

September 30, 2008

OIL AND GAS DOCKET NO. 03-0252921

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**ENFORCEMENT ACTION AGAINST SHOREHAM OIL & GAS COMPANY, INC. (OPERATOR NO. 778499) FOR VIOLATIONS OF STATEWIDE RULES ON THE STATE TRACT 204 LEASE, WELL NO. 1 (RRC # 148137), RED FISH REEF, NORTH (FRIO 17) FIELD, CHAMBERS COUNTY; STATE TRACT 262 LEASE, WELL NO. 1R (RRC # 150142), RED FISH REEF, SW. (F-13) FIELD, CHAMBERS COUNTY; AND STATE TRACT 307 LEASE, WELL NO. 10 (RRC # 150186), RED FISH REEF, SW. (F-18) FIELD, CHAMBERS COUNTY, TEXAS.**

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**APPEARANCES:**

**FOR THE RRC:**

Reese Copeland  
Sheila Weigand

Attorney, Enforcement Section  
Programs Specialist

**FOR THE GENERAL LAND OFFICE:**

Louis Renaud  
Robert Hatter

Deputy Commissioner, Oil & Gas Section  
Director of Mineral Leasing

**FOR RESPONDENT:**

Thomas Sieh

President, Shoreham Oil & Gas Company, Inc.

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

<b>COMPLAINT FILED:</b>	August 7, 2007
<b>NOTICE OF HEARING:</b>	September 27, 2007
<b>DATE CASE HEARD:</b>	November 8, 2007
<b>HEARING CLOSED:</b>	November 8, 2007
<b>PFD PREPARED BY:</b>	Marshall Enquist, Hearings Examiner
<b>CURRENT STATUS:</b>	Contested
<b>PFD CIRCULATION DATE:</b>	August 28, 2008
<b>PFD RE-CIRCULATION DATE:</b>	September 30, 2008

### STATEMENT OF THE CASE

This is an Enforcement action against Shoreham Oil & Gas Company, Inc. (“Shoreham”) for alleged violations of Statewide Rules 3(2) and 14(b)(2). Thomas Sieh, President of Shoreham, appeared at the hearing and represented his company. Louis Renaud, Deputy Commissioner of the Oil & Gas Section of the General Land Office appeared. Robert Hatter, Director of Mineral Leasing for the General Land Office, appeared and testified. Reese Copeland, Staff Attorney, appeared at the hearing representing the Railroad Commission of Texas, Office of General Counsel, Enforcement Section (“Enforcement”).

### AUTHORITY

Statewide Rule 3 [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.3] requires the posting of signs and identification in English, which display clearly legible and correct information, with letters and numbers at least one inch in height. Statewide Rule 3(1), [Tex. R.R. Comm’n, TEX. ADMIN. CODE §3.3(1)], requires the posting of such a sign at the principal entrance of the property, which must show the name of the property as carried on the records of the Commission, the name of the operator and the number of acres in the property. Statewide Rule 3(2), [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.3(2)], requires the posting of such sign at each well site, which must show the name of the property, the name of the operator and the well number. Statewide Rule 3(3) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.3(3)], requires the posting of such a sign or painted identification at each tank battery, satellite tank or approved crude oil measuring facility where tanks are not utilized, which must show the name of the property as carried on the records of the Commission, the name of the operator, the number of acres in the property, the Commission lease number for the formation from which the oil or gas is produced, and if applicable, the number of the Commission permit which authorizes commingling of the well.

Statewide Rule 14(b)(2) [16 Tex. Admin. Code §3.14] requires the commencement of plugging operations on each dry or inactive well within one year after drilling or operations cease, unless the operator is eligible for and obtains an extension of the plugging deadline under Statewide Rule 14(b)(2).

### ENFORCEMENT’S POSITION

Shoreham became responsible for the State Tract 204 Lease, Well No. 1 (RRC ID# 148137) by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority) effective September 1, 1995, approved October 26, 1995. Shoreham became responsible for the State Tract 262 Lease, Well No. 1R (RRC ID# 150142) by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority) effective April 30, 1996, approved May 22, 1996. Shoreham became responsible for the State Tract 307 Lease, Well No. 10 (RRC ID# 150186) by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority) effective April 30, 1996, approved May 22, 1996.

Statewide Rule 3

A District Office inspection report made on July 12, 2007 for the State Tract 262 Lease, Well No. 1R, showed that the sign or identification required by Statewide Rule 3(2) to be posted at the well was missing.

A District Office inspection report made on July 12, 2007 for the State Tract 307 Lease, Well No. 10, showed that the sign or identification required by Statewide Rule 3(2) to be posted at the well was missing.

By failing to maintain legible signs or identification as required, Shoreham has violated Statewide Rule 3. This violation is serious and threatens the public health and safety. In the event of a pollution or safety violation or other emergency, the lack of legible signs and identification displaying correct information may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency. Such confusion would cause delays in containing and remediating the violation or emergency.

Statewide Rule 14(b)(2)

A Commission District Office inspection report made on July 12, 2007, and reports filed by Shoreham with the Commission reflecting zero production since July, 2003, showed the State Tract 204 Lease Well No. 1 (RRC ID# 148137) has been inactive for a period greater than one year. Production from the subject well ceased on or before July, 2003.

A Commission District Office inspection report made on July 12, 2007, and reports filed by Shoreham reflecting zero production since September, 1996, showed that the State Tract 262 Lease, Well No. 1R (RRC ID# 150142) has been inactive for a period greater than one year. Production from the well ceased on or before September 1996.

A Commission District Office inspection report made on July 12, 2007, and reports filed by Shoreham with the Commission reflecting zero production since May, 1996, showed that the State Tract 307 Lease, Well No. 10 (RRC ID# 150186) has been inactive for a period greater than one year. Production from the well ceased on or before December, 1994.

No workovers, re-entries, or subsequent operations have taken place on any of the subject wells within the last twelve months; none of the wells have been plugged; no plugging extensions are in effect for any of the subject wells as allowed by Statewide Rule 14.

By failing to timely plug the subject wells or to obtain an extension of the plugging deadline, Shoreham has violated Statewide Rule 14(b)(2). Shoreham's violation of Statewide Rule 14(b)(2) is serious and threatens the public health and safety. Unplugged wellbores are likely to cause pollution of usable quality groundwater and surface water, as defined in Statewide Rule 8(a)(28), by serving as a conduit for the passage of oil, gas, saltwater and other substances from one stratum

or formation to another or to the surface or from the surface downward.

Pursuant to calculations by Commission District Office personnel, the total estimated cost to the State for plugging the State Tract 204 lease, Well No. 1 (RRC ID# 148137) is \$100,000.; for the State Tract 262 Lease, Well No. 1R (RRC ID# 150142) is \$100,000; and for the State Tract 307 Lease, Well No. 10 (RRC ID# 150186) is \$100,000.

#### Prior Dockets

Shoreham is responsible for the following prior violations of Commission rules: Oil & Gas Docket No. 03-0241675, Final Order entered November 14, 2006 and \$16,000 penalty assessed and Oil & Gas Docket No. 01-0249370, Final Order entered May 30, 2007 and a \$4,000 penalty assessed.

#### Summary

Robert Hatter, Director of Mineral Leasing for the General Land Office appeared and testified that Shoreham does not have a lease on either State Tract 204 or 307, but does have an active lease on State Tract 262, being Oil & Gas Lease No. M-103343. State Tracts 204 and 307 are currently held by other operators, but neither has taken the P-4 responsibility for the Shoreham wells on those tracts. In light of the fact that Shoreham does have one valid lease, Enforcement requests compliance, rather than plugging, for Well No. 1R on State Tract 262.

Enforcement emphasizes that Shoreham's P-5 is delinquent and that Shoreham is subject to the provisions of Texas Natural Resources Code §91.114(a)(2). Accordingly, there is no plugging extension in effect for any of the subject wells nor can Shoreham obtain a plugging extension for any of the subject wells.

Shoreham has acted in bad faith because it failed to correct the Commission rule violations on the subject leases and wells and failed to adequately explain its inaction to the Commission.

Enforcement requests that Shoreham be assessed an administrative penalty of \$33,000; consisting of two violations of Statewide Rule 3(2) at \$250 each; three violations of Statewide Rule 14(b)(2) at \$10,000 each for bay wells and a \$2,500 enhancement for prior dockets. Enforcement further requests that Shoreham be ordered to plug the State Tract 204 Lease, Well No. 1 and the State Tract 307 Lease, Well No. 10; and place the State Tract 262 Lease, Well No. 1R in compliance with all Commission rules and regulations.

#### **SHOREHAM'S POSITION**

Shoreham requests that the Commission grant it one year to return the subject wells to commercial production. Shoreham believes it would cause waste if the wells were ordered plugged. Shoreham believes the State Tract 204 Lease, Well No. 1 has reserves of 2,000,000 mcf worth \$10,000,000; the State Tract 262, Well No. 1R has reserves of 400,000 mcf worth \$2,000,000; and

the State Tract 307 Lease, Well No. 10 has 400,000 mcf worth \$2,000,000.

Shoreham believes it would be in the best interests of the General Land Office if the Shoreham wells were transferred to another operator and they were restored to production. Robert Hatter of the General Land Office generally agreed with this proposition, with the caveat that this should be done only if the wells are safe to operate and if they have significant reserves.

Many of Shoreham's problems result from forfeiture by the General Land Office of the State Tract 288 Lease and the subsequent expenditures by the State to plug Well No. 1 (RRC ID# 148811) on that tract. Shoreham had expected to be reimbursed by its insurer for those costs, but the insurer has refused to pay. At the time of the hearing, Shoreham was litigating the issue with its insurer, St. Paul Surplus Lines Insurance Company. Pending a successful outcome, Shoreham will be in a position to correct all violations and pay Commission penalties.

Shoreham also believes the Commission's estimated cost to plug the wells is too high. Shoreham provided a copy of a plugging estimate dated August 31, 2004 indicating Suard Workover, Inc. would plug the wells for roughly \$45,000. If the Commission decides the wells must be plugged, Shoreham requests that Suard be designated as the plugger. In addition, Shoreham believes the requested penalty amount is too high. Shoreham suggests that the penalty be lowered to \$10,000 so it can use the money saved to conduct H-15 tests on other wells.

#### EXAMINERS' OPINION

The examiner hereby takes Official Notice of Commission P-4 Inquiry screens on the mainframe. As of August 19, 2008, Shoreham is still the Commission-recognized operator of the three subject wells. All three wells, State Tract 204 Well No. 1 (RRC ID# 148137), State Tract 262 Well No. 1R (RRC ID# 150142) and State Tract 307 Well No. 10 (RRC ID# 150142) are sealed.

Shoreham's estimate of behind-pipe reserves are speculative and unsupported by any engineering calculations. The fact that no other operator has taken over these wells indicates that no other operator shares Shoreham's opinions as to possible behind-pipe reserves in the subject wells.

Shoreham's financial ability to comply with Commission orders may be affected by its reimbursement problems with its insurer, but its litigation with St. Paul Surplus Lines Insurance Company does not relieve it of its responsibilities to the Commission.

The examiner agrees with Enforcement's suggested penalties and its request that Shoreham be required to plug the State Tract 204 lease, Well No. 1 and the State Tract 307 Lease, Well No. 10, and place the State Tract 262 lease, Well No. 1R in compliance with Commission rules and regulations.

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. Shoreham Oil & Gas Company, Inc. (“Shoreham”) (Operator No. 778499) was given at least 10 days notice of this proceeding by certified mail, addressed to its most recent Form P-5 (Organization Report) address. Shoreham appeared through its President, Thomas W. Sieh, and presented evidence at the hearing.
2. The most recent Form P-5 Organization Report for Shoreham was filed on July 8, 2004. Thomas W. Sieh was identified as the president of Shoreham. Shoreham’s P-5 is delinquent. Shoreham does not have financial assurance posted with the Commission.
3. Shoreham was recognized as the operator of the State Tract 204 Lease, Well No. 1 (RRC ID# 148137) by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority) effective September 1, 1995, approved October 26, 1995.
4. Shoreham was recognized as the operator of the State Tract 262 Lease, Well No. 1R (RRC ID# 150142) by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority) effective April 30, 1996, approved May 22, 1996.
5. Shoreham was recognized as the operator of the State Tract 307 Lease, Well No. 10 (RRC ID# 150186) by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority) effective April 30, 1996, approved May 22, 1996.
6. A District Office inspection report made on July 12, 2007 for the State Tract 262 Lease, Well No. 1R, showed that the sign or identification required by Statewide Rule 3(2) to be posted at the well was missing.
7. A District Office inspection report made on July 12, 2007 for the State Tract 307 Lease, Well No. 10, showed that the sign or identification required by Statewide Rule 3(2) to be posted at the well was missing.
8. Failure to maintain legible signs or identification at the well is serious and threatens the public health and safety. In the event of a pollution or safety violation or other emergency, the lack of legible signs and identification displaying correct information may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency. Such confusion would cause delays in containing and remediating the violation or emergency.
9. A Commission District Office inspection report made on July 12, 2007, and reports filed by Shoreham with the Commission reflecting zero production since July, 2003, showed the State Tract 204 Lease Well No. 1 (RRC ID# 148137) has been inactive for a period greater than one year. Production from the subject well ceased on or before July, 2003.

10. A Commission District Office inspection report made on July 12, 2007, and reports filed by Shoreham reflecting zero production since September, 1996, showed that the State Tract 262 Lease, Well No. 1R (RRC ID# 150142) has been inactive for a period greater than one year. Production from the well ceased on or before September 1996.
11. A Commission District Office inspection report made on July 12, 2007, and reports filed by Shoreham with the Commission reflecting zero production since May, 1996, showed that the State Tract 307 Lease, Well No. 10 (RRC ID# 150186) has been inactive for a period greater than one year. Production from the well ceased on or before December, 1994.
12. Failure to timely plug the subject wells or to obtain extensions of the plugging deadline is serious and threatens the public health and safety. Unplugged wellbores are likely to cause pollution of usable quality groundwater and surface water, as defined in Statewide Rule 8(a)(28), by serving as a conduit for the passage of oil, gas, saltwater and other substances from one stratum or formation to another or to the surface or from the surface downward.
13. Shoreham has an active lease on State Tract 262 (State of Texas Oil & Gas Lease No. M-103343).
14. Shoreham has had the following prior violations of Commission rules: Oil & Gas Docket Nos. 01-0249370, Final Order entered May 30, 2007, \$4,000 penalty assessed and 03-0241675, Final Order entered November 14, 2006, \$16,000 penalty assessed. Shoreham is currently subject to the restrictions of Tex. Nat. Res. Code §91.114(a)(2).
15. Violations of Statewide Rules 3 and 14 are serious and threaten the public health and safety.
16. The estimated cost to the State of plugging the subject wells is \$300,000 .

#### 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. Shoreham Oil & Gas Company, Inc. is the operator of the State Tract 204 Lease, Well No. 1 (RRC ID# 148137); the State Tract 262 Lease, Well No. 1R (RRC ID# 150142); and the State Tract 307 Lease, Well No. 10 (RRC ID# 150186) and has the primary responsibility for complying with Commission rules.
4. Shoreham is in violation of Statewide Rule 3(2) on the State Tract 262 Lease, Well No. 1R and the State Tract 307 Lease, Well No. 10.
5. Shoreham is in violation of Statewide Rule 14(b)(2) on the State Tract 204 Lease, Well No. 1; the State Tract 262 Lease, Well No. 1R; and the State Tract 307 Lease, Well No. 10.

6. The violations of Commission rules committed by Shoreham Oil & Gas Company, Inc. are related to safety and the control of pollution.
7. The documented violations committed by Shoreham are a hazard to the public health and demonstrate a lack of good faith pursuant to Texas Natural Resources Code §81.0531(c).

**RECOMMENDATION**

The examiner recommends that the above findings of fact and conclusions of law be adopted and that Shoreham Oil & Gas Company, Inc. (1) be assessed an administrative penalty of \$33,000; consisting of two violations of Statewide Rule 3(2) at \$250 each; three violations of Statewide Rule 14(b)(2) at \$10,000 each for bay wells and a \$2,500 enhancement for prior docket, (2) be ordered to plug the State Tract 204 Lease, Well No. 1 and the State Tract 307 Lease, Well No. 10, and (3) place the State Tract 262 Lease, Well No. 1R in compliance with all Commission rules and regulations.

Respectfully submitted,

Marshall Enquist  
Hearings Examiner