

May 22, 2002

**OIL AND GAS DOCKET NO. 06-0229840**

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**ENFORCEMENT ACTION AGAINST GULFPORT OIL & GAS, INC. (OPERATOR NO. 338635) FOR VIOLATIONS OF STATEWIDE RULES ON THE ROFFEY (10294) LEASE, WELL NO. 1, CHAPEL HILL FIELD, SMITH COUNTY, TEXAS.**

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**Appearances:**

**For Movant:**

Susan German, Staff Attorney

**Representing:**

Enforcement Section Railroad Commission

**For Respondent:**

J. R. Hood

Gulfport Oil & Gas, Inc.

**PROCEDURAL HISTORY**

<b>Complaint Filed:</b>	December 12, 2001
<b>Hearing Noticed:</b>	March 6, 2002
<b>Hearing Held:</b>	April 25, 2002
<b>Record Closed:</b>	April 25, 2002
<b>Heard By:</b>	Mark Helmueller, Hearings Examiner
<b>PFD Circulation Date:</b>	May 22, 2002
<b>Current Status:</b>	Protested

**STATEMENT OF THE CASE**

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

1. Whether Gulfport Oil & Gas, Inc. (“Gulfport”) violated Statewide Rules 3 and 14 on the Roffey (10294) Lease, Well No. 1, Chapel Hill Field, Smith County, Texas;
2. Whether the respondent 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 and 14;
3. Whether the respondent should be assessed administrative penalties of not more than \$10,000 per day for each offense committed regarding such lease and well; and
4. Whether any violations of Statewide Rules 3 and 14 by the respondent should be referred to the Office of the Attorney General for further civil action.

Gulfport appeared at the hearing by telephone and presented evidence. Susan German appeared representing the Railroad Commission of Texas. Enforcement submitted the hearing file for this docket into the record. Enforcement recommends that the respondent be ordered to place the subject well into compliance and to pay an administrative penalty of \$2,500, consisting of one Rule 14(b)(2) violation at \$2,000, and two Rule 3(a) violations at \$250 each. The examiner agrees with Enforcement’s recommendation.

**DISCUSSION OF THE EVIDENCE**

Gulfport first filed an organization report with the Commission in April 1999. The most recent Form P-5 (Organization Report) was filed with the Commission on March 28, 2000 and identifies the following individuals as agents and officers: Steven Holmes, resident agent; Norris R. Harris, President; Jack R. Durland, Jr., Vice-President; and Jonathon G. Harris, Vice-President. Gulfport’s organization status is currently reported in Commission records as delinquent.

Gulfport designated itself as operator of the Roffey (10294) Lease, Well No. 1, Chapel Hill Field, Smith County, Texas, by filing a Commission Form P-4 (Producer’s Transportation Authority and Certificate of Compliance), effective February 1, 1999 and approved April 20, 1999.

Enforcement contended that Gulfport violated the sign and identification requirements of Rule 3(a) on the Roffey Lease by failing to post signs at the principal entrance of the property and at the well site. Inspection reports dated April 13, 2001, June 18, 2001, July 18, 2001, August 28, 2001, and January 7, 2002 show that the required signs were missing at both locations.

**OIL AND GAS DOCKET NO. 06-0226162**

Enforcement also argued that Gulfport violated the plugging requirements under Rule 14(b)(2) by failing to either plug or otherwise bring into compliance with Commission rules, Well No. 1 on the Roffey Lease. Inspection reports dated April 13, 2001, June 18, 2001, July 18, 2001, August 28, 2001, and January 7, 2002 show that the well was equipped for production but was inactive with rust on the rod and pulleys of the pumpjack. Additionally, Enforcement argued that Gulfport's failure to file production reports after April 30, 1999, indicated that Well No. 1 on the Roffey Lease had been inactive for more than one year. Commission production records show that the last reported production from the well occurred in April 1999. The estimated cost to plug Well No. 1 on the Roffey Lease is \$16,700.00.

Gulfport admitted that the well is currently inactive but asserted that the well was worked over in 2000 and produced at that time. Gulfport claims that former officers who were terminated from the company failed to file the appropriate paperwork reporting the production. Gulfport also claims that signs were present on the lease from the time it took over operations until May or June 2000, but that disgruntled landowners had removed the signs.

**EXAMINER'S OPINION**

Statewide Rule 3 provides that signs must be posted at each well site and that they must show the name of the property, operator, and other pertinent information. Signs as outlined by Rule 3 provide contact information and speed the containment and remediation of any potential violations or emergencies.

Statewide Rule 14(b)(2) provides that the operator of a well must plug the well when required and in accordance with Commission rules. 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.

Gulfport's excuse for its violations of Commission rules relating to missing signs rests on unsubstantiated allegations of vandalism. Gulfport provided no evidence documenting costs associated with the replacement of signs, or any other evidence showing that they had attempted in good faith to meet the sign requirements under Rule 3. Absent some evidence substantiating Gulfport's speculation and reported attempts to remain in compliance, the examiner concludes that the five lease inspections reflecting the lack of any signs at the lease entrance or well site from April 2001 through January 2002, establishes that Gulfport failed to comply with Rule 3, and that administrative penalties of \$250.00 each for the two violations are appropriate.

With respect to the Rule 14(b)(2) violation, respondent claims that the well was worked over and producing in 2000. Once again, respondent provided no evidence documenting any costs associated with the workover or any records relating to production from the well. The five inspections of the lease between April 2001 and January 2002 indicate that the well was capable of production, but was obviously inactive due to the condition of the equipment. Additionally,

**OIL AND GAS DOCKET NO. 06-0226162**

Gulfport did not report any production for the well after April 1999. Absent any documentary evidence to support Gulfport's assertions, the examiner believes that the lack of production reports and the observed condition of the well support the conclusion that the well is not in compliance with the plugging requirements of Statewide Rule 14(b)(2). Accordingly, the administrative penalty of \$2,000.00 recommended by the Enforcement Staff Attorney is appropriate. The examiner recommends that Gulfport be ordered to bring the lease into compliance with Statewide Rules 3 and 14 and to pay an administrative penalty of \$2,500.00.

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. Gulfport Oil & Gas, Inc. ("respondent") was given at least 10 days notice of this proceeding by certified, first-class mail, addressed to its most recent Form P-5 (Organization Report) addresses. Respondent appeared at the scheduled time and place for the hearing through a telephonic proceeding.
2. Gulfport first filed an organization report with the Commission in April 1999. The most recent Form P-5 (Organization Report) was filed with the Commission on March 28, 2000 and identifies the following individuals as agents and officers: Steven Holmes, resident agent; Norris R. Harris, President; Jack R. Durland, Jr., Vice-President; and Jonathon G. Harris, Vice-President. Gulfport's organization status is currently reported in Commission records as delinquent.
3. Gulfport designated itself as operator of the Roffey (10294) Lease, Well No. 1, by filing a Commission Form P-4 (Producer's Transportation Authority and Certificate of Compliance), effective February 1, 1999, and approved April 20, 1999.
4. Signs on the Roffey Lease were not posted at the principal entrance of the property or at the well site as shown by inspection reports dated April 13, 2001, June 18, 2001, July 18, 2001, August 28, 2001, and January 7, 2002.
5. Well No. 1 on the Roffey Lease has been inactive for a period in excess of one year. Inspection reports dated April 13, 2001, June 18, 2001, July 18, 2001, August 28, 2001, and January 7, 2002, indicated that the well was equipped for production but was inactive as reflected by the condition of the rod and pulleys on the pumpjack. Additionally, no production reports were filed after April 30, 1999.
6. There is no Rule 14(b)(2) extension currently in effect for Well No. 1 on the Roffey Lease.

**OIL AND GAS DOCKET NO. 06-0226162**

7. 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.
8. Usable quality groundwater in the area may be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject well. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
9. Respondent has not demonstrated good faith since it failed to plug or otherwise place the subject well in compliance after being notified of the violations by the district office.
10. The estimated cost to plug Well No. 1 on the Roffey Lease is \$16,700.00.
11. The record does not reflect any previous violations by the respondent of Commission rules.

**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. Gulfport Oil & Gas, Inc. is the operator of the Roffey (10294) Lease, as defined by Commission Statewide Rule 14 and §89.002 of the Texas Natural Resources Code.
4. The respondent has the primary responsibility for complying with Rules 3 and 14, and Chapter 89 of the Texas Natural Resources Code as well as other applicable statutes and Commission rules relating to the Roffey (10294) Lease.
5. Well No. 1 on the Roffey (10294) Lease is not properly plugged or otherwise in compliance with Commission Rule 14 or Chapters 85, 89 and 91 of the Texas Natural Resources Code. Well No. 1 on the Roffey (10294) Lease has been out of compliance from at least May 1, 2000 to the present.
6. The Roffey (10294) Lease is not in compliance with Commission Rule 3. The Roffey (10294) Lease has been out of compliance with this rule from at least April 13, 2001 to the present.
7. The documented violations committed by Gulfport 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 be approved, requiring the operator, Gulfport Oil & Gas, Inc., within 30 days from the date this order becomes final:

- 1) To bring the Roffey (10294) Lease into compliance with the requirements of Statewide Rule 3 by posting signs at the lease entrance and well site;
- 2) To either plug or otherwise bring into compliance with Statewide Rule 14, Well No. 1 on the Roffey (10294) Lease;
- 3) To pay an administrative penalty of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00).

Respectfully submitted,

Mark Helmueller  
Hearings Examiner