutt. Opposite the signature on the Form P-5 was a telephone number, which is Northcutt's number. In handwriting on the Form P-5 are notations apparently placed there by Commission staff, reading "300" and "101038". The "300" corresponds to the amount of the Form P-5 filing fee, and the "101038" corresponds to the number of the Commission receipt for the N/J Production Form P-5 filing fee which was paid by Northcutt's check.

Justis stated that at no time did he agree to operate N/J Production as a sole proprietorship or sign, or authorize anyone else to sign for him, a Form P-5 making Justis individually and solely responsible for the Jones & Burroughs wells or any other wells.

On the same day the N/J Production Form P-5 was filed, without Justis' knowledge, approval, or consent, Forms P-4 were also filed with the Commission transferring a total of 22 leases and 54 wellbores from IPACT to N/J Production, which Forms P-4 subsequently were approved.[2] As a matter of official record, this made N/J, which had been organized as a sole proprietorship of Charles G. Justis, Jr., responsible for the regulatory compliance of the 54 wellbores. The Forms P-4 that led to these transfers were signed by Maurice T. Larrea, President, for IPACT and by Roland Baker as "agent" for N/J Production. The 54 wells that were transferred were Northcutt's wells, in that Northcutt is the owner of the leases on which the wells are located, and previously had been operated in the name of IPACT pursuant to contract with Northcutt. Justis stated that at no time did he ever authorize the filing of these Forms P-4, or intend to assume the responsibility of a sole proprietor for these wells.[3]

Because the N/J Production Form P-5 was filed with a forged signature and organized N/J as a sole proprietorship of Charles G. Justis, without Justis' knowledge, approval, or consent, Justis requests that the Commission revoke the Form P-5. In addition, Justis requests that the Commission's administrative approvals of the Forms P-4 that transferred 54 of Northcutt's wells to

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[2] All the Forms P-4 are date-stamped as having been filed on June 8, 2006, with the exception of one that is date-stamped June 15, 2006. These Forms P-4 were approved on June 9, 2006, with the exception of one (Lease No. 17350) approved June 16, 2006, and one (Lease No. 19788) approved June 20, 2006.

[3] Appendix 1 to this Proposal for Decision is a listing from Commission records of the 54 wells that were transferred from IPACT to N/J Production. With three exceptions, these wells have no connection to the Jones & Burroughs lease. The parties appear to agree that the three exceptions are the J & B -C- (11895) Lease, Well Nos. 1 C (API #049 30081), 2 (API #049 30083) and 4 C (API #049 80976). Whether these three wells are covered by the April 21, 2005, oil and gas lease taken by Northcutt from Charles Ray Jones is not clear, since they are not included in the list of existing wells attached to the lease.

N/J Production be rescinded or revoked and that these wells be restored to the name of IPACT as the responsible operator.

Northcutt

Dwight Northcutt stated that he agreed with Justis to be "partners" on the Jones & Burroughs lease only. The 54 wells that Justis has complained about are Northcutt's wells, and Northcutt agreed that Justis should not have the responsibility for these wells.

Northcutt previously had contracted with IPACT to be the record operator of the 54 wells, and prior to the transfer to N/J Production in June 2006, IPACT had been the record operator for 3-4 years. Northcutt stated that the wells were placed in IPACT's name so that the wells would be bonded. Under this arrangement, Northcutt continued to be the physical operator of the wells. For a fee, IPACT furnished the bonding, and mailed to the Commission paperwork completed by Northcutt. More recently, IPACT complained to Northcutt that it was not making enough money out of this arrangement and pressured Northcutt to get his wells out of IPACT's name as the record operator. Northcutt stated that when he arranged a bond for himself and Justis, "I put them [the 54 wells] on there thinking that I would have no problem with it" (matter in brackets added).

Northcutt agreed that the Form P-5 organization report for N/J Production was supposed to indicate that N/J was a partnership of Dwight Northcutt and Charles G. Justis, Jr., not a sole proprietorship of Justis. Although Northcutt acknowledged that he knew he was subject to the restrictions of Texas Natural Resources Code §91.114 because of unresolved final enforcement case orders, he nonetheless claimed he did not necessarily know that the Commission would decline to accept a Form P-5 for N/J Production that showed he was a partner, mainly because the Commission had accepted a bond form signed by Northcutt.

Northcutt insists that he had nothing to do with the filing of the Form P-5 for N/J Production that showed it was a sole proprietorship of Justis, and he denies that he forged Justis' name to the Form P-5 or knows who did. Northcutt conceded that he was involved in the transfer of the 54 wells into the name of N/J Production, although he believed that IPACT was responsible for the actual filing of the Forms P-4 that accomplished the transfers. Northcutt further stated that he did not know who named Roland Baker as agent for N/J Production on the Form P-5 that was filed with the Commission, and he did not authorize Baker to sign the Forms P-4 on behalf of N/J for the purpose of transferring the 54 wells from IPACT to N/J.

In any event, Northcutt stated that the 54 wells of which N/J Production is presently the record operator should be removed from Justis' name, because the wells belong to Northcutt, not Justis. Northcutt stated further that he had been discussing with the Commission's Enforcement Section some possible resolution of the unresolved enforcement case orders that currently preclude the Commission from accepting an organization report from any organization owned or controlled by Northcutt.

Baker

Roland Baker is an oil and gas consultant. He stated that he had nothing to do with preparation, review, or filing of the Form P-5 which organized N/J Production as a sole proprietorship of Justis. Larry Smith, who assisted Northcutt and Justis with obtaining the bond that was filed for N/J, initially inquired whether Baker would serve as agent for N/J, and said he would have Northcutt "put me on as agent." In April 2006, Baker called Northcutt and told him he had heard from Smith that Northcutt wanted Baker to act as his agent, wanting to know if this had Northcutt's approval. Baker stated that he "assumed" Northcutt's response was that this would be okay.

Baker filed the Forms P-4 that transferred 54 of Northcutt's wells from IPACT to N/J Production. Baker signed the Forms P-4 as agent for N/J after Ed Luna of IPACT authorized him to do so. Prior to signing the Forms P-4, Baker viewed the Commission's mainframe database to confirm that he was named as an agent on N/J's Form P-5. Baker's decision to sign the Forms P-4 as agent for N/J and to file them was based solely on his discussions with Ed Luna and Maurice Larrea of IPACT, not on discussions with either Northcutt or Justis. Baker had not met Justis prior to the hearing in this docket. Baker's fees for filing the Forms P-4 with the Commission were paid by IPACT.

IPACT

Although it was represented by counsel, IPACT presented no evidence on any of the substantive issues presented by this docket other than by counsel's examination of Justis, Northcutt, and Baker. IPACT's President, Maurice Larrea was present for the initial session of the hearing on December 4, 2006, but elected not to be present for the hearing on December 19, 2006, when hearing of IPACT's and Baker's evidence was scheduled.

Counsel for IPACT asserted that: (1) Northcutt and Justis had a partnership, so that Justis is liable for Northcutt's actions; (2) Justis did not prove that his signature on the N/J Form P-5 is a forgery; (3) the N/J Production Form P-5 and the Commission's administrative approvals of the Forms P-4 transferring the 54 wells from IPACT to N/J Production are valid; (4) IPACT did not forge Justis' signature on the N/J Form P-5; (5) this case involves contractual, breach of fiduciary duty, and fraud claims that should be submitted to a court of competent jurisdiction rather than the Railroad Commission; and (6) this case may resolve itself if disposition is deferred until Northcutt can resolve the prior enforcement case orders that prevent the Commission from accepting an organization report from an organization owned or controlled by Northcutt.

EXAMINERS' OPINION

Although the temptation is great to assign responsibility for filings with the Commission that were forged, blatantly false, and fraudulent, this will have to wait until another day. The limited issues in this case are: (1) whether the Form P-5 organization report filed on June 8, 2006, for N/J Production, organizing N/J as a sole proprietorship owned by Charles G. Justis, Jr. should be

revoked; and (2) whether the administrative approvals of the Forms P-4 which transferred the 54 wells identified in Appendix 1 to this Proposal for Decision should be rescinded or revoked. This is the relief requested by Justis, and the examiners recommend this relief be granted.

The testimony of Justis that his only agreements with Northcutt related to organization of N/J Production as a partnership for the purpose of operating wells on the Jones & Burroughs lease is deemed by the examiners to be entirely credible and is supported by the terms of the operating agreement which was signed by Justis and Northcutt. Justis' testimony that he did not sign the N/J Form P-5 that purportedly bears his signature, did not authorize organization of N/J as his sole proprietorship, and did not authorize the naming of Roland Baker as his agent, is also deemed credible. Expertise in the field of handwriting analysis is not required to see the total dissimilarity between Justis' authentic signature on the operating agreement with Northcutt and the forged signature on the N/J Form P-5. What is not credible is that none of the other parties, who are among the persons most likely to have been interested in the preparation and filing of the Form P-5, prepared, signed, or filed the Form P-5 and have no idea who did. The signing and filing of the Form P-5 for N/J organizing it as a sole proprietorship and the naming of Baker as agent for the sole proprietorship was a fraud on Justis and the Commission, and the Form P-5 should be revoked.

The filing of the Forms P-4 transferring the 54 wells on Appendix 1 to this Proposal for Decision to N/J Production was also a fraud on Justis and the Commission. The organization into which these wells were transferred was, for the Commission's regulatory purposes, a sole proprietorship of which Justis purportedly was owner. Justis was completely unaware of these transfers at the time they took place and in no way authorized or agreed to them. Baker signed the Forms P-4 purportedly as agent for an entity that had been organized as Justis' sole proprietorship without a sign of authority from Justis to do so. The result was to achieve the aim of IPACT and Northcutt to get the wells out of the name of IPACT, but to saddle Justis with personal liability for regulatory compliance of a substantial number of leases and wells with which he had no connection whatsover. The examiners recommend that the administrative approvals of the Forms P-4 that transferred the leases and wells identified on Appendix 1 to this Proposal for Decision be rescinded and revoked and that IPACT be restored as the operator of these leases and wells.

The examiners are unimpressed by IPACT's assertion that the relief sought by Justis is precluded because Northcutt and Justis formed a partnership for operation of the Jones & Burroughs lease wells, so that Justis is bound by Northcutt's actions. Regardless of the intent of Northcutt and Justis to form a partnership, no partnership was organized for the Commission's regulatory purposes. N/J Production was organized with the Commission as a sole proprietorship, with Justis as owner, by a fraudulently filed Form P-5, and for this reason alone, revocation of the Form P-5 is justified. If by some measure, N/J could be considered a partnership of Northcutt and Justis for the Commission's regulatory purposes, the N/J Form P-5 would require revocation because the Commission may not accept an organization report from an entity of which Northcutt is a partner under Texas Natural Resources Code, §91.114.

For the same reasons, the administrative approvals of the Forms P-4 which transferred the leases and wells on Appendix 1 to this Proposal for Decision must be rescinded and revoked. For the Commission's regulatory purposes, the transfers were to an entity organized as a sole proprietorship of which Justis purportedly was owner. Justis did not sign or approve these Forms P-4 and the agent who signed the Forms P-4 for N/J had no authority to do so. Even if N/J were considered a partnership of Northcutt and Justis for the Commission's regulatory purposes, the approvals of the Forms P-4 would need to be rescinded and revoked because the Commission is prohibited from granting a certificate of compliance to an organization of which Northcutt is a partner under §91.114.

The examiners recommend that: (1) the administrative approvals of the Forms P-4 transferring the leases and wells identified in Appendix 1 to this proposal for decision be revoked and such leases and wells be returned to IPACT as the operator of record; and (2) the Form P-5 organization report of N/J Production be revoked. The examiners recommend further that the file in this docket be referred to the Enforcement Section of the Office of General Counsel for review and consideration of whether administrative proceedings should be brought for violations of Texas Natural Resources Code §91.143 relating to false and fraudulent filings and/or whether any of the acts described in this proposal for decision should be referred for criminal prosecution.

Based on the record in this case, the examiners recommend adoption of the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. At least ten (10) days notice of the hearing in this docket was sent to all parties entitled to notice, including Charles G. Justis, Jr. ("Justis"), N/J Production ("N/J"), IPACT, and Roland Baker ("Baker"). Justis, IPACT, Baker, and Dwight Northcutt ("Northcutt") appeared at the hearing and presented evidence.

2. This hearing was called to consider the complaint of Charles G. Justis, Jr., that the Form P-5 organization report of N/J Production (Operator No. 598620), showing that N/J is a sole proprietorship with Justis the owner, was falsely and fraudulently filed and Forms P-4 transferring 22 leases and 54 wells to N/J, making Justis solely responsible for such leases and wells, were also falsely and fraudulently filed.

3. The relief sought by Justis is revocation of the Form P-5 organization report of N/J and revocation of the administrative approvals of the Forms P-4 which transferred the 22 leases and 54 wells from IPACT to N/J.

4. Justis is a retired Baptist minister, with no experience in the oil and gas business. His wife, Betty Justis, is a part owner of the mineral estate of the 688 acre Jones & Burroughs Ranch in Brown County, Texas.

5. On April 21, 2005, Charles Ray Jones, an uncle of Betty Justis and also a part owner of the mineral estate of the Jones & Burroughs Ranch, made an oil and gas lease of 520 acres to Dwight Northcutt dba Northcutt Production. According to this oil and gas lease, there are several existing wells on the 520 acres.

6. In August 2005, Justis agreed to enter into what he understood to be a partnership with Northcutt to operate the Jones & Burroughs lease. An operating agreement dated August 19, 2005, was signed by Justis and Northcutt relating to operation of this lease. Also on August 19, 2005, Northcutt assigned to Justis a 50% working interest in the lease.

7. Justis' intent in signing the August 19, 2005, operating agreement was to enter into a partnership with Northcutt to operate the Jones & Burroughs lease only, which is the only lease referenced in the agreement. Justis made no agreement to operate, participate in, or assume responsibility for any other leases or wells.

8. At the time Justis entered into the August 19, 2005, operating agreement, Justis knew very little about what needed to be filed with the Railroad Commission to accomplish the purposes of the operating agreement.

    a. Justis understood that the partnership would operate under the name "N/J Production".

    b. Justis knew that N/J needed to be bonded, and he and Northcutt paid $1,050 each to obtain a bond.

    c. Justis knew that a "form" needed to be filed with the Railroad Commission. Northcutt was to handle this filing, and Justis understood the form would indicate that N/J was a partnership of Northcutt and Justis.

9. Northcutt currently is subject to the restrictions of Texas Natural Resources Code §91.114, which prohibits the Railroad Commission from approving an organization report for any organization in which Northcutt is an officer, director, partner, or 25% or more beneficial owner, and these same restrictions applied at the time the operating agreement between Northcutt and Justis was signed and N/J was organized with the Commission. These restrictions stem from unresolved final enforcement orders against Northcutt Production.

10. On June 1, 2006, a $50,000 blanket bond was filed with the Railroad Commission for N/J. The bond form was dated May 1, 2006, and was signed by "Dwight Northcutt, Partner." On the same day, a $300 Form P-5 filing fee was paid for N/J by Dwight O. Northcutt Company Check No. 5692.

11. On June 8, 2006, a Form P-5, completed in handwriting, was filed with the Railroad Commission for N/J. This Form P-5 contained representations to the Railroad Commission which were false and untrue as to material facts.

    a. The Form P-5 stated that N/J was a sole proprietorship, and Charles G. Justis, Jr. was the owner. Justis did not file this Form P-5 and did not authorize anyone else to do so. Furthermore, Justis did not authorize the organization of N/J with the Railroad Commission as a sole proprietorship of which he was the owner.

    b. The Form P-5 named Roland Baker as an agent for the sole proprietorship. Justis had never met Baker or spoken with him, and had not authorized Baker to act as agent for a sole proprietorship of which Justis was the owner.

    c. The Form P-5 bore a purported signature for Charles G. Justis, Jr. Justis did not sign his name to the Form P-5 or authorize anyone else to do so. The purported signature for Charles G. Justis, Jr. on the Form P-5 is not in Justis' handwriting, and is a forgery.

12. The organization address and telephone number shown on the Form P-5 for N/J filed with the Railroad Commission on June 8, 2006, were the address and telephone number for Northcutt.

13. Also on June 8, 2006, and in one case on June 15, 2006, Forms P-4 were filed with the Railroad Commission, and subsequently approved, transferring 22 leases and 54 wells from IPACT to N/J. The particular leases and wells transferred pursuant to these filings are identified in Appendix 1 to this proposal for decision, which is adopted and incorporated into this finding by reference as if fully set forth herein. These Forms P-4 were fraudulent and contained representations to the Railroad Commission which were false and untrue as to material facts.

    a. The Forms P-4 were filed to transfer leases and wells to N/J, which had been organized as a sole proprietorship with Justis the owner, without the knowledge, authorization, or consent of Justis.

    b. The Forms P-4 were signed by Maurice T. Larrea, President, for IPACT and by Roland Baker, purportedly as agent for N/J. Baker was not an authorized agent for N/J as it had been organized with the Commission, and had no authority from Justis to act as agent for the purpose of signing the Forms P-4 or for any other purpose.

    c. The Forms P-4 represented that N/J, organized with the Railroad Commission as a sole proprietorship with Justis the owner, certified that all statements in the forms were true and correct, acknowledged responsibility for the regulatory compliance of the leases and wells covered by the Forms P-4, including the plugging responsibility,

and acknowledged assumption of responsibility for the physical operation and control of the wells. These certifications and acknowledgments were made without the knowledge, consent, or authorization of Justis, and Justis had never agreed to assume the responsibility of a sole proprietor for any of the leases or wells covered by the Forms P-4.

14. With the exception of three wells, the J & B -C- (11895) Lease, Well Nos. 1 C (API #049 30081), 2 (API #049 30083), and 4 C (API #049 80976), the 22 leases and 54 wells transferred from IPACT to N/J by the Forms P-4 filed with the Railroad Commission on June 8, 2006, and in one case on June 15, 2006, have no connection to the Jones & Burroughs lease.

15. The 54 wells transferred to N/J by the Forms P-4 filed with the Railroad Commission on June 8, 2006, and in one case on June 15, 2006, are Northcutt's wells. These wells had been operated under IPACT's name for several years pursuant to a contract operating agreement between Northcutt and IPACT, which Northcutt entered into as a means of covering the wells with IPACT's bond. During the period when IPACT was the record operator, Northcutt continued to be the physical operator of these wells.

16. At the time of the transfer of the 22 leases and 54 wells from IPACT to N/J, Northcutt was being pressured by IPACT to get the wells out of IPACT's name as record operator, because IPACT was not making enough money out of the contract operating arrangement. Northcutt directed that the leases and wells be transferred to N/J, but now agrees that they should not be the responsibility of Justis.

17. The filing of the Forms P-4 with the Railroad Commission on June 8, 2006, and in one case on June 15, 2006, was handled by Roland Baker at the direction of IPACT. Baker submitted his invoice for his services in completing and filing the Forms P-4 to IPACT, which paid the invoice. Baker was directed to sign the Forms P-4 as agent for N/J by Ed Luna of IPACT, and had no authority from Justis to sign.

CONCLUSIONS OF LAW

1. Proper notice of hearing was timely issued by the Railroad Commission to appropriate persons legally entitled to notice.

2. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties to this hearing have been performed or have occurred.

3. The Form P-5 organization report of N/J Production (Operator No. 598620) filed with the Commission on June 8, 2006, was false and untrue in material facts and was fraudulent.

4. Pursuant to Statewide Rule 1(a)(10) [16 TEX. ADMIN. CODE §3.1(a)(10)], an approved organization report which is found to contain information that was materially false at the time it was submitted for approval may be suspended or revoked by the Commission, after notice and opportunity for hearing.

5. The Forms P-4 (Certificate of Compliance and Transportation Authority) filed with the Commission on June 8, 2006, and in one case on June 15, 2006, to transfer the leases and wells identified in Appendix 1 to this proposal for decision from IPACT to N/J Production were false and untrue in material facts and fraudulent.

6. The Commission has implied authority to rescind or revoke fraudulently induced administrative approvals by Commission staff of Forms P-4 transferring leases and wells from one operator to another, as a necessary adjunct to its other delegated powers and duties expressly assigned to the Commission.

7. Pursuant to Statewide Rules 1 and 58 [16 TEX. ADMIN. CODE §3.1 and 3.58] and the Commission's Form P-4, when a Form P-4 is filed for the purpose of changing the designation of an operator of an oil lease or gas well, the Form must be signed on behalf of both the previous operator and the proposed new operator by a duly authorized employee or agent.

8. The Forms P-4 filed with the Commission on June 8, 2006, and in one case on June 15, 2006, to transfer the leases and wells identified in Appendix 1 to this proposal for decision from IPACT to N/J Production were signed on behalf of N/J Production in violation of Texas Natural Resources Code §91.143, Statewide Rules 1 and 58 and Form P-4 instructions.

9. Pursuant to Texas Natural Resources Code §85.164 and Statewide Rule 73(b) [16 TEX. ADMIN. CODE §3.73(b)], the Commission may revoke a certificate of compliance based on violations of the oil and gas conservation laws of this state or rules or orders of the Commission adopted under those laws.

10. Pursuant to Texas Natural Resources Code §91.114, the Commission is prohibited from approving a Form P-5 organization report or a Form P-4 certificate of compliance for an organization of which Dwight Northcutt is a general partner or 25% or more beneficial owner.

11. The Form P-5 organization report for N/J Production (Operator No. 598620) filed with the Commission on June 8, 2006, should be revoked.

12. The administrative approvals of the Forms P-4 filed with the Commission on June 8, 2006, and in one case on June 15, 2006, to transfer the leases and wells identified in Appendix 1 to this proposal for decision from IPACT to N/J Production should be rescinded and revoked, and, upon administrative finality of the Commission's final order in this docket, IPACT should be restored as the designated operator of these leases and wells.

RECOMMENDATION

The examiners recommend that the Commission enter the attached final order revoking the Form P-5 organization report for N/J Production filed with the Commission on June 8, 2006, and the administrative approvals of the Forms P-4 filed with the Commission on June 8, 2006, and in one case on June 15, 2006, to transfer the leases and wells identified in Appendix 1 to this proposal for decision from IPACT to N/J Production. The examiners further recommend that IPACT be restored as the record operator of the leases and wells identified in Appendix 1.

Respectfully submitted,

James M. Doherty
Hearings Examiner

Donna Chandler
Technical Examiner