

OIL & GAS DOCKET NO. 6E-0240490

COMMISSION CALLED HEARING TO GIVE ACIREMA CORPORATION AN OPPORTUNITY TO CONTEST CANCELLATION OF ITS PLUGGING EXTENSIONS FOR THE WILLIAMS (07753) LEASE, EAST TEXAS (27302001) FIELD, GREGG COUNTY, TEXAS.

APPEARANCES:

FOR MOVANT:

Chris Chandler, General Manager
Debbie P. Smith, Land Manager

MOVANT:

Acirema Corporation
Acirema Corporation

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

DATE OF REQUEST FOR HEARING:	October 1, 2004
DATE OF NOTICE OF HEARING:	November 16, 2004
DATE OF HEARING:	January 18, 2005
HEARD BY:	Marshall Enquist, Hearings Examiner
DATE RECORD CLOSED:	January 18, 2005
DATE PFD CIRCULATED:	February 11, 2005

STATEMENT OF THE CASE

This proceeding was called in response to the request of Acirema Corporation ("Acirema") for a hearing wherein Acirema might contest cancellation of Statewide Rule 14(b)(2) plugging extensions for the H.W. Williams Lease (07753) Lease ("Williams Lease"), East Texas Field, Gregg County, Texas.

A hearing was held on January 18, 2005, at which time Acirema appeared and presented evidence. No other party appeared.

The examiner has determined that the cancellation of the Rule 14(b)(2) plugging extensions for the subject lease was due to a misunderstanding on the part of Acirema as to its burden of proof in demonstrating a good faith claim to operate the lease. At the hearing, Acirema showed that it does have a good faith claim that the lease was held by production due to inclusion in a producing gas unit. Accordingly, the examiner recommends that the Rule 14(b)(2) plugging extensions for the wells on the subject lease be reinstated.

BACKGROUND

On March 12, 2004, the Commission received a complaint from H.L. Wilson alleging that there were 10 to 12 “dead wells” on his property that had not produced in several years. A search of RRC records found that the Williams (07753) Lease had several wells completed in the Woodbine formation but had not reported production from September, 2000 to January, 2004. Acirema was the operator of this lease and the RRC requested, by letter dated April 30, 2004, that Acirema provide documentation within 15 days of a continuing good faith claim to operate the lease. This letter was mailed to the correct address for Acirema, but no response was received.

By letters dated June 22 (from RRC Examiner Mark Helmueller) and June 23, 2004 (from RRC Senior Staff Engineer William Gardner), Acirema was notified that the plugging extensions for the wells on the Williams (07753) Lease were cancelled. Acirema was also advised that it could contest the determination by requesting a hearing within 10 days of the date of the letter. By letter dated, June 25, 2004, Acirema provided documents indicating the area covered by the Williams lease was at least partially included in the J.W. Orr Gas Unit, completed in the Cotton Valley formation. Without further explanation, this claim by itself was insufficient to show the Williams Lease was still valid.

APPLICABLE RULES

Statewide Rule 14(b)(2) requires that plugging operations on each dry or inactive well be commenced within a period of one year after drilling or operations cease, unless the operator of the well has obtained an extension of the plugging deadline. A plugging extension may not be granted unless the operator has, and upon request provides evidence of, a good faith claim to a continuing right to operate the well for which the extension is sought. In addition, the Commission or its delegate may revoke a previously granted plugging extension for a well if the operator of the well fails to provide the Commission, upon request, with evidence of a continuing good faith claim.

Rule 14(a)(1)(E) defines “good faith claim” as a factually supported claim based on a recognized legal theory to a continuing possessory right in a 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.

Pursuant to Rule 14(a)(1)(A), “active operation” is defined as regular and continuing activities related to the production of oil and gas for which the operator has all necessary permits. In the case of a well that has been inactive for 12 consecutive months or longer and that is not permitted as a disposal or injection well, the well remains inactive for the purposes of Rule 14, regardless of any minimal activity, until the well has reported production of at least 10 barrels of oil for oil wells or 100 mcf of gas for gas wells each month for at least three consecutive months.

MATTERS OFFICIALLY NOTICED

The examiner has officially noticed Commission records showing that Acirema became the P-4 operator of the Williams Lease effective October 1, 2001, and approved November 30, 2001. Commission production records show that no production was reported for the Williams (07753) Lease between September, 2000 and January 2004. However, Acirema has submitted Form W-10 test results on Well Nos. 1, 4 and 6 on the Williams Lease showing them capable of production with a high (40 to 1) water cut, and they are currently carried on Commission records as producing wells. Well Nos. 2, 3, 5, 7 and 9 on the Williams Lease had SWR 14(b)(2) extensions which were canceled on June 23, 2004.

DISCUSSION OF THE EVIDENCE

As evidence of its good faith claim to operate the subject wells, Acirema relies on an October 8, 1930, Oil, Gas and Mineral Lease between H.M. Williams and Laura Williams, Lessors, and W.P. Chandler, Lessee. The lease is for a primary term of ten years "...and as long thereafter as oil, gas or other mineral is produced from said land hereunder". As previously stated, there appears to have been continuous production from the Woodbine until September, 2000, at which time production ceased. However, in 1995, prior to the cessation of production from the Woodbine, Amoco Production Company ("Amoco") and Team Invest, Inc. ("Team Invest") formed the J.W.Orr Gas Unit ("Orr Unit") which produced from a deeper formation, the Cotton Valley.

The acreage encompassed by the Williams Lease was intended for inclusion within the Orr Unit, but because the original 1930 lease did not include a pooling provision, the Williams Lease could not be included until Amoco and Team Invest were able to obtain amendments to the 1930 lease specifically granting pooling authority. Due to the passage of time, and the successive division of interests, the beneficiaries of the Williams Lease numbered some 200 parties. Over the course of several years, from 1995 to at least 1998, Amoco and Team Invest were successful in obtaining the pooling amendments. Acirema provided a sampling of the amendments to the original 1930 lease, all stating ".....it is the desire of all parties hereto that the lease should be amended and modified so as to provide for the pooling of the acreage covered by the lease with other acreage so as to form one or more units for the production of oil, gas and/or related hydrocarbons...".

Acirema contends that the inclusion of the Williams Lease in the Orr Unit holds the lease by production. The Orr Unit has continuously produced since October, 1995, with the most recent reported production for the Orr Unit being 2,599 MCF of gas and 10 barrels of condensate for the month of September, 2004.

Due to the recent increase in the price of oil, Acirema has decided to restore the wells on the Williams Lease completed in the Woodbine formation to production. Acirema hopes for a speedy resolution of this problem so that it may begin pumping and selling oil.

EXAMINER'S OPINION

Due to the continuity of production on the Williams Lease or on lands pooled therewith, whether by production from the Woodbine or the Cotton Valley, the examiner agrees that Acirema has an ongoing good faith claim that the lease is valid. Therefore, the Rule 14(b)(2) extensions for Well Nos. 2, 3, 5, 7 and 9 should be reinstated.

FINDINGS OF FACT

1. At least ten (10) days notice of the hearing in this docket was sent to all parties entitled to notice.
2. On March 12, 2004, the Commission received a complaint from H.L. Wilson alleging that there were several "dead wells" on his property that had not produced for several years.
3. No production was reported for Well Nos. 1, 2, 3, 4, 5, 6, 7 and 9 on the Williams (07753) Lease from September, 2000 through January, 2004.
4. Acirema was designated the operator of the Williams Lease, by the filing of a Form P-4 (Certificate of Compliance and Transportation Authority), approved November 30, 2001, and effective October 1, 2001.
5. Acirema has filed Form W-10 test results with the Commission indicating Well Nos. 1, 4 and 6 are capable of production and they are currently carried on Commission records as producing wells.
6. Well Nos. 2, 3, 5, 7 and 9 on the Williams lease had SWR 14(b)(2) extensions which were cancelled by the Commission on June 22, 2004.
7. Acirema is the successor in interest to the Williams Lease, which contains a provision that the lease would be held in effect during its secondary term by continuous production.
8. By letter from the Commission dated April 30, 2004, Acirema was afforded an opportunity to refute the allegations in the complaint and file documentation establishing that Acirema possessed a good faith claim of a continuing right to operate the Williams (07753) Lease, sufficient to support the granting of plugging extensions.
9. Acirema did not timely respond to the Commission's request that it substantiate its good faith claim to operate the Williams (07753) Lease.
10. On June 22, 2004, the Hearings Section of the Commission's Office of General Counsel issued notice of its determination that Acirema had not established a good faith claim and

cancelled the Statewide Rule 14(b)(2) plugging extensions for the Williams Lease, subject to the right of Acirema to request a hearing to contest this determination.

11. On June 25, 2004, Acirema requested a hearing to contest the Hearings Section's June 22, 2004, determination.
12. In 1995, prior to cessation of production from the Williams Lease in the Woodbine, Amoco Production Company and Team Invest, Inc. created a pooled unit called the Orr Gas Unit.
13. The Orr Gas Unit is a pooled unit which includes the Williams Lease.
14. Because the Williams Lease did not grant pooling Authority, Amoco and Team Invest obtained amendments to the Williams Lease which granted pooling authority. Amoco and Team Invest successfully obtained the lease amendments from 1995 through at least 1998.
15. The Orr Gas Unit has continuously produced since 1995.

CONCLUSIONS OF LAW

1. Proper notice of hearing was timely given to all persons legally entitled to notice.
2. All things have occurred and been accomplished to give the Commission jurisdiction to decide this matter.
3. Acirema Corporation has demonstrated a good faith claim of a continuing right to operate the Williams (07753) Lease.
4. The Statewide Rule 14(b)(2) plugging extensions for the Williams Lease, Well Nos. 2, 3, 5, 7 and 9 should be reinstated.

RECOMMENDATION

The examiner recommends that the Statewide Rule 14(B)(2) plugging extensions for Well Nos. 2, 3, 5, 7 and 9 on the Williams (07753) Lease be reinstated.

Respectfully submitted,

Marshall Enquist
Hearings Examiner