

April 22, 2003

OIL AND GAS DOCKET NO. 03-0230783

ENFORCEMENT ACTION AGAINST EUGENE C. WEAVER, DOING BUSINESS AS, SAFARI PRODUCTION CO. FOR VIOLATIONS OF STATEWIDE RULES ON THE ANAHUAC MAIN FRIO OIL UNIT (20022) LEASE, WELL NO. 1, AND THE WHITE, R. M. (00097) LEASE, WELL NOS. 4D, 9D, 24D, 29, AND 30, ANAHUAC FIELD, CHAMBERS COUNTY, TEXAS.

APPEARANCES:

FOR MOVANT:

Scott Holter, Staff Attorney

FOR RESPONDENT:

Lloyd Muennink, Attorney
Mike Weaver, Employee

MOVANT:

Railroad Commission of Texas

PARTY:

Safari Production Co.
“ ”

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

COMPLAINT FILED:	July 11, 2002
NOTICE OF HEARING:	November 5, 2002
DATE CASE HEARD:	December 9, 2002
RECORD CLOSED:	February 21, 2003
LATE FILED EXHIBITS SUBMITTED:	April 9 and 10, 2003
LATE FILED EXHIBITS ADMITTED:	April 22, 2003
PFD PREPARED BY:	Mark Helmueller, Hearings Examiner
PFD CIRCULATION DATE:	March 27, 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 Eugene C. Weaver, doing business as, Safari Production Co. should

be required to plug or otherwise place in compliance with Statewide Rules 3, 8 and 14, the Anahuac Main Frio Oil Unit (20022) Lease, Well No. 1, and the White, R. M. (00097) Lease, Well Nos. 4D, 9D, 24D, 29, and 30, Anahuac Field, Chambers County, Texas;

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 Rules 3, 8, and 14;
3. Whether the respondent should be assessed administrative penalties of not more than \$10,000 per day for each offense committed regarding said lease and wells; and,
4. Whether any violations should be referred to the Office of the Attorney General for further civil action pursuant to Tex. Nat. Res. Code Ann. § 81.0534.

Scott Holter, Staff Attorney, appeared at the hearing representing the Railroad Commission of Texas, Enforcement Section. Lloyd Muennink appeared on behalf of respondent, Eugene C. Weafer doing business as Safari Production Co. (hereinafter "respondent"). Mike Weaver, a former employee of respondent who is currently the owner of Safari Production Co., Inc., offered testimony on behalf of respondent. The Enforcement Section's hearing file was admitted into evidence. The examiner took official notice of Commission records filed with respect to Well No. 29 on the White, R. M. (00097) Lease.

Enforcement recommended that Safari be ordered to bring the White, R. M. (00097) Lease ("White Lease") into compliance with Commission rules and be ordered to pay a total administrative penalty of \$14,500 broken down as follows: \$500 for two corrected violations of Statewide Rule 3(a); \$4,000 for one corrected violation of Statewide Rule 8(d)(1); and \$10,000 for 5 violations of Statewide Rule 14(b)(2). Enforcement further recommended that respondent pay an administrative penalty of \$2,000 for one corrected violation of Statewide Rule 14(b)(2) on the Anahuac Main Frio Oil Unit (20022) Lease ("Anahuac Lease"). Finally, Enforcement recommended that a \$1,000 enhancement be added to the total administrative penalty based on the Agreed Final Order entered against Respondent in Oil & Gas Docket 03-0230782 adopted on June 25, 2002 in which Respondent was assessed an administrative penalty of \$3,500. The examiner agrees with the recommended administrative penalty of \$17,500.

DISCUSSION OF THE EVIDENCE

Enforcement presented Commission records showing that the most recent approved Commission Form P-5 for Respondent was filed March 30, 2000. Respondent paid a fee of \$750 as financial assurance at the time of his last renewal. Eugene C. Weafer is listed as the President. Respondent's Organization Report is currently delinquent.

Respondent was recognized as the operator of the Anahuac Lease, Well No. 1, and the White Lease, Well Nos. 4D, 9D, 24D, 29, and 30, upon the approval on July 28, 2000 of the Commission Form P-4s (Producer's Transportation Authority and Certificate of Compliance). The Commission also approved plugging extensions for the wells on both leases at the time respondent was recognized as the operator.

Violation of Rule 14(b)(2) on the Anahuac Lease

Commission inspections on September 13, 2001, October 12, 2001, November 6, 2001, December 11, 2001, and January 22, 2002, found that Well No. 1 on the Anahuac Lease was shut in and not equipped to produce. Commission records report no production from the well from at least January 1, 1993.

On May 23, 2002, a Form P-4 was submitted seeking to designate Safari Production Company, Inc., RRC Operator ID. No. 743197, as the operator of the Anahuac Lease. This Form P-4 was not approved due to the pending Enforcement action. Enforcement removed its hold on the transfer on May 24, 2002, and on July 16, 2002, the Commission approved the Form P-4 transfer of the Anahuac Lease. Accordingly, Enforcement contends that the well was in violation of Statewide Rule 14(b)(2) from July 28, 2000 through July 16, 2002. Enforcement further recommends that respondent pay an administrative penalty of \$2,000.

Respondent contends that the Anahuac Lease was not out of compliance for the time period asserted by the Enforcement Section. Commission records show that when the Commission approved the P-4 transfer to respondent in July 28, 2000, that respondent also filed a Commission Form W-1X (Application for Future Re-Entry of Inactive Well Bore and 14(b)(2) Extension Permit). This plugging extension brought the Anahuac Lease into compliance through July 28, 2001.

Respondent also asserts that the time period from May 24, 2002 through July 16, 2002 should not be included in the time period out of compliance because that time period was the result of the Commission's delay in approving a valid application. Respondent contends that no administrative penalty should be assessed because the well was transferred to a bonded operator in July 2002, and respondent initiated the transfer in May 2002.

Commission records include correspondence in which respondent claims that a Temporary Injunction entered in an action filed by the mineral interest owner prevented respondent from entering the Anahuac Lease. Respondent did not argue at the hearing that any injunction prevented compliance with Commission rules. Additionally, a copy of the order referenced in the correspondence to the Commission fails to mention either Eugene Weafer or the Anahuac Lease.

Violations of Rules 3, 8(d)(1), and 14(b)(2) on the White Lease.

Commission inspections on October 12, 2001, December 11, 2001, and January 22, 2002, found that signs required to be posted at Well Nos. 24D and 29 on the White Lease were missing.¹ An inspection found that a sign was posted at Well No. 29 by July 17, 2002. The most recent inspection on November 7, 2002 found signs posted at both wells. Enforcement contends that the lease was in violation of Statewide Rule 3(a)(2) for at least 3 months with respect to the missing sign at Well No. 29, and for at least 9 months with respect to the missing sign at Well No. 24D. Enforcement urges that an administrative penalty of \$250 should be assessed for each of the two violations of Statewide Rule 3(a)(2) for a total administrative penalty of \$500.

Respondent argued that the short time period the wells were in violation, accompanied by the presence of signs at all other required locations on the lease, shows that the two sign violations were *de minimis*. Respondent therefore asserts that any administrative penalty should be waived.

Enforcement also argued that respondent violated Statewide Rule 8(d)(1) on the White Lease by the unauthorized discharge of oil without a permit. A Commission inspection on May 25, 2001 found a 100' by 300' oil spill on the lease in the vicinity of Well No. 11. An inspection on June 22, 2001 found that the spill had not been remediated. Inspections on July 31, 2001, August 20, 2001, September 13, 2001, October 12, 2001, November 6, 2001, December 11, 2001, and January 22, 2002 found that the oil saturated soil had been piled up into two mounds near Well No. 24D. An inspection on July 17, 2002 found that the two mounds of oil saturated soil had been cleaned up. Enforcement argues that the size of the spill and the failure to promptly remediate the oil saturated soil warrants the imposition of a \$4,000 administrative penalty. Respondent provided no explanation at the hearing for the delay in cleaning up the spill.

Enforcement also claims that wells 4D, 9D, 24D, 29, and 30 on the White Lease were in violation of Statewide Rule 14(b)(2) from July 28, 2000 to the present. Well No. 4D is a disposal well, Permit No. 05861. Commission inspections on May 25, 2001, September 13, 2001, October 12, 2001, November 6, 2001, December 11, 2001, January 22, 2002, July 17, 2002, and November 7, 2002 found the well was equipped for disposal, but was not connected to a flow line. Commission records report the last disposal activity for Well No. 4D in April 1995.

Well No. 9D on the White Lease is also a disposal well, Permit No. 04867. Commission inspections on May 25, 2001, September 13, 2001, October 12, 2001, November 6, 2001, December 11, 2001, January 22, 2002, July 17, 2002, and November 7, 2002 found that the well was not equipped for disposal, and was not connected to a flow line. Commission records report the last disposal activity for Well No. 9D in March 1996.

Well No. 24D on the White Lease is also a disposal well, Permit No. 05566. Commission inspections on May 25, 2001, September 13, 2001, October 12, 2001, November 6, 2001, December 11, 2001, January 22, 2002, July 17, 2002, and November 7, 2002 found that the well was not

¹ The examiner notes that inspection reports submitted for other violations on the R. M. White (00097) Lease from May 2001, through September 2001 do not report missing signs at Well Nos. 24D and 29. The examiner therefore infers from this evidence that the signs were present at the two wells during those prior inspections.

equipped for disposal, and was not connected to a flow line. Commission records report the last disposal activity for Well No. 24D in March 1996. Additionally, Commission records show that a mechanical integrity test was due for Well No. 24D on April 30, 1998. The last Commission Form H-5 (Disposal/Injection Well Pressure Test Report) was filed February 27, 1992.

Commission records indicate that Well No. 29 on the White Lease was originally classified as an oil well, but was removed from the proration schedule in January 2001 because the well was recompleted as a gas well in a different zone. Respondent claims that Well No. 29 on the White Lease is in compliance with Statewide Rule 14(b)(2). A Commission Form W-1 (Application for Permit to Drill, Deepen, Plug Back or Re-Enter) was filed for Well No. 29 on July 1, 2002 by Safari Production Co., Inc. The application required an exception to the minimum lease line spacing requirements under Statewide Rule 37 and was approved by the Commission on October 8, 2002. Safari Production Co., Inc. also filed Commission Form G-1 (Gas Well Back Pressure Test, Completion, or Recompletion Report and Log) and Commission Form G-5 (Gas Well Classification Report) on November 11, 2002. These forms note that the well was recompleted to the Anahuac (Miocene1-B) Field without the required permits by Headington Oil Co. in 1996.

Finally, Commission records show that a Form P-4 filed by Safari Production Co., Inc. establishing a new lease for Well No. 29 was approved by the Commission on December 13, 2002. The new lease identification number for Well No. 29 is RRC Gas ID No. 191838. Production was reported from the well in October, November, and December 2002.

Well No. 30 on the White Lease is an oil well. Commission inspections on October 12, 2001, November 6, 2001, December 11, 2001, January 22, 2002, July 17, 2002 and November 17, 2002 reported the well as inactive and not connected to flow lines.

Respondent contends that the wells on the White Lease were not out of compliance with Statewide Rule 14(b)(2) for the time period asserted by the Enforcement Section. Commission records show that when the Commission approved the P-4 transfer to respondent in July 28, 2000, that respondent also filed a Commission Form W-1 X for each inactive well. The plugging extensions brought the wells on the White Lease into compliance through July 28, 2001.

Additionally, Weaver testified that Respondent attempted to transfer the White Lease to his company, Safari Production Company, Inc., in May 2002. Weaver believes that the transfer was thwarted by the pending Enforcement action, however, Commission records show that the failure to file the H-15 test for Well No. 4D is the reason for the current hold on transferring the lease. With respect to this issue, Weaver said that the well was tested, and that the well did not pass the test due to a pressure bleed off of 9 psig. Weaver advised that the well would be retested, that he believed the well would pass the retest, and that the White Lease would then be transferred to Weaver's company. Weaver further advised that if the well did not pass, respondent would immediately plug the well, thereby again clearing the transfer of the White Lease to Weaver's company. No evidence was submitted showing any further action taken by either Weaver's company or respondent.

Commission records include correspondence in which respondent claims that a Temporary Injunction entered in an action filed by the mineral interest owner prevented respondent from entering the White Lease. Respondent did not argue at the hearing that any injunction prevented compliance with Commission rules. Additionally, a copy of the order referenced in the correspondence to the Commission fails to mention either Eugene Weafer and it cannot be determined whether the order applies to the White Lease at issue in this docket.

An Agreed Final Order was entered against respondent in Oil & Gas Docket 03-0230782 and approved by the Commission on June 25, 2002. The docket asserted two violations of Statewide Rule 14(b)(2). Respondent was assessed an administrative penalty of \$3,500.

APPLICABLE AUTHORITY

Statewide Rule 3(a) requires the posting of signs at each well site which show: the name of the property; the name of the operator; and the well number.

With certain exceptions not relevant here, Statewide Rule 8(d)(1) prohibits the disposal of oil and gas wastes by any method without obtaining a permit to dispose of such wastes.

Statewide Rule 14(b)(2) provides that the operator of a well must plug the well in accordance with Commission rules within one year after operations cease, unless an extension is granted. For wells transferred after September 1, 1997, the operator of a well for purposes of plugging liability is the person who assumed responsibility for the physical operation and control of a well as shown by an approved Form P-4 designating that person as operator.

In determining the amount of an administrative penalty under Texas Natural Resources Code §81.0531, the Commission must consider the respondent's history of previous violations, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the respondent.

EXAMINER'S OPINION

Respondent does not dispute that Rule 14(b)(2) was violated on the Anahuac Lease, or that Rules 3, 8 and 14(b)(2) were violated on the White Lease. Respondent's contentions are limited to the amount of the administrative penalties to be assessed for the violations, an assertion that the wells were not in violation with Rule 14(b)(2) during the entire time period asserted in the complaint and the claim that Well No. 29 on the White Lease was recompleted as a gas well and is currently in compliance with Commission rules.

Violations on the Anahuac Lease

With respect to the violation of Rule 14(b)(2) on the Anahuac Lease, it is clear from review

of Commission records that there was a valid plugging extension for Well No. 1 through July 28, 2001. Respondent further claims that the well was only out of compliance from July 28, 2001 until it filed a valid request to transfer the lease in May 2002. Commission records confirm that the request to transfer the Anahuac Lease to Safari Production Co., Inc. was filed in May 2002, but was not approved until July 16, 2002.

Even if one accepts respondent's argument, the evidence still shows that the well was out of compliance with Statewide Rule 14(b)(2) from July 28, 2001 through at least May 2002. Respondent provides no basis for excusing the undisputed period of noncompliance, and the requested administrative penalty is not dependent on how long the Anahuac Lease was out of compliance. Accordingly, it is the examiner's determination that the fact that respondent filed a request for transfer which was not approved by the Commission until two months later, does not provide a basis for either waiving or reducing the administrative penalty requested for the violation of Rule 14(b)(2) on the Anahuac Lease.

Violations on the White Lease

With respect to the violations of Rules 3 and 8, the record shows that all of these violations have been corrected. However, respondent does not provide any justification for either waiving or reducing any administrative penalties. While respondent ultimately installed proper signs, and cleaned up the spill, these violations were not corrected in a timely fashion.

Respondent also asserted that Well No. 29 on the White Lease is currently in compliance with Statewide Rule 14(b)(2) and was never out of compliance. Commission records confirm that a plugging extension was in effect for Well No. 29 from the time respondent was recognized as the operator on July 28, 2000 through July 28, 2001. Commission records further show that that Well No. 29 was successfully recompleted as a gas well, that production was reported beginning in October 2002, and that the well was transferred to Safari Production Co., Inc. as RRC Gas Well ID No. 191838 on December 13, 2002. Additionally, Commission records show that Well No. 29 was removed from the proration schedule in January 2001, apparently due to the fact that a previous operator had recompleted the well as a gas well without a permit in 1995. However, Commission inspections on September 13, 2001, October 12, 2001, November 6, 2001, December 11, 2001, and January 22, 2002 report Well No. 29 as inactive. Inspections on July 17, 2002 and August 20, 2002 report a recent workover of the well, and further note new equipment on the lease associated with metering and production of natural gas.

Taken as a whole, the Commission records show that respondent did not bring Well No. 29 into compliance with Commission rules until October 2002. While the records show that the well was removed from the proration schedule in January 2001, it is also clear that inspections found the well to be inactive after the last plugging extension expired on July 28, 2001. Accordingly, it is the examiner's conclusion that the evidence shows that the well was out of compliance with Statewide Rule 14(b)(2) from July 28, 2001 until October 2002 when production was reported.

With respect to the amount of the administrative penalty, Enforcement's recommendation

is not dependent on how long Well No. 29 on the White Lease was out of compliance with Commission rules. Accordingly, it is the examiner's determination that because the well was restored to production over a year after the last plugging extension expired, there is no basis for either waiving or reducing the administrative penalty requested for the violation of Rule 14(b)(2).

With respect to the unresolved violations of Rule 14(b)(2) for Well Nos. 4D, 9D, 24D, and 30 on the White Lease, the only excuse offered by respondent was that the wells were not out of compliance until July 28, 2001. Respondent contends that the wells would be in compliance, but that the Commission has unreasonably refused to process a transfer of operator. Review of the record shows that Commission approval of the transfer was withheld because one of the wells still has not passed a required mechanical integrity test. The fact that the Commission will not approve a transfer of a lease because a well has not passed a required mechanical integrity test does not provide any basis for waiving or reducing an administrative penalty for an undisputed violation of Commission rules.

Failure to Provide Evidence of Injunction Barring Access

As noted above, at the hearing respondent sought only to have any administrative penalties waived or reduced. Respondent offered no excuse for the failure to bring the violations on either the Anahuac Lease or the White Lease into compliance even though Commission records suggested that a restraining order of the District Court could have established a possible defense because respondent was barred from entering the property. However, respondent failed to provide sufficient evidence to substantiate this potential defense. The specific terms and conditions of the court's order do not identify respondent, Eugene Weafer, and do not discuss the Anahuac Lease. It is also not possible to determine from the language of the order whether it applies to the White Lease at issue in this docket. It cannot be established from review of the order that respondent was barred from entering the Anahuac Lease and the White Lease and therefore was unable to bring the leases into compliance with Commission rules. Accordingly, it is the examiner's conclusion that the evidence in the record does not support this potential defense.

CONCLUSION

The examiner recommends that respondent be ordered to pay an administrative penalty of \$2,000 for the violation of Statewide Rule 14(b)(2) on the Anahuac Lease. The examiner further recommends that respondent be ordered to pay an administrative penalty of \$14,500 for the violations on the White Lease broken down as follows: \$500 for two corrected violations of Statewide Rule 3(a); \$4,000 for one corrected violation of Statewide Rule 8(d)(1); and, \$10,000 for 5 violations of Statewide Rule 14(b)(2). The examiner further recommends that an additional \$1,000 enhancement based on the Agreed Final Order entered against Respondent in Oil & Gas Docket 03-0230782. The total administrative penalty in this docket is recommended \$17,500. Additionally, it is recommended that respondent be ordered to either plug or otherwise bring into compliance with Statewide Rule 14(b)(2), Well Nos. 4D, 9D, 24D, and 30 on the White Lease.

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. Respondent, Eugene C. Weafer, doing business as Safari Production Co. (“Respondent”), was given at least 10 days notice of this proceeding by certified mail, addressed to the most recent Form P-5 (Organization Report) address.
2. The most recent approved Form P-5 for Respondent was filed March 30, 2000. Respondent paid a fee of \$750 as financial assurance at the time of his last renewal. Eugene C. Weafer is listed as the Owner. Respondent’s Organization Report is currently delinquent.
3. Respondent was recognized as the operator of the Anahuac Main Frio Oil Unit (20022) Lease, (“Anahuac Lease”) Well No. 1, and the White, R. M. (00097) Lease, (“White Lease”) Well Nos. 4D, 9D, 24D, 29, and 30, Anahuac Field, Chambers County, Texas, upon the Commission’s approval of the Commission Form P-4s (Producer’s Transportation Authority and Certificate of Compliance) submitted by respondent on July 27, 2000 which were approved by the Commission on July 28, 2000.
4. During the time period that respondent was the recognized operator of the Anahuac Lease, Well No. 1 was inactive for more than 12 months.
 - A. Commission inspections on September 13, 2001, October 12, 2001, November 6, 2001, December 11, 2001, and January 22, 2002, found that Well No. 1 was shut in and not equipped to produce.
 - B. Commission records show that the last Commission Form W-1X (Application for Future Re-Entry of Inactive Well Bore and 14(b)(2) Extension Permit) for Well No. 1 was filed by respondent and approved by the Commission on July 28, 2000, the same date the Commission recognized respondent as the operator of the Anahuac Lease. The plugging extension expired on July 28, 2001.
 - C. Commission records report no production from the subject well during the time period that respondent was recognized as the operator of the well.
5. On May 23, 2002, a Form P-4 was submitted seeking to designate Safari Production Company, Inc., RRC Operator ID. No. 743197, as the operator of the Anahuac Lease. On July 16, 2002, the Commission approved the Form P-4 transfer of the Anahuac Lease.
6. During the time period that respondent was recognized as the operator of the White Lease,

required signs identifying the property, operator and well number, were missing from Well Nos. 24D and 29.

- A. Commission inspections on October 12, 2001, December 11, 2001, and January 22, 2002, observed that no signs were posted at Well Nos. 24D and 29.
 - B. A Commission inspection found that a sign containing the proper information was posted at Well No. 29 on July 17, 2002.
 - C. A Commission inspection on November 7, 2002 found that a sign containing the proper information was posted at Well No. 24D.
7. During the time period that respondent was recognized as the operator of the White Lease, an unpermitted discharge of crude oil occurred.
- A. Commission inspections on May 25, 2001 and June 22, 2001 observed a 100' by 300' oil spill near Well No. 11.
 - B. Commission inspections on July 31, 2001, August 20, 2001, September 13, 2001, October 12, 2001, November 6, 2001, December 11, 2001, and January 22, 2002 found that the oil saturated soil was piled up in mounds near Well No. 24D.
 - C. A Commission inspection on July 17, 2002 found that the mounds of oil saturated soil had been removed.
8. During the time period that Respondent was the recognized operator of the White Lease, Well No. 29 was inactive for more than 12 months.
- A. Commission inspections on September 13, 2001, October 12, 2001, November 6, 2001, December 11, 2001, and January 22, 2002, found that Well No. 29 was shut in and not equipped to produce.
 - B. Commission records show that the last Commission Form W-1X for Well No. 29 was filed by respondent and approved by the Commission on July 28, 2000, the same date the Commission recognized respondent as the operator. The plugging extension expired on July 28, 2001.
 - C. Commission records report no production from Well No. 29 until October 2002.
9. Commission records show that a Form P-4 filed Safari Production Co., Inc. establishing a new lease for Well No. 29 was approved by the Commission on December 13, 2002. The new lease identification number for Well No. 29 is RRC Gas ID No. 191838.

10. During the time period that Respondent was the recognized operator of the White Lease, Well Nos. 4D, 9D, 24D, and 30 were inactive for more than 12 months.
 - A. Commission inspections on September 13, 2001, October 12, 2001, November 6, 2001, December 11, 2001, January 22, 2002, July 17, 2002 and August 20, 2002 found that Well Nos. 4D, 9D, 24D, and 30 were shut in and not equipped to produce.
 - B. Commission records show that the last plugging extensions for Well Nos. 4D, 9D, 24D, and 30, were filed by respondent and approved by the Commission on July 28, 2000 the same date the Commission recognized respondent as the operator. The plugging extensions expired on July 28, 2001.
 - C. Commission records report no disposal activity for Well No. 4D after April 30, 1995.
 - D. Commission records report no disposal activity for Well No. 9D after March 31, 1996.
 - E. Commission records report no disposal activity for Well No. 24D after January 1, 1993.
 - F. Commission records report no production from Well No. 30 after September 30, 1995.
11. The estimated cost to plug Well Nos. 4D, 9D, 24D and 30 on the White Lease is \$38,846.
12. Failure to properly identify a well by the posting of the sign 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.
13. Any unauthorized discharge or disposal of oil, saltwater, basic sediment, or other oil and gas waste is a potential source of pollution to surface and subsurface waters if not remediated to prevent seepage and run-off.
14. Usable quality groundwater in the area may be contaminated by migrations or discharges of saltwater and 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.
15. The record reflects previous violations by the respondent of Statewide Rule 14(b)(2) in Oil & Gas Docket No. 03-0230782.
 - A. Respondent entered into an Agreed Final Order in that docket which was approved by the Commission on June 25, 2002.
 - B. An administrative penalty of \$3,500 was assessed in the Agreed Final Order.

CONCLUSIONS OF LAW

1. Proper notice of hearing was timely issued to the appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. Respondent was the operator of the Anahuac Main Frio Oil Unit (20022) Lease, Well No. 1, Anahuac Field, as defined by Commission Statewide Rule 14 and §89.002 of the Texas Natural Resources Code from July 27, 2000 through July 16, 2002.
4. Respondent was the operator of the White, R. M. (00097) Lease, Well Nos. 4D, 9D, 24D, and 30, Anahuac Field, as defined by Commission Statewide Rule 14 and §89.002 of the Texas Natural Resources Code from July 27, 2000 through the present.
5. Respondent was the operator of the White, R. M. (00097) Lease, Well Nos. 29, Anahuac Field, as defined by Commission Statewide Rule 14 and §89.002 of the Texas Natural Resources Code from July 27, 2000 through December 13, 2002.
6. During the time period respondent was recognized as the operator, Respondent had the primary responsibility for complying with Rule 14, and Chapter 89 of the Texas Natural Resources Code as well as other applicable statutes and Commission rules relating to the Anahuac Main Frio Oil Unit (20022) Lease, Well No. 1, Anahuac Field.
7. Respondent has the primary responsibility for complying with Rules 3, 8, and 14, and Chapter 89 of the Texas Natural Resources Code as well as other applicable statutes and Commission rules relating to the White, R. M. (00097) Lease, Well Nos. 4D, 9D, 24D, 29, and 30, Anahuac Field.
8. Well No. 24D on the White, R. M. (00097) Lease was out of compliance with Statewide Rule 3 from October 12, 2001 to November 7, 2002.
9. Well No. 29 on the White, R. M. (00097) Lease was out of compliance with Statewide Rule 3 from October 12, 2001 to July 17, 2002.
10. The White, R. M. (00097) Lease was out of compliance with Statewide Rule 8 from May 25, 2001 to July 17, 2002.
11. Well Nos. 4D, 9D, 24D, and 30, White, R. M. (00097) Lease, are not properly plugged or otherwise in compliance with Statewide Rule 14 or Chapters 85, 89 and 91 of the Texas Natural Resources Code.
12. Well Nos. 4D, 9D, 24D, and 30, on the White, R. M. (00097) Lease have been out of compliance with Statewide Rule 14 from July 28, 2001 to the present.

13. Well No. 29 on the White, R. M. (00097) Lease was out of compliance with Statewide Rule 14 from July 28, 2001 to September 30, 2002.
14. The documented violations committed by respondent are 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 the attached order approved, requiring respondent Eugene C. Weafer, doing business as, Safari Production Co. to either plug or otherwise bring the White, R. M. (00097) Lease into compliance with Statewide Rule 14 and to be assessed an administrative penalty of \$17,500.

Respectfully submitted,

Mark J. Helmueller
Hearings Examiner