



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

PROPOSAL FOR DECISION

OIL AND GAS DOCKET No. 03-0293997

**ENFORCEMENT ACTION AGAINST ANATEXAS OFFSHORE, INC.
(OPERATOR NO. 020599) FOR VIOLATIONS OF STATEWIDE RULES ON
THE VICK (25909) LEASE, WELL NO. 1, GIDDINGS (AUSTIN CHALK-3)
FIELD, LEE COUNTY, TEXAS**

APPEARANCES

FOR THE RAILROAD COMMISSION OF TEXAS:

Reese Copeland, Staff Attorney, Enforcement Section
Becky Tate, Legal Assistant, Enforcement Section
Mysti Doshier, Manager, P-5 Financial Assurance Unit
Olin MacNamara, Geoscientist, Field Operations

FOR ANATEXAS OFFSHORE, INC.:

Glenn Clinton Wainwright, Jr., President

PROCEDURAL HISTORY:

Notice of Hearing:	August 25, 2015
Second Notice of Hearing:	January 21, 2016
Hearing on the Merits:	February 25, 2016
Proposal for Decision Issued:	August 12, 2016
Heard by:	Randall D. Collins, Administrative Law Judge
Prepared by:	Ryan M. Lammert, Administrative Law Judge

SUMMARY

In Docket No. 03-0293997, the Enforcement Section of the Office of General Counsel (“Enforcement”) alleges that AnaTexas Offshore, Inc. (Operator No. 020599), (“AnaTexas”), failed to timely plug, or obtain an extension of the plugging deadline for, the Vick (25909) Lease, Well No. 1, Giddings (Austin Chalk-3) Field, Lee County, Texas (“Well”), in violation of 16 TEX. ADMIN. CODE § 3.14(b)(2) (“SWR 14(b)(2)”). At the time of hearing, Enforcement asserted that the Well had been inactive for a period greater than one (1) year, without workover, re-entry, or subsequent operations within that same period.

AnaTexas appeared at hearing, but failed to present evidence sufficient to demonstrate that it was not in violation of Commission Rules as alleged by Enforcement. However, AnaTexas successfully demonstrated that it had no assets with which to properly plug the Well. To that end, Enforcement requested that the hearing be held in abeyance in order to pursue non-operating, working interest owners for costs associated with plugging the Well, in accordance with authority granted in TEX. NAT. RES. CODE ANN. § 89.042.

The presiding Administrative Law Judge held the hearing in abeyance for a period of 120 days so that service could be made on non-operating, working interest owners of the Well; however, Enforcement was unable to obtain service on same.

The record evidence supports all violations as alleged by Enforcement. Enforcement seeks an administrative penalty of \$8,700.00 and requests that the Well to be brought into compliance with all Commission Statewide Rules.

APPLICABLE AUTHORITY

SWR 14(b)(2), titled *Commencement of plugging operations, extensions, and testing*, requires that:¹

Plugging operations on each dry or inactive well shall be commenced within a period of one year after drilling or operations cease and shall proceed with due diligence until completed unless the Commission or its delegate approves a plugging extension under §3.15 of this title (relating to Surface Equipment Removal Requirements and Inactive Wells).

Statewide Rule 14(c), titled *Designated operator responsible for proper plugging*, states that:²

The entity designated as the operator of a well specifically identified on the most recent Commission-approved operator designation form filed on or after September 1, 1997, is responsible for properly plugging the well in

¹ 16 TEX. ADMIN. CODE § 3.14(b)(2).

² 16 TEX. ADMIN. CODE § 3.14(c)(1).

accordance with this section and all other applicable Commission rules and regulations concerning plugging of wells.

EVIDENCE PRESENTED

This Docket pertains to AnaTexas' alleged failure to timely plug, or obtain an extension of plugging the Well, in violation of SWR 14(b)(2).

ENFORCEMENT'S CASE

Effective March 23, 2010, AnaTexas designated itself as the operator of record for the Well by filing with the Commission a Form P-4 *Certificate of Compliance and Transportation Authority*.³ District Office field inspections conducted August 19, 2014, and September 24, 2014, indicated that the Well has been inactive for a period of time greater than one (1) year.⁴ Additionally, AnaTexas has not reported production from the Well since December 2009, and evidence of workovers, re-entry, or subsequent operations at the Well was not documented within the 12 months preceding the date of hearing.⁵

In support of its desire to also pursue non-operating working interest owners—as authorized by TEX. NAT. RES. CODE § 89.042(b), titled *Commission Order to Plug—Enforcement* presented a series of Exhibits offered for the purposes to demonstrate: 1) that AnaTexas does not have funds sufficient to properly plug the Well; 2) that AnaTexas is the contract operator for the Well; and 3) the identities of non-operating working interest owners for whom the Commission may order the Well plugged.⁶ After Enforcement presented its direct case, it requested that the hearing be held in abeyance to pursue service on the non-operating working interest owners.⁷ The hearing was held in abeyance for a period of four (4) months. On June 22, 2016, Enforcement filed with the Hearings Division a letter stating that, “Resources do not exist to obtain personal service on the members of the investment groups” and, “therefore, Enforcement Staff does not intend to pursue service for the investor groups alleged to be involved.”⁸

ANATEXAS' CASE

Glenn Clinton Wainwright, Jr., President, appeared at the hearing on behalf of AnaTexas, but did not present a direct case. AnaTexas' appearance at the hearing was solely limited to testifying as a fact witness on behalf of Enforcement.

³ Enforcement Ex. 1.

⁴ *Id.*

⁵ *Id.*

⁶ Enforcement Exs. 2, 3, 4, 5, and 6.

⁷ Tr. at 47:47.

⁸ Enforcement Ex. 1.

Thus, AnaTexas failed to provide evidence, or otherwise articulate a legal basis, to contradict proof that it is responsible for a violation of Statewide Rule 14(b)(2).

ADMINISTRATIVE LAW JUDGE'S OPINION

Again, SWR 14(b)(2) requires that:⁹

Plugging operations on each dry or inactive well shall be commenced within a period of one year after drilling or operations cease and shall proceed with due diligence until completed unless the Commission or its delegate approves a plugging extension under §3.15 of this title (relating to Surface Equipment Removal Requirements and Inactive Wells).

Statewide Rule 14(c), states that:¹⁰

The entity designated as the operator of a well specifically identified on the most recent Commission-approved operator designation form filed on or after September 1, 1997, is responsible for properly plugging the well in accordance with this section and all other applicable Commission rules and regulations concerning plugging of wells.

The rule leaves little room for doubt that plugging operations on the Well must have commenced within a period of one year after September 24, 2014 (at the latest) and proceeded with due diligence until completed. The evidence of record clearly indicates that AnaTexas failed to meet the obligation placed upon it by SWR 14.

AnaTexas offered no evidence to contradict proof that it is responsible for a violation of Statewide Rule 14(b)(2). Without evidence to the contrary, the record in this case consists of undisputed evidence that AnaTexas committed the violation as alleged.

CONCLUSION

The Administrative Law Judge agrees with Enforcement that AnaTexas Offshore, Inc. has violated Statewide Rule 14(b)(2) and makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. AnaTexas Offshore, Inc. (Operator Number 020599) was given at least ten (10) days notice of this hearing by certified mail sent to its most recent Form P-5 address.
2. AnaTexas Offshore, Inc. appeared at the hearing through Glenn Clinton Wainwright, Jr., President.

⁹ 16 TEX. ADMIN. CODE § 3.14(b)(2).

¹⁰ 16 TEX. ADMIN. CODE § 3.14(c)(1).

3. As established by AnaTexas Offshore, Inc.'s most recent P-5 organization report, AnaTexas Offshore, Inc. is a corporation with Glenn Clinton Wainwright, Jr., as President, and Robin C. Wainwright, as Vice President.
3. The violation in this docket is a violation of Commission rules related to safety and the prevention or control of pollution.
4. Effective March 23, 2010, AnaTexas Offshore, Inc. designated itself as the record operator of the Vick (25909) Lease, Well No. 1, Giddings (Austin Chalk-3) Field, located in Lee County, Texas.
5. District Office field inspections conducted August 19, 2014, and September 24, 2014, indicated that the Vick (25909) Lease, Well No. 1, Giddings (Austin Chalk-3) Field, Lee County, Texas, has been inactive for a period of time greater than one (1) year.
6. The Vick (25909) Lease, Well No. 1, Giddings (Austin Chalk-3) Field, Lee County, Texas, has had no reported production since December 2009.
7. Evidence of workovers, re-entry, or subsequent operations at the Vick (25909) Lease, Well No. 1, Giddings (Austin Chalk-3) Field, Lee County, Texas, were not documented within the 12 months preceding the date of hearing.
8. The Vick (25909) Lease, Well No. 1, Giddings (Austin Chalk-3) Field, Lee County, Texas, has not been plugged, as required by 16 TEX. ADMIN. CODE § 3.14(b)(2).
9. The Vick (25909) Lease, Well No. 1, Giddings (Austin Chalk-3) Field, Lee County, Texas, does not have an approved plugging extension, as provided for in 16 TEX. ADMIN. CODE § 3.15.
10. AnaTexas Offshore, Inc.'s violation of 16 TEX. ADMIN. CODE § 3.14(b)(2) is serious and a hazard to the public health and safety because an unplugged wellbore is likely to cause pollution of usable quality ground water and surface water, as defined in 16 TEX. ADMIN. CODE § 3.8(a)(28), and 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.
9. AnaTexas Offshore, Inc. has no prior history of violations of Commission rules.
10. For purposes of TEX. NAT. RES. CODE § 91.114, at all times relevant hereto Glenn Clinton Wainwright, Jr., as President, and Robin C. Wainwright, as Vice President, were persons who held a position of ownership or control in AnaTexas Offshore, Inc.
11. AnaTexas Offshore, Inc. acted in bad faith because it failed to correct a Commission rule violation on the subject lease and failed adequately to explain its inaction to the Commission.

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. By failing to timely plug the Vick (25909) Lease, Well No. 1, Giddings (Austin Chalk-3) Field, Lee County, Texas, AnaTexas Offshore, Inc. violated 16 TEX. ADMIN. CODE § 3.14(b)(2).
4. The documented violation committed by AnaTexas Offshore, Inc. constitutes an act deemed serious and a hazard to the public health and safety within the meaning of Texas Natural Resources Code §81.0531.
5. AnaTexas Offshore, Inc. did not demonstrate good faith within the meaning of Texas Natural Resources Code §81.0531.

RECOMMENDATIONS

The Administrative Law Judge recommends that the above Findings of Fact and Conclusions of Law be adopted and that AnaTexas Offshore, Inc. be assessed an administrative penalty of \$8,700.00, composed of one Rule 14(b)(2) violation, for one (1) violation of Statewide Rule 14(b)(2) on the Vick (25909) Lease, Well No. 1, Giddings (Austin Chalk-3) Field, Lee County, Texas.

The Administrative Law Judge also recommends that AnaTexas Offshore, Inc. be directed to plug the Vick (25909) Lease, Well No. 1, Giddings (Austin Chalk-3) Field, Lee County, Texas.

The Administrative Law Judge also recommends that Glenn Clinton Wainwright, Jr., as President, and Robin C. Wainwright, as Vice President, of AnaTexas Offshore, Inc., be made subject to the restrictions of TEX. NAT. RES. CODE § 91.114.

RESPECTFULLY SUBMITTED,



RYAN M. LAMMERT
Administrative Law Judge