

## PROPOSAL FOR DECISION

OIL & GAS DOCKET NO. 06-0234259

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**ENFORCEMENT ACTION AGAINST CHAPARRAL OPERATING, INC. FOR VIOLATIONS OF STATEWIDE RULES ON THE WILLIS UNIT (05968) LEASE, WELL NOS. 102W, 103W, 104W, 201W, 202W, 1021W, AND 1022W , RODESSA (DEES YOUNG) FIELD, IN CASS COUNTY, TEXAS.**

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**FOR MOVANT:**

Lowell Williams, Staff Attorney

**MOVANT:**

Enforcement Section

**FOR RESPONDENT:**

Bruce Satterthwaite, President

**RESPONDENT:**

Chaparral Operating, Inc.

### **PROCEDURAL HISTORY**

<b>Date of Request for Action:</b>	March 10, 2003
<b>Notice of Hearing:</b>	July 24, 2003
<b>Hearing Held:</b>	September 15, 2003
<b>Record Closed:</b>	December 9, 2003
<b>Heard By:</b>	Scott Petry, Hearings Examiner
<b>PFD Circulation Date:</b>	June 8, 2004
<b>Current Status:</b>	Protested

### **STATEMENT OF THE CASE**

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

1. Whether the respondent should be required to plug or otherwise place in compliance

with Statewide Rules 3, 13, 14, and 46, the Willis Unit (05968) Lease, Well Nos. 102W, 103W, 104W, 201W, 202W, 1021W, and 1022W (“subject wells”), Rodessa (Dees Young) Field, in Cass 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, 13, 14, and 46;
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;
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; and,
5. Whether other orders should be entered as permitted by law.

Lowell Williams, Staff Attorney, appeared at the hearing representing the Railroad Commission of Texas, Enforcement Section. Bruce Satterthwaite appeared on behalf of Chaparral Operating, Inc., (hereinafter “Chaparral” or “respondent”). The Enforcement Section's hearing file was admitted into evidence.

At the hearing, Chaparral requested time to submit additional evidence. The examiner agreed to leave the record open to allow Chaparral the opportunity to submit late filed exhibits verifying that the respondent had placed the subject wells in compliance with Commission rules. No late filed exhibits were submitted by Chaparral, and the record was closed on December 9, 2003.

A late-filed trial amendment was submitted by Enforcement requesting an adjusted penalty recommendation. This adjusted penalty recommendation reflected the plugging extension granted for Well No. 201W due to the respondent's newly acquired financial assurance. It is noted, however, that official notice of Commission records indicates that the plugging extension granted for Well No. 201W expired on December 31, 2003.

Enforcement recommends that Chaparral be ordered to properly plug the subject wells, or, in the alternative, to place them in compliance with Commission Rules 3, 13, 14, and 46. Enforcement also recommends that the respondent be ordered to pay an administrative penalty of \$25,250. This amount consists of \$250 for one violation of Statewide Rule 3, \$1,000 for one violation of Statewide Rule 13(b)(1)(B), \$12,000 for six violations of Statewide Rule 14(b)(2), \$10,000 for five violations of Statewide Rule 46(j), and \$2,000 for two violations of Statewide Rule 46(g)(2). The examiner disagrees with the suggested penalty amount as recommended in the initial trial amendment, and instead recommends the original recommended penalty amount of \$27,250. The examiner also recommends that the respondent be ordered to plug Well Nos. 102W, 103W, 104W, 201W, 202W, 1021W, and 1022W .

### **BACKGROUND**

Unplugged and unused well bores constitute a potential danger to the public's health and safety and must be plugged when mandated by Commission rules. 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. The rule further provides that the operator designated on the most recent Commission-approved Form P-4 (Producer's Transportation Authority and Certificate of Compliance), filed on or after September 1, 1997, is responsible for properly plugging the well in accordance with all applicable Commission rules and regulations.

Statewide Rule 3 provides that signs must be posted at each well site, tank battery, and lease entrance. Statewide Rule 3 also provides that the signs must show the name of the property, the 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 13 requires that wellhead assemblies be used to maintain surface control of the well. Wellhead assemblies are necessary to prevent fluids from being discharged from the wellbore onto the surface and to prevent any oil and gas waste in the wellbore from being displaced to the surface by potential influxes of water into the open wellbore.

Statewide Rule 46 requires that any person who engages in fluid injection operations in reservoirs productive of oil, gas, or geothermal resources must first obtain a permit from the

Commission. Specifically, Statewide Rule 46(g) requires that injection operations must have a wellhead equipped with a pressure observation valve on the tubing and annulus of each well. Further, Statewide Rule 46(j) requires that a mechanical integrity test of each injection well be performed once every five years to determine whether the well tubing, packer, or casing have sufficient mechanical integrity to meet the performance standards of the rule.

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

### **DISCUSSION OF THE EVIDENCE**

Official notice of Commission records indicates that the most recent approved Commission Form P-5 (Organization Report) for Chaparral was filed on January 30, 2004. Chaparral is a corporation which currently lists Bruce Satterthwaite as president, Tyler Satterthwaite as vice-president, and Abby Satterthwaite as secretary/treasurer. Chaparral posted a \$50,000.00 letter of credit as financial assurance.

Chaparral was recognized as the operator of the Willis Unit (05968) Lease, Well Nos. 102W, 103W, 104W, 201W, 202W, 1021W, and 1022W, by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance), effective February 1, 1998, and approved February 13, 1998.

#### **I. Enforcement's Position & Evidence**

In Enforcement's case in chief, the Staff Attorney offered into evidence the hearing file and copies of related records. In relation to the asserted Statewide Rule 3 violation, Enforcement

submitted an inspection report dated March 3, 2003, which indicated that the sign or identification required by Statewide Rule 3(a)(2) was missing from Well No. 1021W on the Willis Unit Lease. Statewide Rule 3(a)(2) specifically delineates the identification that is to be placed at each well site and requires that the signs show the name of the property, the name of the operator, and the well number. This information was not posted at Well No. 1021W.

With regard to the asserted violation of Statewide Rule 13, Enforcement submitted Commission inspection reports dated May 13, 2002, June 7, 2002, July 17, 2002, August 27, 2002, October 14, 2002, December 4, 2002, January 2, 2003, and March 3, 2003. All of the inspection reports indicated that Well No. 103W had casing open to the atmosphere. Enforcement alleges that the violation is serious and a hazard to the public health and safety because wells left open to the atmosphere may discharge oil and gas wastes onto the surface and may affect the health of humans and animals.

With respect to the asserted violations of Statewide Rule 14, Enforcement submitted Commission inspection reports dated May 13, 2002, June 7, 2002, July 17, 2002, August 27, 2002, October 14, 2002, December 4, 2002, January 2, 2003, and March 3, 2003, which show that the subject wells on the Willis Unit Lease were shut in and inactive for a period greater than twelve months. Specifically, Well No. 103W, which is a saltwater injection well, and Well Nos. 102W, 104W, 201W, and 1021W, which are all fresh water secondary recovery injection wells, have not had any reported injection activity since at least January 1, 1993. Well Nos. 202W and 1022W, which are both oil wells, have not produced since on or before January 1, 1993, and, while Well No. 202W did not have corresponding inspection reports indicating that it was inactive, the respondent admitted at the hearing that Well No. 202W had been inactive since at least January 1, 1993.

Enforcement noted that the plugging extensions for Well Nos. 102W, 103W, 104W, 202W, 1021W, and 1022W expired on December 31, 2002, and that these subject wells were not granted subsequent plugging extensions because they failed to pass the proper H-5 (Disposal/Injection Well Pressure Test Report) and/or Form H-15 (Test on an Inactive Well More than 25 Years Old) tests. Enforcement asserted that Well Nos. 102W, 103W, 104W, 202W, 1021W, and 1022W have been out of compliance with Statewide Rule 14(b)(2) since at least December 31, 2002. Official notice of Commission records indicates that the plugging extension for Well No. 201W expired on December 31, 2003, and that subsequent plugging extension requests were denied. Well No. 201W has been out of compliance with Statewide Rule 14(b)(2) since at least December 31, 2003.

Enforcement asserts that no workovers, re-entries, or subsequent operations have occurred on any of the subject wells within the twelve months prior to the notice of hearing. The estimated cost to the State of Texas for plugging the subject wells on the Willis Unit Lease is \$96,600.00.

Enforcement also asserts that the respondent violated Statewide Rule 46, which requires that any person who engages in fluid injection operations first obtain, and follow the requirements of, a permit from the Commission. Specifically, Statewide Rule 46(g)(2) requires that the injection well be equipped with a pressure observation valve on the tubing and annulus. Inspection reports made on May 13, 2002, and June 7, 2002, indicate that there was no observation valve on the tubing or annulus of Well No. 201W. Additional inspection reports made on July 17, 2002, August 27, 2002, October 14, 2002, December 4, 2002, January 2, 2003, and March 3, 2003, indicate that Well No. 201W continued to not have an observation valve and that there was no observation valve for Well No. 1021W. Enforcement noted that these two violations of Statewide Rule 46(g)(2) are serious and a hazard to the public health and safety because the lack of observation valves prevents pressure readings to see if any leaks may be occurring in the casing.

Finally, Enforcement asserted that the respondent also violated Statewide Rule 46(j), which requires that a mechanical integrity test be performed on the subject injection well once every five years. Enforcement submitted Commission records which indicate that the most recent Form H-5 (Disposal/Injection Well Pressure Test Report) and/or Form H-15 (Test on an Inactive Well More than 25 Years Old) tests for Well Nos. 102W, 103W, 104W, 201W, and 1021W were conducted on February 16, 1986. Commission records also show that the February 16, 1986 tests failed, and that the certificate of compliance for the Willis Unit (05968) Lease was cancelled on April 24, 1989. Enforcement asserts that the respondent violated Statewide Rule 46(j) when it failed to perform these tests after it took over the subject lease by Form P-4 transfer, which was approved on February 13, 1998.

## **II. Respondent's Position & Evidence**

In the hearing, Chaparral acknowledged that it was the operator of the wells and further acknowledged that the wells had been inactive for quite some time. Respondent claimed, however, that it had remedied some of the violations, and that it was attempting to "get out of operations".

With regard to the assertions that it had remedied some of the violations, Chaparral stated that it had fixed the sign violation, and that it would replace the valves on the wells. According to Mr. Bruce Satterthwaite, on behalf of Chaparral, the wells were inactive and "...people steal the valves...", but that Chaparral would replace the valves to fix the violations. Respondent noted that it was "...not trying to create problems in this deal."

With regard to the severance stemming from the failed mechanical integrity tests, Chaparral stated that it felt the testing was an "all or nothing deal". Mr. Satterthwaite pointed out that one of the wells had a hole in the casing and that the severance applied to the lease as a whole. Until Chaparral either fixed the problem or subdivided the lease, there was no incentive to test Well Nos. 102W, 103W, 104W, 201W, 202W, 1021W and 1022W. Chaparral explained that it would either subdivide and transfer the subject wells or fix the violations by plugging the well(s).

Specifically, Chaparral stated that it was attempting to subdivide the subject lease and to transfer the subject wells to other operators. Mr. Satterthwaite noted that the subject wells were part of a larger package of wells that Chaparral had purchased and that it was gradually reducing the number of wells under its control. To this end, Chaparral pointed out that it started out with over 88 wells but had already reduced the number of wells to 17.

The respondent also argued that it made attempts to plug some of the subject wells, but that its contract pluggers had taken tubing from the wells and absconded. Nevertheless, Chaparral stated that it knew it had the duty to plug the wells, that it would follow through on its responsibilities, and that it had operated in the oil and gas business for over 20 years. It pointed out that, while the pleading was mailed out on July 24, 2003, it had filed a \$50,000 letter of credit as financial assurance on August 4, 2003, and that it was making efforts to get its affairs in order.

The respondent requested additional time to "get things in order" and to supply the Commission with additional evidence of the "corrected violations". Accordingly, the examiner kept the record open to allow the respondent to file late-filed exhibits, but no additional information was provided.

#### **EXAMINER'S OPINION**

While the respondent contests the violation of Statewide Rule 3, the overwhelming majority of the violations in this docket are undisputed. Even though Chaparral disputes that the violation of Statewide Rule 3 is ongoing, it does not deny that the sign was missing from Well No. 1021W on March 3, 2003. It is the responsibility of the respondent to ensure that the proper signs are posted at the well pursuant to Rule 3, and the violation was complete when Chaparral failed to have the signs posted. The correction of the violation could be a mitigating factor to consider, but the respondent failed to provide additional evidence that the signs had indeed been replaced.

Further, the respondent failed to present a meritorious defense to its violations of Statewide Rules 13, 14, and 46. It was admitted at the hearing that at least one of the wells had casing leaks. Accordingly, there was the possibility of pollution from the well. Nevertheless, the respondent failed to perform the proper integrity tests on the wells and failed to bring them into compliance with Statewide Rule 14 after it took over the Form P-4 over five and a half years earlier. It is uncontested that Well No. 103W was left open to the atmosphere in violation of Statewide Rule 13, and it was uncontested that the necessary valves were not present on the wells as required by Statewide Rule 46.

Finally, despite several representations made at the hearing that the respondent would transfer these wells or bring them into compliance with Commission rules, no additional evidence was submitted showing that any action was taken by Mr. Satterthwaite or Chaparral to remedy these violations. The respondent did not submit any evidence indicating a continuing good faith claim of a right to operate the subject wells, and there is no evidence in the record indicating that the respondent has taken any steps to plug the wells or otherwise bring them into compliance. Given the potential pollution hazards and the lengthy period of noncompliance, there does not seem to be much likelihood that the respondent will follow through with its plugging duties absent a Commission order directing it to do so.

Accordingly, the examiner recommends that Chaparral be ordered to plug the seven subject wells on the Willis Unit (05968) Lease and further recommends that Chaparral be required to pay an administrative penalty of \$27,250.00. Based on the record in this docket, the examiner also recommends adoption of the following Findings of Fact and Conclusions of Law:

#### **FINDINGS OF FACT**



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1. Respondent, Chaparral Operating, Inc. (“Chaparral” or “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. Bruce Satterthwaite, president of Chaparral, participated in the scheduled hearing and presented evidence on behalf of the respondent.
  2. The most recent approved P-5 for Chaparral was filed January 30, 2004. Chaparral posted a \$50,000 letter of credit as financial assurance at the time of its last renewal and listed Bruce Satterthwaite as its president, Tyler Satterthwaite as its vice-president, and Abby Satterthwaite as its secretary/treasurer. Chaparral’s Organization Report is currently active.
  3. Chaparral designated itself as the operator of the Willis Unit (05968) Lease (“subject lease”), Well Nos. 102W, 103W, 104W, 201W, 202W, 1021W, and 1022W, (“subject wells”), by means of a Form P-4 (Producer’s Transportation Authority and Certificate of Compliance), effective February 1, 1998, and approved February 13, 1998.
  4. The sign identifying Well No. 1021W on the subject lease has been missing since on or before March 3, 2003.
  5. 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.
  6. Well No. 103W has had casing open to the atmosphere, with no well head control assembly, since on or before May 13, 2002.
  7. Failure to maintain proper well head control is serious and a hazard to the public health and safety, as wells left uncontrolled or left open to the atmosphere may discharge oil and gas waste onto the surface or surface or subsurface waters, and may cause pollution.
  8. Commission inspection reports made on May 13, 2002, June 7, 2002, July 17, 2002, August 27, 2002, October 14, 2002, December 4, 2002, January 2, 2003, and March 3, 2003 show that the subject wells were shut in, inactive, and had not produced or injected for more than 12 months.
    - A. Commission records indicate that Well Nos. 102W, 104W, 201W, and 1021W, which are all freshwater secondary recovery injection wells, have not reported any injection activity since at least January 1, 1993.
    - B. Commission records indicate that Well Nos. 1022W and 202W, which are oil wells,

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have not reported any production activity since at least January 1, 1993.

- C. Commission records indicate that Well No. 103W, which is a saltwater injection well, has not reported any saltwater injection activity since at least January 1, 1993.
9. Usable quality groundwater in the area may be contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject wells. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
10. Well No. 201W on the subject lease has not been equipped with a pressure observation valve since at least May 13, 2002.
11. Well No. 1021W on the subject lease has not been equipped with a pressure observation valve since at least July 17, 2002.
12. Failure to maintain proper pressure observation valves is serious and a hazard to the public health and safety because the lack of observation valves prevents pressure readings to see if any leaks may be occurring in the casing.
13. Chaparral has failed to perform and pass the required Form H-5 (Disposal/Injection Well Pressure Test Report) mechanical integrity tests which are required once every five years.
- A. Commission records indicate that the most recent Form H-5 tests for Well Nos. 102W, 103W, 104W, 201W, and 1021W were conducted on February 16, 1986, and that these tests failed.
- B. Commission records indicate that the certificate of compliance for the Willis Unit (05968) Lease was cancelled on April 24, 1989.
14. Chaparral was required to perform and pass the Form H-5 (Disposal/Injection Well Pressure Test Report) mechanical integrity tests when it took over the subject lease by Form P-4 transfer, which was approved on February 13, 1998.
15. No workovers, re-entries, or subsequent operations occurred on any of the subject wells within the twelve months prior to the notice of hearing. The most recent plugging extensions for Well Nos. 102W, 103W, 104W, 202W, 1021W and 1022W expired on December 31, 2002.

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The most recent plugging extension for Well No. 201W expired on December 31, 2003.

16. Well Nos. 102W, 103W, 104W, 201W, 202W, 1021W and 1022W were not granted plugging extensions pursuant to its financial assurance because these wells failed to pass the proper H-5 (Disposal/Injection Well Pressure Test Report) and/or Form H-15 (Test on an Inactive Well More than 25 Years Old) tests.
17. The estimated cost to the State of Texas for plugging the subject wells on the Willis Unit Lease is \$96,600.00.
18. Chaparral has not demonstrated good faith since it failed to plug or otherwise place the subject wells in compliance with Commission rules after being notified of the violations by the district office.
19. 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 by the Railroad Commission to appropriate persons legally entitled to notice.
2. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties in this hearing have been performed or have occurred.
3. Chaparral Operating, Inc. is the operator of the Willis Unit (05968) Lease, Well Nos. 102W, 103W, 104W, 201W, 202W, 1021W, and 1022W, as defined by Commission Statewide Rule 14 and §89.002 of the Texas Natural Resources Code.
4. Chaparral has the primary responsibility for complying with Statewide Rules 3, 13, 14, and 46, and Chapter 89 of the Texas Natural Resources Code, as well as other applicable statutes and Commission rules relating to the subject wells on the Willis Unit (05968) Lease.
5. Well No. 1021W on the subject lease was out of compliance with Statewide Rule 3 on March 3, 2003.
6. Well No. 103W on the subject lease has been out of compliance with Statewide Rule 13 since

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at least May 13, 2002.

7. Well Nos. 102W, 103W, 104W, 202W, 1021W, and 1022W on the Willis Unit (05968) Lease are not properly plugged and have been out of compliance with Statewide Rule 14 since the respondent's plugging extension for these wells expired on December 31, 2002. Well No. 201W is not properly plugged and has been out of compliance with Statewide Rule 14 since the respondent's plugging extension for this well expired on December 31, 2003.
8. Well No. 201W on the subject lease has been out of compliance with Statewide Rule 46(g)(2) since at least May 13, 2002.
9. Well No. 1021W on the subject lease has been out of compliance with Statewide Rule 46(g)(2) since at least July 17, 2002.
10. Well Nos. 102W, 103W, 104W, 201W, and 1021W on the subject lease have been out of compliance with Statewide Rule 46(j) since at least February 13, 1998.
11. The documented violations committed by Chaparral 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, Chaparral Operating, Inc., within 30 days from the date this order becomes final, to plug Well Nos. 102W, 103W, 104W, 201W, 202W, 1021W, and 1022W on the Willis Unit (05968) Lease in accordance with the requirements of Statewide Rule 14. It is my further recommendation that the operator, Chaparral Operating, Inc., be ordered to pay an administrative penalty of \$27,250.00, consisting of \$250 for one violation of Statewide Rule 3, \$1,000 for one violation of Statewide Rule 13, \$14,000 for seven violations of Statewide Rule 14, \$10,000 for five violations of Statewide Rule 46(j), and \$2,000 for two violations of Statewide Rule 46(g)(2).

Respectfully submitted,

Scott Petry

Hearings Examiner