

**OIL & GAS DOCKET NO. 02-0248303**

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**ENFORCEMENT ACTION AGAINST AMERICAN COASTAL ENERGY, INC. (OPERATOR NO. 018007) FOR VIOLATIONS OF STATEWIDE RULES ON THE STATE TRACT 596-L, NE/4 LEASE, WELL NO. 3 UT (RRC NO. 079076), SHERMAN OFFSHORE, SW (3020) FIELD, AND STATE TRACT 596-L, NE/4 LEASE, WELL NO. 3 LT (RRC NO. 079121), SHERMAN OFFSHORE, SW (3950) FIELD, CALHOUN COUNTY, TEXAS**

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**APPEARANCES:**

**FOR MOVANT:**

Elaine Moore

**MOVANT:**

Enforcement Section  
Railroad Commission of Texas

**FOR RESPONDENT:**

David M. Smith  
A. Prentiss Fatherree  
Sam Albaral  
Johnny Kopecky

**RESPONDENT:**

American Coastal Energy, Inc.

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

<b>DATE COMPLAINT FILED:</b>	August 22, 2006
<b>DATE OF NOTICE OF HEARING:</b>	August 8, 2007
<b>DATE OF HEARING:</b>	October 11, 2007
<b>HEARD BY:</b>	James M. Doherty, Hearings Examiner
<b>DATE RECORD CLOSED:</b>	December 10, 2007
<b>DATE PFD CIRCULATED:</b>	December 20, 2007

**STATEMENT OF THE CASE**

This proceeding was called by the Commission on the recommendation of the District Office to determine the following:

1. Whether the respondent American Coastal Energy, Inc. (“ACE”), should be required to plug or otherwise place into compliance with Statewide Rule 14(b)(2) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.14(b)(2)] the State Tract 596-L, NE/4 Lease, Well No. 3 UT (RRC No. 079076), Sherman Offshore, SW (3020) Field, and the State Tract 596-L, NE/4 Lease, Well No. 3 LT (RRC No. 079121), Sherman Offshore, SW (3950) Field, Calhoun County, Texas;
2. Whether ACE 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 plug the subject wells or otherwise failing to place the subject wells into compliance with Statewide Rule 14(b)(2);
3. Whether, pursuant to Texas Natural Resources Code §81.0531, ACE should be assessed administrative penalties of not more than \$10,000 per day for each offense committed regarding the subject wells; and
4. Whether any violations of Statewide Rule 14(b)(2) by ACE should be referred to the Office of the Attorney General for further civil action pursuant to Texas Natural Resources Code §81.0534.

A hearing was held on October 11, 2007.<sup>1</sup> Elaine Moore, Staff Attorney, appeared representing the Enforcement Section of the Office of General Counsel (“Enforcement”). David M. Smith, attorney, A. Prentiss Fatherree, Sam Albaral, and Johnny Kopecky appeared to represent ACE, and presented evidence. Enforcement’s certified hearing file was admitted into evidence. The record of the hearing was held open until December 10, 2007, to permit ACE to file a status report concerning an alleged effort to transfer the subject wells to another operator. ACE did not file a status report on or before December 10, 2007.

#### **APPLICABLE LAW**

Statewide Rule 14(b)(2) requires that a well be plugged after 12 months of inactivity, unless a plugging extension is obtained. To be entitled to a plugging extension for a well, the operator must have on file a current Form P-5 organization report and the required amount of financial assurance

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<sup>1</sup> Initially, ACE did not respond to the Notice of Opportunity for Hearing in this docket. A default hearing was held on October 12, 2006, and a default Final Order was signed on December 19, 2006, requiring ACE to plug the subject wells and pay a penalty of \$50,000. However, ACE filed a motion for rehearing representing that it did not respond to the Notice of Opportunity for Hearing because it did not understand the consequences of a non-appearance. In the motion for rehearing, ACE represented that it had been a contract operator of the subject wells and could initiate and carry out plugging and abandonment of the wells without further delay by compelling the working interest owners to participate in the cost of plugging. Enforcement did not oppose the motion for rehearing, and an Order granting the motion for rehearing was signed on February 6, 2007.

and, upon request, must demonstrate that the operator has a good faith claim of a continuing right to operate the well.

### **DISCUSSION OF THE EVIDENCE**

#### **Matters Officially Noticed**

The examiner has officially noticed the Commission's P-5 Master Inquiry and P-5 Financial Assurance Inquiry databases for ACE, which establish that: (1) ACE last filed a Form P-5 organization report on July 11, 2003; (2) financial assurance filed by ACE at the time of its last Form P-5 renewal on July 11, 2003, was in the amount of \$50,000<sup>2</sup>; (3) ACE's Form P-5 organization report has been delinquent since September 1, 2004; and (4) ACE is a corporation, and its officers are Ambrose Prentiss Fatherree, Chairman of the Board and Chief Executive Officer, William David McCarver III, President, Chief Operating Officer, and Secretary, and Sam A. Albaral, Vice President-Finance, Chief Financial Officer, and Treasurer.

The examiner has also officially noticed the files, proposals for decision, and Commission orders in two prior dockets involving ACE: (1) Oil & Gas Docket No. 02-0240478; *Application of American Coastal Energy, Inc., to Consider Reduction of the Amount of Financial Assurance Required Pursuant to Statewide Rule 78(g) for Various Leases in Railroad Commission Districts 2 and 3, Calhoun County, Texas* (Final Order dated January 25, 2005) ("ACE I"); and (2) Oil & Gas Docket No. 02-0247462; *Commission Called Hearing to Consider the Application of American Coastal Energy, Inc., for A Statewide Rule 14(b)(2) Plugging Extension for Various Offshore Wells, Sherman Offshore (3900) Et Al. Fields, Calhoun County, Texas* (Final Order dated August 8, 2006) ("ACE II").

#### **Enforcement**

The State Tract 596-L, NE/4 Lease, Well No. 3 UT (RRC No. 079076) and State Tract 596-L, NE/4 Lease, Well No. 3 LT (RRC No. 079121) ("subject wells") are dual completions in a single offshore wellbore with API #703 30124. ACE designated itself the operator of Well No. 3 UT and Well No. 3 LT by filing Forms P-4 approved September 27, 1999, effective August 1, 1998.

Commission production reports in the certified hearing file and the Gas Ledger Inquiry database officially noticed by the examiner show that no production has been reported for Well No. 3 UT since and including July 1993, and no production has been reported for Well No. 3 LT since prior to January 1, 1993. Neither well has qualified for a plugging extension since September 1, 2004, when ACE's Form P-5 organization report became delinquent.

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<sup>2</sup> Correspondence in the certified hearing file states that the Commission collected the amount of ACE's bond on November 8, 2005.

On August 1, 2005, ACE filed Forms W-3A (Notice of Intention to Plug and Abandon) for the subject wells, stating an anticipated plug date of October 10, 2005. These wells were not plugged as represented in the Forms W-3A.

On April 24, 2006, and May 11, 2006, Field Operations personnel sent correspondence to ACE stating that the subject wells were in violation of Statewide Rule 14(b)(2) and requesting voluntary compliance. ACE has not achieved voluntary compliance in response to these requests.

An affidavit of Keith Barton, P.E., Field Operations, in the certified hearing file stated that a well that is in violation of Statewide Rule 14 must be plugged in order to prevent pollution of usable quality surface and subsurface waters. Any wellbore, cased or otherwise, is a potential conduit for flow from oil or saltwater zones to zones of usable quality water or to the surface. Holes or leaks may develop in cased wells, allowing oil or saltwater to communicate with usable quality zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface.

A certification of the Commission's Secretary dated October 9, 2007, in the certified hearing file stated that no Plugging Record (Form W-3) or Cementing Affidavit (Form W-15) has been filed or approved for the subject wells.

Enforcement requests that ACE be required to plug the subject wells and pay a penalty of \$50,000 for one Rule 14(b)(2) violation with respect to an offshore wellbore.

**ACE**

ACE stipulated that as the designated Form P-4 operator, it has the responsibility for the subject wells and the wells are in violation of Statewide Rule 14(b)(2).

ACE claims to have been a contract operator of the subject wells and to have owned none of the working interest. The non-operating working interest owners are Ace Energy, Ltd., which has some common owners with ACE, EOG Resources, Inc. (formerly Enron Oil & Gas Co.), Newfield Exploration Gulf Coast, Inc. (formerly EEX Corp.), and Mission Resources Corporation (formerly d/b/a Bellweather Exploration Company).

According to A. Prentiss Fatherree, ACE's Chairman of the Board and Chief Executive Officer, although ACE is still in good standing as a business organization with the Secretary of State, the company "folded up shop" after a sale of most of its assets, primarily reserves, to Amorah, LLC, a subsidiary of Chroma Energy.<sup>3</sup> Substantially all of ACE's employees went to work for

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<sup>3</sup> The testimony does not indicate when this sale took place. However, the examiner has officially noticed the P-4 Inquiry database that establishes that a number of ACE's wells were transferred first to Amorah, LLC and then from Amorah to Chroma Operating, Inc., in 2005.

Chroma, and Fatherree says that ACE has no remaining assets.<sup>4</sup> ACE continues to be the designated operator of the subject wells because Amorah/Chroma would not agree to take these wells, and six others like them, as a part of the assets sale.<sup>5</sup>

In 2006, in *Ace II*, ACE requested the Commission to approve plugging extensions for the subject wells, and six other inactive offshore wells. In *Ace II*, ACE's President represented at the June 2006 hearing that plans to plug these wells had been disrupted by the increased cost and limited availability of lift boat and support boat equipment caused by Hurricanes Katrina and Rita. He stated further that a bid had been obtained to plug all eight wells for \$805,036.80, and requested that the Commission approve plugging extensions so that ACE could plug the wells as soon as it had the money to do so.<sup>6</sup> According to Fatherree, the plan to plug the wells was not pursued because ACE did not have the money to plug the wells when the bid was obtained and has not had the money since that time.

Fatherree claims that "reservoir studies" of the subject wells, and the six other inactive offshore wells still operated by ACE, have led him to believe there are economical reserves left in five of the wells, including the State Tract 596-L, NE/4 Lease, Well Nos. 3 UT and 3 LT.<sup>7</sup> Fatherree's "group," which presently includes only Fatherree and Albaral, hopes to find another operator willing to take a transfer of all eight wells, with the intention of reentering or sidetracking the five wells believed to have remaining reserves and plugging the remaining wells. Fatherree claims to have had discussions with two operators, "Crawford Energy" and "Gulf Energy," who have expressed interest. Fatherree and Albaral have put up the bonus money necessary to obtain 40-acre leases around all eight wells (down to depths of 5,000') from GLO. Leases covering seven of the eight wells have been obtained by David Hall, an attorney who is holding the leases for the

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<sup>4</sup> Apparently, ACE retains a certain interest in Chroma's preferred stock obtained as a part of the assets sale. Sam Albaral, ACE's Vice President-Finance, Chief Financial Officer, and Treasurer, stated that ACE realized only \$700,000 to \$800,000 above debt against the reserves assets sold to Amorah/Chroma, but this money was used to pay other ACE debt unrelated to the assets which were sold. In *ACE I*, ACE sought a reduction in required financial assurance on the basis of an unaudited financial statement purporting to show that as of November 1, 2004, considering the unrealized value of ACE's proven reserves, ACE had total stockholder's equity (excess of total assets over liabilities) of \$19,243,148.

<sup>5</sup> A March 7, 2005, letter from an ACE attorney to the P-5/Financial Assurance Unit contained in the certified hearing file stated that ACE was working with a surety company to provide, shortly after the sale to Amorah/Chroma was complete, financial assurance in sufficient amount to cover not only the wells being transferred to Amorah/Chroma but also the wells being retained by ACE. No financial assurance was filed subsequent to September 1, 2004, to cover the eight wells left in the hands of ACE after the sale to Amorah/Chroma.

<sup>6</sup> The Commission declined to approve the requested plugging extensions because at the time of the request, ACE's Form P-5 organization report and financial assurance were delinquent.

<sup>7</sup> No reservoir studies were presented at the hearing, and no testimony was offered as to what reserves are thought to remain in the subject wells or the other six wells still operated by ACE.

benefit of Fatherree and Albaral.<sup>8</sup> No promises or commitments can be made that this plan will be successful, but Fatherree claims that there has been “good interest” from others.<sup>9</sup>

ACE would like the Commission to hold the record of this case open and defer issuance of any final order until October 2008, to see if Fatherree’s group can arrange a transfer of the subject wells, and the other six wells still operated by ACE, to another operator. In addition, ACE requests that the penalties requested by Enforcement be reduced or eliminated in consideration of ACE’s compliance record and any future transfer of the subject wells to another operator.

### **EXAMINER’S OPINION**

It is undisputed that the subject offshore wells, and the six like wells still operated by ACE, have been in violation of Statewide Rule 14(b)(2) since at least September 1, 2004, and ACE is the operator responsible for these violations.

In 1999, when ACE received Forms P-4 approval to become the operator of these offshore wells, and others like them, ACE had financial assurance on file in the amount of \$100. Through July 11, 2003, when ACE filed its most recent Form P-5 organization report, ACE never had more than \$50,000 of financial assurance on file. In late 2004, after new bay and offshore well financial assurance requirements had been adopted in Statewide Rule 78, and while ACE was still the operator of 47 wellbores, including 27 offshore wellbores, ACE requested, in *ACE I*, a reduction in the Statewide Rule 78 financial assurance requirement of \$1,950,000 to a total of \$150,000, contending that it should not be required to file additional financial assurance attributable to inactive offshore wells because, allegedly, it had proved developed producing reserves with a ten percent discounted net revenue value of \$15,053,200.

In 2005, after the Commission had declined to approve a reduction in financial assurance in *ACE I*, ACE began to dispose of its producing properties, culminating in the 2005 sale to Amarah/Chroma of what is alleged to have been the last of ACE’s assets having any value. The eight inactive offshore wells still carried in ACE’s name, including the subject wells, were left in a corporation that was essentially defunct, because Amarah/Chroma did not want the wells, and ACE promptly “folded up shop.” In March 2005, prior to closing of the sale to Amarah/Chroma, legal counsel for ACE advised the P-5/Financial Assurance Unit that ACE was working with a surety company to provide enough financial assurance to cover not only the wells being transferred to Amarah/Chroma but also the wells being retained by ACE. This notwithstanding, no financial

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<sup>8</sup> Apparently, the new leases do not cover the State Tract 708-S Lease, Well Nos. 5 C and 5-T, because another operator had already obtained a lease of 320 acres around these wells. However, Fatherree claims that this operator, “Gulf Energy,” may be willing to farm out this lease to Fatherree’s designee.

<sup>9</sup> The opening statement of ACE’s attorney referenced the need of Fatherree’s “group” to obtain “partners,” for this project, but otherwise it was not disclosed where the money to finance the project will come from.

assurance has been on file to cover the eight inactive offshore wells retained by ACE since September 1, 2004, other than the \$50,000 bond filed in 2003 which the Commission collected in November 2005.

In August 2005, ACE filed Forms W-3A (Notice of Intention to Plug and Abandon) for all of the wells retained by ACE, including the subject wells, stating an anticipated plug date of October 10, 2005. The wells were not plugged then or at any time thereafter. In 2006, after the District Office had corresponded with ACE on at least two occasions regarding the need to bring ACE's remaining wells into compliance with Statewide Rule 14(b)(2), ACE requested in *ACE II* that the Commission approve plugging extensions for the wells, even though ACE's Form P-5 organization report and financial assurance were delinquent, because ACE had obtained a bid to plug the wells for the sum of \$805,036.80 and planned to plug the wells as soon as it had the money to do so. ACE's Chairman of the Board and Chief Executive Officer says now that this plan was not pursued because ACE did not have the money to plug the wells at the time of *ACE II* or at any subsequent time.

After ACE had failed to respond to the Notice of Opportunity for Hearing in this docket and the Commission had issued a default final order signed on December 19, 2006, ACE filed a motion for rehearing representing that it had been a contract operator of the subject wells and could initiate and carry out plugging and abandonment of the wells without further delay by compelling the working interest owners to participate in the cost of plugging. However, at the rehearing held about eight months after the Commission granted the motion for rehearing, ACE offered no evidence that it had taken action of any kind to compel or even encourage participation in the plugging of the subject wells by the working interest owners.

Three years of patience with the dilemma created by ACE's non-compliant wells has not been rewarded. The \$19,243,148 of stockholder's equity based on the alleged unrealized value of proved reserves represented in an ACE financial statement in *ACE II* apparently vanished by mid-2005. Money realized from the assets sale to Amorah/Chroma in 2005 allegedly has been spent. The demonstrated extent of ACE's cooperation in obtaining the participation of the working interest owners in the plugging of the subject wells has been to furnish the Commission with a list of the working interest owners and their addresses.<sup>10</sup>

Now, the Commission is requested by ACE to defer disposition of this docket, and related dockets, for twelve additional months in order that some of the same ACE principals who brought us to this place can attempt to benefit as working interest owners in new 40-acre leases they have taken around ACE's remaining wells, by attempting to attract investment partners and a new operator to reenter five of the wells and plug the other three. There are reasons for zero confidence in this proposal.

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<sup>10</sup> The owner of the largest amount of working interest in all of the wells retained in the name of ACE, with the exception of the State Tract 719-S, Well Nos. 1U and 1L, is a limited partnership having at least some owners in common with ACE.

Of the eight offshore wells still in ACE's name, seven have been inactive for eleven years or more. Only one of these wells was produced after ACE became the operator in 1999, and this well has been inactive for more than five years. The State Tract 596-L, NE/4 Lease, Well Nos. 3 UT and 3 LT involved in this docket have been inactive since July 1993 and prior to January 1, 1993, respectively. In 2005, Amorah/Chroma declined to take these wells as part of a package of wells acquired from ACE. In the three years these wells have been orphan wells, no operator has come forward to evidence any interest in the wells, notwithstanding the incentives of the orphan well reduction program that have been in effect for at least two of these years. Although, ACE's Chairman of the Board and Chief Executive Officer claimed that "reservoir studies" had led him to believe that five of ACE's wells, including the subject wells, have remaining economical reserves, no details were provided as to the type of reservoir study performed or the reserves observed from any such study. On at least two prior occasions, ACE has stated to the Commission its intent to plug the subject wells, by the filing of Forms W-3A in August 2005, and during the June 2006 hearing in *ACE II*. In the circumstances, the examiner concludes that ACE should be required to plug the wells, as requested by Enforcement.

The examiner also concludes that ACE should be required to pay an administrative penalty in the amount of \$50,000 for one violation of Statewide Rule 14(b)(2) with respect to the involved dual completion wellbore. This is the standard penalty for a Rule 14(b)(2) violation on an offshore well provided by the recommended standard penalty schedule for enforcement cases. The penalty criteria of §81.0531 have been considered. According to Enforcement's complaints, ACE has no prior history of enforcement orders entered against it for violations of Commission rules. Nonetheless, ACE is named as the respondent in five other contemporaneous enforcement dockets involving similar violations, and the violations in this docket presented at least a threat of pollution and a potential hazard to the health or safety of the public. ACE cannot be said to have acted in good faith because it failed to achieve voluntary compliance with Statewide Rule 14(b)(2) in response to at least two written requests of the District Office for such compliance.

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

#### **FINDINGS OF FACT**

1. American Coastal Energy, Inc. ("ACE") was given at least ten (10) days notice of this hearing by certified mail. ACE appeared at the hearing and presented evidence.

2. ACE is a corporation and its most recent Form P-5 organization report filed on July 11, 2003, listed its officers as Ambrose Prentiss Fatherree, Chairman of the Board and Chief Executive Officer, William David McCarver III, President, Chief Operating Officer, and Secretary, and Sam A. Albaral, Vice President-Finance, Chief Financial Officer, and Treasurer.
3. As officers, Ambrose Prentiss Fatherree, William David McCarver III, and Sam A. Albaral were persons in a position of ownership or control of ACE at the time the violations in this docket were committed.
4. The violations involved in this docket are violations of a Commission rule related to safety and the prevention or control of pollution.
5. ACE's Form P-5 organization report has been delinquent since September 1, 2004. At the time ACE last filed an organization report on July 11, 2003, ACE filed a \$50,000 bond as financial assurance. The amount of this bond was collected by the Commission in 2005.
6. The State Tract 596-L, NE/4 Lease, Well No. 3 UT (RRC No. 079076), Sherman Offshore, SW (3020) Field, Calhoun County, Texas, and the State Tract 596-L, NE/4 Lease, Well No. 3 LT (RRC No. 079121), Sherman Offshore, SW (3950) Field, Calhoun County, Texas ("subject wells"), are dual completions in a single offshore wellbore with API #703 30124.
7. ACE designated itself the operator of the subject wells by filing Forms P-4 approved September 27, 1999, effective August 1, 1998.
8. ACE is a contract operator of the subject wells for the working interest owners: Ace Energy, Ltd. (65.555556%), which has some common owners with ACE, EOG Resources, Inc. (formerly Enron Oil & Gas Co.) (20.0%), Newfield Exploration Gulf Coast, Inc. (formerly EEX Corp.) (10.0%), and Mission Resources Corporation (formerly d/b/a Bellweather Exploration Company) (4.444444%).
9. The subject wells have been inactive for more than one year, do not have Statewide Rule 14(b)(2) plugging extensions, and have not been plugged.
  - a. No production has been reported to the Commission for Well No. 3 UT since June 1993.
  - b. No production has been reported to the Commission for Well No. 3 LT since prior to January 1, 1993.
  - c. The subject wells have not had a Statewide Rule 14(b)(2) plugging extension since at least September 1, 2004.

- d. No Plugging Record (Form W-3) or Cementing Affidavit (Form W-15) has been filed or approved for the subject wells.
10. On April 24, 2006, and May 11, 2006, Field Operations personnel sent correspondence to ACE stating that the subject wells were in violation of Statewide Rule 14(b)(2) and requesting voluntary compliance. ACE has not achieved voluntary compliance in response to these requests.
  11. A well that is in violation of Statewide Rule 14 must be plugged in order to prevent pollution of usable quality surface and subsurface waters. Any wellbore, cased or otherwise, is a potential conduit for flow from oil or saltwater zones to zones of usable quality water or to the surface. Holes or leaks may develop in cased wells, allowing oil or saltwater to communicate with usable quality zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface.
  12. An order requiring that the State Tract 596-L, NE/4 Lease, Well No. 3 UT (RRC No. 079076) and the State Tract 596-L, NE/4 Lease, Well No. 3 LT (RRC No. 079121) be plugged is necessary and appropriate to achieve compliance with Statewide Rule 14(b)(2).
    - a. ACE cannot obtain a Statewide Rule 14(b)(2) plugging extension for the wells or restore the wells to production because ACE's Form P-5 organization report has been delinquent since September 1, 2004.
    - b. The wells have been inactive for more than 14 years.
    - c. ACE did not prove that the wells are capable of being restored to production.
    - d. In 2005, when ACE sold most of its assets to Amorah, LLC, Well Nos. 3 UT and 3 LT were retained by ACE because Amorah declined to accept them.
    - e. In the three years Well Nos. 3 UT and 3 LT have been orphan wells, no operator has applied to become the operator of these wells, notwithstanding the incentives of the orphan well reduction program.
    - f. On at least two prior occasions, ACE has stated to the Commission its intent to plug Well Nos. 3 UT and 3 LT, by the filing of Forms W-3A (Notice of Intention to Plug and Abandon) in August 2005, and during a June 2006 hearing in Oil & Gas Docket No. 02-0247462.
  13. No prior final enforcement orders have been entered against ACE for violations of Commission rules.

**CONCLUSIONS OF LAW**

1. Proper notice of hearing was timely issued to appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. American Coastal Energy, Inc., was and is the operator of the State Tract 596-L, NE/4 Lease, Well No. 3 UT (RRC No. 079076), Sherman Offshore, SW (3020) Field, Calhoun County, Texas, and the State Tract 596-L, NE/4 Lease, Well No. 3 LT (RRC No. 079121), Sherman Offshore, SW (3950) Field, Calhoun County, Texas, as defined by Statewide Rules 14, 58, and 79 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §§3.14, 3.58, and 3.79] and Chapters 85 and 89 of the Texas Natural Resources Code.
4. As operator, American Coastal Energy, Inc., has the primary responsibility for complying with Statewide Rule 14 [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.14], Chapters 89 and 91 of the Texas Natural Resources Code, and other applicable statutes and Commission rules respecting the subject lease and wells.
5. American Coastal Energy, Inc., violated Statewide Rule 14(b)(2) [Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE §3.14(b)(2)] by failing to plug the State Tract 596-L, NE/4 Lease, Well No. 3 UT (RRC No. 079076), Sherman Offshore, SW (3020) Field, Calhoun County, Texas, and the State Tract 596-L, NE/4 Lease, Well No. 3 LT (RRC No. 079121), Sherman Offshore, SW (3950) Field, Calhoun County, Texas, within one year after operations ceased, or by otherwise placing these wells into compliance with Statewide Rule 14(b)(2). These wells have been out of compliance with Statewide Rule 14(b)(2) since at least September 1, 2004.
6. The documented violations committed by American Coastal Energy, Inc., constitute acts deemed serious and a hazard to the public health and safety within the meaning of Texas Natural Resources Code §81.0531.
7. American Coastal Energy, Inc., has not demonstrated good faith within the meaning of Texas Natural Resources Code §81.0531.
8. As officers of American Coastal Energy, Inc., at the time American Coastal Energy, Inc., violated Commission rules related to safety and the prevention or control of pollution, Ambrose Prentiss Fatherree, William David McCarver III, and Sam A. Albaral, and any organization subject to the Commission's jurisdiction in which they, or any of them, may hold a position of ownership or control, are subject to the restrictions of Texas Natural Resources Code §91.114(a)(2).

**RECOMMENDATION**

The examiner recommends that the attached final order be adopted requiring American Coastal Energy, Inc., to plug the State Tract 596-L, NE/4 Lease, Well No. 3 UT (RRC No. 079076), Sherman Offshore, SW (3020) Field, Calhoun County, Texas, and the State Tract 596-L, NE/4 Lease, Well No. 3 LT (RRC No. 079121), Sherman Offshore, SW (3950) Field, Calhoun County, Texas, and pay an administrative penalty in the amount of \$50,000.

Respectfully submitted,

James M. Doherty  
Hearings Examiner