
ENFORCEMENT ACTION AGAINST NEVADA-MAVERICK DRILLING, INC. (OPERATOR NO. 605994) FOR VIOLATIONS OF STATEWIDE RULES ON THE WHITNEY ROSE LEASE, WELL NO. 3 (P461026), WELL NO. 1 (P461027), AND WELL NO. 2 (P461028), TAYLOR INA FIELD, MEDINA COUNTY, TEXAS

APPEARANCES

FOR MOVANT:

Susan German, Staff Attorney

MOVANT:

Railroad Commission of Texas -
Enforcement Section

FOR RESPONDENT:

John Adam, Agent

RESPONDENT:

Nevada-Maverick Drilling, Inc.

PROCEDURAL HISTORY

Original Complaint Served:

September 20, 2002

Hearing Held:

December 5, 2002

Record Closed:

January 6, 2003

Heard By:

Mark H. Tittel, Hearings Examiner

PFD Circulation Date:

March 4, 2003

Current Status:

Protested

STATEMENT OF THE CASE

This was a Commission-called hearing on the recommendation of the District Office to determine the following:

1. Whether the respondent should be required to plug or otherwise place in compliance with Statewide Rule 14(b)(2) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE § 3.14(b)(2)] the Whitney Rose Lease, Well No. 3 (P461026), Well No. 1 (P461027), and Well No. 2 (P461028), Taylor Ina Field, Medina County, Texas (hereinafter referred to as the “subject wells” or “subject lease”);
2. Whether the respondent has violated provisions of Title 3, Oil and Gas, Subtitles A, B, and C, Texas Natural Resources Code, Chapter 27 of the Texas Water Code, and Commission rules and laws pertaining to safety or prevention or control of pollution by failing to comply with said statutes and Statewide Rule 14(b)(2), Rule 16(a), and Rule 13(a);
3. Whether the respondent should be assessed administrative penalties of not more than \$10,000.00 per day for each offense committed regarding such lease and wells; and
4. Whether any violations of Statewide Rules by the respondent should be referred to the Office of the Attorney General for further civil action pursuant to TEX. NAT. RES. CODE ANN. § 81.0534.

Nevada-Maverick Drilling, Inc. (hereinafter referred to as “Respondent”) appeared at the hearing by and through its agent, John Adam, and presented evidence. Susan German, Staff Attorney, appeared at the hearing representing the Railroad Commission of Texas, Enforcement Section. Enforcement requests that Respondent be ordered to place the subject well in compliance with Commission Rules and requests that Respondent be ordered to pay an administrative penalty in the amount of \$9,750.00. The examiner agrees with Enforcement’s recommendation.

BACKGROUND

The entity designated as the operator of a lease on the most recent Commission-approved operator designation form filed before September 1, 1997 is presumed to be responsible for properly plugging the wells on that lease in accordance with Statewide Rule 14(b)(2) and all other applicable Commission rules and regulations concerning plugging of wells.

Statewide Rule 16(a) requires the operator of an oil, gas, or geothermal well, within thirty days after completion of such well, to file with the Commission the appropriate completion or plugging report.

Each property that produces oil, gas, or geothermal resources and each oil, gas, or geothermal resource well and tank shall at all times be clearly identified by posting signs in accordance with Statewide Rule 3.

When a violation of Title 3 of the Texas Natural Resources Code relating to safety and/or the prevention or control of pollution is established, the Commission may assess a penalty of up to \$10,000.00 per day for each violation. In determining the amount of the penalty, the Commission is required to consider the respondent's previous history of violations, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the respondent. TEX. NAT. RES. CODE ANN. § 81.0531.

DISCUSSION OF THE EVIDENCE

Enforcement's Position

Enforcement's hearing file for this docket was admitted into evidence. Respondent filed its most recent Form P-5 (Organization Report) on April 11, 1997. As financial security, Respondent paid \$750 at the time it filed its last Organization Report. Respondent's Organization Report lists John Adam as Registered Agent, Joseph M. Damato as President, and Thomas R. Meinders as Vice President. Enforcement submitted evidence including correspondence and corporate minutes indicating that Mr. Meinders resigned as an officer of Nevada-Maverick Drilling, Inc. effective September 17, 1997.

Respondent designated itself as the operator of the Whitney Rose Lease, Well No. 3 (P461026), Well No. 1 (P461027), and Well No. 2 (P461028), Taylor Ina Field, Medina County, Texas (hereinafter referred to as the "subject wells" or "subject lease"), by filing Form W-1s (Application for Permit to Drill, Deepen Plug Back, or Re-Enter) which were approved on April 16, 1997. Commission records reflect that Respondent did not file completion reports [Commission Form G-1 (Gas Well Back Pressure Test, Completion or Recompletion Report, and Log) or W-2 (Oil Well Potential Test, Completion or Recompletion Report, and Log)] for any of the subject wells.

Commission District inspection reports made between April 10, 2002 and October 28, 2002 indicate that all of the subject wells are inactive and are not equipped for production. No production has ever been reported from any of the subject wells. The subject wells have not been plugged, nor is there any Form W-3A (Notice of Intention to Plug and Abandon) or Form W-1X (Application for Future Re-entry of Inactive Well Bore and 14(b)(2) Extension Permit) in effect for any of the wells. The estimated cost to the State for plugging

the subject wells is \$11,700.00.

Commission District inspection reports made between April 10, 2002 and October 28, 2002 also indicate a number of violations of Statewide Rule 3(a). With respect to the Whitney Rose Lease, Well No. 3 (P461026), there are no signs or identification at the lease entrance, at the well, or at the tank battery. With respect to the Whitney Rose Lease, Well No. 1 (P461027), there are no signs or identification at the lease entrance, at the well, or at the tank battery. With respect to the Whitney Rose Lease, Well No. 2 (P461028), there are no signs or identification at the lease entrance, at the well, or at the tank battery.

Respondent's Position

Respondent did not dispute any of Enforcement's allegations. Respondent's agent, John Adam, testified the subject wells were completed around January of 1998. Mr. Adam testified that completion reports were not timely filed because Respondent was in disarray. Mr. Adam further testified that he attempted to file the completion reports approximately nine months after the subject wells were completed, but the Commission would not accept them as Respondent's Organization Report was delinquent at the time. Mr. Adam also stated that Respondent's president, Joseph M. Damato, had formed another organization, Reliance Oil & Gas, and requested more time to allow the completion reports to be filed and the subject wells transferred to the new organization. Mr. Adam conceded that Reliance Oil & Gas does not currently have any financial assurance on file with the Commission, but claimed that it was attempting to get a bond. Mr. Adam claimed that Mr. Damato has a valid lease, but did not provide a copy at the hearing. Although the record was kept open for thirty days after the hearing, no evidence was presented that the completion reports have been filed, that Reliance Oil & Gas had filed the necessary financial assurance to be able to assume control of the subject wells, or that Reliance Oil & Gas has a valid lease.

EXAMINER'S OPINION

As the subject wells have been inactive since they were completed in approximately January of 1998 and do not have plugging extensions in effect, Respondent has violated Rule 14(b)(2), which provides that plugging operations on an inactive well shall be commenced within a period of one year after drilling or operations cease. Respondent did not dispute that the subject wells are currently in violation of Statewide Rules or that it is the operator responsible for the wells. Respondent also does not dispute that it failed to file completion reports for the subject wells within 30 days after the subject wells were completed, as required by Statewide Rule 16(a). Furthermore, Respondent did not dispute that it had failed to post signs in accordance with Statewide Rule 3.

In assessing penalties, the Commission is required by statute to consider the respondent's previous history of violations, the seriousness of the violations, any hazard to the health or safety of the public, and the demonstrated good faith of the respondent. Respondent has no history of previous violations. While there is no evidence in the record of pollution having occurred on the subject

leases, abandoned and unplugged wellbores constitute a threat to usable quality groundwater due to the possibility of migrations or discharges of saltwater and other oil and gas wastes. Furthermore, by failing to file timely completion reports for the subject wells, Respondent has hindered the Commission's ability to determine whether the wellbores have been properly cased and cemented to protect usable quality groundwater. Respondent's failure to post the signs or identification required by Statewide Rule 3 has the potential for causing confusion and delay in remedying a violation or emergency and poses a threat to the public health and safety. Respondent has not acted in good faith, since it has failed to correct any of the alleged violations in spite of having been notified of the violation since at least April 22, 2002 by correspondence from the Commission's District Office in San Antonio. Accordingly, the examiner agrees with Enforcement's recommendation that Respondent be ordered to pay a total administrative penalty in the amount of \$9,750 broken down as follows: \$2,000 each for 3 violation of Statewide Rule 14(b)(2), \$500 each for 3 violations of Statewide Rule 16(a), and \$250 each for 9 violations of Statewide Rule 3(a).

In light of the fact that the subject wells have been inactive for more than five years, Respondent's failure to maintain its P-5, as well as the absence of any credible evidence that Respondent has a valid lease, the examiner recommends that Respondent be ordered to plug the subject wells.

Based on the record in this docket, the examiner recommends adoption of the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Nevada-Maverick Drilling, Inc. (hereinafter referred to as "Respondent") was given at least 10 days notice of this proceeding by certified, first-class mail, at the address reported to the Commission on its most recent Form P-5 (Organization Report). Susan German, Staff Attorney, appeared at the hearing representing the Railroad Commission of Texas, Enforcement Section.
2. Respondent filed its most recent Form P-5 (Organization Report) on April 11, 1997. As financial security, Respondent paid \$750 at the time it filed its last Organization Report.
3. Respondent's last Organization Report lists John Adam as Registered Agent, Joseph M. Damato as President, and Thomas R. Meinders as Vice President. Mr. Meinders resigned as an officer of Nevada-Maverick Drilling, Inc. effective September 17, 1997.
4. Respondent designated itself as the operator of the Whitney Rose Lease, Well No. 3 (P461026), Well No. 1 (P461027), and Well No. 2 (P461028), Taylor Ina Field, Medina County, Texas (hereinafter referred to as the "subject wells" or "subject lease"), by filing Form W-1s (Application for Permit to Drill, Deepen Plug Back, or Re-Enter) which were approved on April 16, 1997.

5. The subject wells were completed around January of 1998. Respondent did not file completion reports [Commission Form G-1 (Gas Well Back Pressure Test, Completion or Recompletion Report, and Log) or W-2 (Oil Well Potential Test, Completion or Recompletion Report, and Log)] for any of the subject wells within 30 days after the subject wells were completed, as required by Statewide Rule 16(a). Respondent attempted to file the completion reports approximately nine months after the subject wells were completed, but the Commission would not accept them as Respondent's Organization Report was delinquent at the time.
6. The subject wells have been inactive for more than 12 months. No production has ever been reported from any of the subject wells.
7. The subject wells have not been plugged, nor is there any Form W-3A (Notice of Intention to Plug and Abandon) or Form W-1X (Application for Future Re-entry of Inactive Well Bore and 14(b)(2) Extension Permit) in effect for any of the wells.
8. The estimated cost to the State for plugging the subject wells is \$11,700.00.
9. The Whitney Rose Lease, Well No. 3 (P461026), is missing a sign or identification at the lease entrance, at the well, and at the tank battery.
10. The Whitney Rose Lease, Well No. 1 (P461027), is missing a sign or identification at the lease entrance, at the well, and at the tank battery.
11. The Whitney Rose Lease, Well No. 2 (P461028), is missing a sign or identification at the lease entrance, at the well, and at the tank battery.
12. Usable quality groundwater in the area is likely to be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject wells. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
13. Without a completion report or plugging report filed for a well, the Commission is unable to determine whether a wellbore has been properly cased and cemented to protect usable quality groundwater.
14. Failure to properly identify a well by the posting of the signs required by Statewide Rule 3 has the potential for causing confusion and delay in remedying a violation or emergency and poses a threat to the public health and safety.

15. The record does not reflect any previous violations by Respondent of Commission rules.
16. Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject wells into compliance.

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 in this hearing have been performed or have occurred.
3. Respondent is the operator of the subject wells, as defined by Commission Statewide Rule 14(b)(2) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE § 3.14(b)(2)] and Section 89.002 of the Texas Natural Resources Code and is a person as defined by Commission Statewide Rule 79 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE § 3.69] and Chapters 85 and 89 of the Texas Natural Resources Code.
4. As operator, Respondent has the primary responsibility for complying with Rules 14(b)(2), 16(a), and 3 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE § 3.14(b)(2), § 3.16(a), § 3.3] and with Chapter 89 of the Texas Natural Resources Code as well as other applicable statutes and Commission rules relating to the subject well.
5. The subject wells are not properly plugged or otherwise in compliance with Statewide Rule 14(b)(2) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE § 3.14(b)(2)], or Chapters 85, 89 and 91 of the Texas Natural Resources Code.
6. The subject wells are not in compliance with Commission Statewide Rule 16(a) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE § 3.16(a)] or Chapters 85, 89 and 91 of the Texas Natural Resources Code.
7. The subject wells are not in compliance with Commission Statewide Rule 3 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE § 3.3] or Chapters 85, 89 and 91 of the Texas Natural Resources Code.
8. The documented violations constitute acts deemed serious, a hazard to the public health, and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE ANN. § 81.0531(c).

RECOMMENDATION

The examiner recommends that the above findings and conclusions be adopted and that the attached be order approved, requiring Respondent, within 30 days from the day immediately following the date this order becomes final, to:

1. Plug the Whitney Rose Lease, Well No. 3 (P461026), Well No. 1 (P461027), and Well No. 2 (P461028), Taylor Ina Field, Medina County, Texas in accordance with Statewide Rule 14; and
2. Pay an administrative penalty in the amount of **NINE THOUSAND SEVEN HUNDRED AND FIFTY DOLLARS (\$9,750.00)**.

Respectfully submitted,

Mark H. Tittel
Hearings Examiner