



# RAILROAD COMMISSION OF TEXAS

## HEARINGS DIVISION

### PROPOSAL FOR DECISION

OIL AND GAS DOCKET NO. 03-0303277

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COMMISSION-CALLED HEARING TO PROVIDE RWJ OPERATING LLC AN OPPORTUNITY TO SHOW CAUSE WHY THE PLUGGING EXTENSION FOR THE PHOENIX DEVELOPMENT CO. (05451) LEASE, WELL NO. 1, MARTHA FIELD, LIBERTY COUNTY, TEXAS, SHOULD NOT BE CANCELLED FOR ALLEGED VIOLATIONS OF STATEWIDE RULE 14

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### APPEARANCES

#### FOR THE RAILROAD COMMISSION OF TEXAS:

David Cooney, Director, Enforcement Section  
Becky Tate, Legal Assistant, Enforcement Section

#### FOR RWJ OPERATING LLC:

Did not appear at hearing

#### PROCEDURAL HISTORY:

Notice of Hearing:	March 28, 2017
Hearing on the Merits:	May 5, 2017
Record Closed:	May 5, 2017
Proposal for Decision Issued:	May 12, 2017
Heard by:	Ryan M. Lammert, Administrative Law Judge Richard Eyster, P.G., Technical Examiner

### SUMMARY

In Docket No. 03-0303277, the Enforcement Section of the Office of General Counsel, appearing on behalf of staff, (“Staff”) alleges that RWJ Operating LLC (Operator No. 739805), (“RWJ”), failed to timely plug, or obtain an extension of the plugging deadline for, the Phoenix Development Co. (05451) Lease, Well No. 1, Martha Field, Liberty County, Texas (the “Well”), in violation of 16 TEX. ADMIN. CODE § 3.14(b)(2) (“SWR 14”).

RWJ requested a hearing on the merits on January 19, 2017. Subsequently, on March 28, 2017, Notice of Hearing was issued to all necessary parties. A hearing on the merits was conducted on May 5, 2017, but RWJ failed to appear at the hearing.

Staff requests that the plugging extension for Well be cancelled and the Well ordered plugged. The record evidence supports the relief requested by Staff. The Administrative Law Judge and Technical Examiner (the “Examiners”) recommend that the plugging extension for the Well be cancelled and that the Well be ordered plugged.

### APPLICABLE AUTHORITY

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

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:<sup>2</sup>

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.

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<sup>1</sup> 16 TEX. ADMIN. CODE § 3.14(b)(2).

<sup>2</sup> 16 TEX. ADMIN. CODE § 3.14(c)(1).

## EVIDENCE PRESENTED

### STAFF

At hearing, Staff requested that the Examiners take Official Notice of Commission records relating to RWJ and the Well.

Relevant Commissions records demonstrate the following:

1. Effective March 1, 2014, RWJ was designated operator of record for the subject lease and Well;<sup>3</sup>
2. A Mechanical Integrity Test for the Well was last approved by the Commission on May 29, 2014;<sup>4</sup>
3. RWJ was required to perform another Mechanical Integrity Test on the Well no later than July 30, 2015;<sup>5</sup>
4. RWJ is delinquent in conducting the required Mechanical Integrity Texas on the Well;<sup>6</sup>
5. RWJ has not reported to the Commission production from (or injection into) the Phoenix Development Co. (05451) Lease, Well No. 1, Martha Field, Liberty County, Texas, since March 1, 2014;<sup>7</sup> and
6. RWJ has a delinquent Form P-5 *Organization Report*.<sup>8</sup>

### RWJ

RWJ did not appear at hearing.

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<sup>3</sup> Form P-4 *Certificate of Compliance and Transportation Authority* for the Phoenix Development Co. (05451) Lease, Well No. 1, Martha Field, Liberty County, Texas, dated effective March 1, 2014, and approved on May 7, 2014.

<sup>4</sup> Railroad Commission of Texas Mainframe Database System, UIC Permit Summary Screen.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Railroad Commission of Texas Production Data Query System (Statewide).

<sup>8</sup> Railroad Commission of Texas Mainframe Database System, Operator Organization Report Summary Screen.

## ADMINISTRATIVE LAW JUDGE'S OPINION

SWR 14(b)(2) requires that:<sup>9</sup>

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:<sup>10</sup>

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 March 1, 2014 (at the latest) and proceeded with due diligence until completed. The evidence of record clearly indicates that RWJ failed to meet the obligation placed upon it by SWR 14.

RWJ 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 RWJ committed the violation as alleged.

### CONCLUSION

The Examiners recommend that the plugging extension for the Well be cancelled and that the Well be ordered plugged. Accordingly, the Examiners make the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. RWJ Operating LLC (Operator No. 739805) was given at least ten (10) days' notice of this hearing by certified mail sent to its most recent Form P-5 address.
2. RWJ Operating LLC did not appear at the hearing on the merits conducted on May 5, 2017.

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<sup>9</sup> 16 TEX. ADMIN. CODE § 3.14(b)(2).

<sup>10</sup> 16 TEX. ADMIN. CODE § 3.14(c)(1).

3. RWJ became the current Form P-4 *Certificate of Compliance and Transportation Authority* operator of record for the Phoenix Development Co. (05451) Lease, Well No. 1, Martha Field, Liberty County, Texas, by filing a Form P-4 dated effective March 1, 2014.
4. The Phoenix Development Co. (05451) Lease, Well No. 1, Martha Field, Liberty County, Texas, has not reported production since at least January 2010.
5. A “good faith claim” is defined in Commission Statewide Rule 15(a)(5) as “a factually supported claim based on a recognized legal theory to a continuing possessory right in the mineral estate, such as evidence of a currently valid oil and gas lease or a recorded deed conveying a fee interest in the mineral estate.” [16 TEX. ADMIN. CODE § 3.15(a)(5)].
6. RWJ did not present a “good faith claim” to operate the captioned lease and did not respond to a January 18, 2017, Commission letter requesting that it either provide a “good faith claim” to operate the subject lease, or appear at the hearing on the merits.
7. Absent a “good faith claim” to operate, the subject well is not eligible for an extension to the plugging requirements of Statewide Rule 15(e)(3).
8. Absent eligibility for an extension to the plugging requirements of Statewide Rule 15(e)(3), the plugging extension for the subject well should be cancelled pursuant to Statewide Rule 15(h).
9. The Phoenix Development Co. (05451) Lease, Well No. 1, Martha Field, Liberty County, Texas, should be ordered plugged.

#### CONCLUSIONS OF LAW

1. Proper notice of an opportunity for a hearing was timely issued to appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. RWJ does not have a “good faith claim” to operate the Phoenix Development Co. (05451) Lease, Well No. 1, Martha Field, Liberty County, Texas.
4. The Phoenix Development Co. (05451) Lease, Well No. 1, Martha Field, Liberty County, Texas, is not eligible for an extension to the plugging requirements of Statewide Rule 15(e)(3).

5. The plugging extension for the Phoenix Development Co. (05451) Lease, Well No. 1, Martha Field, Liberty County, Texas, should be cancelled pursuant to Statewide Rule 15(h).
6. The Phoenix Development Co. (05451) Lease, Well No. 1, Martha Field, Liberty County, Texas, should be ordered plugged pursuant to the requirements of Statewide Rule 14(b)(2).

**RECOMMENDATIONS**

The Administrative Law Judge recommends that the above Findings of Fact and Conclusions of Law be adopted and that the plugging extension for the Phoenix Development Co. (05451) Lease, Well No. 1, Martha Field, Liberty County, Texas, be cancelled.

The Administrative Law Judge also recommends that RWJ be directed to plug the Phoenix Development Co. (05451) Lease, Well No. 1, Martha Field, Liberty County, Texas.

RESPECTFULLY SUBMITTED,



RYAN M. LAMMERT  
Administrative Law Judge



RICHARD EYSTER, P.G.  
Technical Examiner