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RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

OIL & GAS DOCKET NO. 20-0307020

**APPLICATION OF TAHITI PARTNERS ENERGY SOLUTIONS CORPORATION
(OPERATOR NO. 834487) FOR UNRESTRICTED RENEWAL OF ITS P-5 AND TO
CONTEST THE STAFF DETERMINATION THAT ITS FORM P-5 CANNOT BE
RENEWED DUE TO NON-COMPLIANCE WITH THE INACTIVE WELL
REQUIREMENTS OF STATEWIDE RULE 15**

PROPOSAL FOR DECISION

HEARD BY:

Kristi M. Reeve – Administrative Law Judge
Peggy Laird, P.G. – Technical Examiner

PROCEDURAL HISTORY:

Hearing Request Date:	September 27, 2017
Notice of Hearing Date:	December 4, 2017
Hearing on the Merits Date:	January 8, 2018
Transcript Received:	January 9, 2018
Record Close Date:	February 23, 2018
Proposal for Decision Issued:	April 3, 2018

APPEARANCES:

For Staff:

Jessica Mendoza, Staff Attorney, Enforcement Section
Mysti Doshier, Manager, P-5 Financial Assurance Unit

For Applicant Tahiti Partners Energy Solutions Corporation:

Geoffrey S. Payne, CFO

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I. Statement of the Case

Tahiti Partners Energy Solutions Corporation ("Tahiti"), Operator No. 834487, challenges the Railroad Commission ("Commission" or "RRC's") staff's ("Staff's") determination that renewal of its Commission Form P-5 *Organization Report* cannot be approved due to Tahiti's failure to comply with the Commission's inactive well requirements of Statewide Rule 15.¹

At the hearing the parties stipulate that Tahiti was not in compliance with the inactive well requirements as to approximately thirty (30) wells. Tahiti did not achieve compliance as of the close of record, February 23, 2018.

The Administrative Law Judge and Technical Examiner (collectively "Examiners") respectfully submit this Proposal for Decision ("PFD") and recommend the Commission deny Tahiti's request to allow renewal of Tahiti's organization report and order Tahiti to bring the non-compliant wells into compliance with inactive well requirements.

II. Jurisdiction and Notice²

Sections 81.051 and 81.052 of the Texas Natural Resources Code provide the Commission with jurisdiction over all persons owning or engaged in drilling or operating oil or gas wells in Texas and the authority to adopt all necessary rules for governing and regulating persons and their operations under the jurisdiction of the Commission. Additionally, section 89.022 of the Texas Natural Resources Code specifically requires operators to comply with Commission inactive well rules and prevents the Commission from renewing an operator's organization report if that operator is out of compliance.

Prior to the Commission issuing an order refusing to renew an operator's organization report, Staff must first determine that the operator has failed to comply with the inactive well requirements, and Staff must:

- (1) notify the operator of the determination;
- (2) provide the operator with a written statement of the reasons the organization report does not qualify for renewal; and
- (3) notify the operator that the operator has 90 days to comply with the requirements of this subchapter.³

In a letter to Tahiti dated June 6, 2017, Staff notified Tahiti that Staff had determined renewal of Tahiti's Commission Form P-5 *Organization Report* ("P-5") should be denied because Tahiti was non-compliant with inactive well requirements; Staff also provided the

¹ 16 TEX. ADMIN. CODE §3.15

² The hearing transcript in this case is referred to as "Tr. at [pages:lines]." Staff's exhibits are referred to as "Staff Ex. [exhibit no(s)]."

³ TEX. NAT. RES. CODE § 89.022(d); see also 16 TEX. ADMIN. CODE § 3.15(g)(3).

reasons for the determination.⁴ This letter also provided Tahiti 90 days to comply with the inactive well requirements.⁵

After the expiration of the 90 days, the Natural Resources Code requires the following additional notification:

[T]he authorized commission employee or designated person shall determine whether the organization report qualifies for renewal and notify the operator of the determination. If the authorized commission employee or designated person determines that the organization report does not qualify for renewal because the operator has continued to fail to comply with the requirements of this subchapter, the operator, not later than the 30th day after the date of the determination, may request a hearing regarding the determination.⁶

After the expiration of the 90 days provided in Staff's June 6, 2017 letter, in a letter dated September 5, 2017, Staff again notified Tahiti that Staff had determined renewal of Tahiti's P-5 should be denied because Tahiti was non-compliant with inactive well requirements; Staff again provided the reasons for the determination.⁷ The September 5, 2017 letter provides Tahiti 30 days to request a hearing regarding this determination. In a letter filed September 27, 2017, Tahiti requested a hearing. This case followed.

On December 4, 2017, the Commission's Hearings Division issued a Notice of Hearing for this case setting it for hearing on January 8, 2018.⁸ The Notice of Hearing was sent to Staff and Tahiti. Both Staff and Tahiti appeared at the hearing.

III. Applicable Legal Authority

The Texas Natural Resource Code requires operators to comply with inactive well statutes and rules; if an operator is not in compliance, the Natural Resources Code mandates that the Commission refuse to renew a non-compliant operator's organization report.

Section 89.022 requires operators to plug inactive wells or obtain plugging extensions in compliance with Commission rules and statutes. Otherwise, the Commission must refuse to renew an operator's organization report, which is required for the operator to engage in operations within the Commission's jurisdiction such as drilling or operating oil and gas wells in Texas.⁹ Section 89.022 of the Texas Natural Resource Code specifically provides:

⁴ Staff Ex. 2.

⁵ *Id.*

⁶ TEX. NAT. RES. CODE § 89.022(e); see also 16 TEX. ADMIN. CODE § 3.15(g)(4).

⁷ Staff Ex. 3.

⁸ See Notice of Hearing (issued December 4, 2017).

⁹ See 16 TEX. ADMIN. CODE § 3.1(a)(1).

PLUGGING OF INACTIVE WELLS REQUIRED.

- (a) Except as provided by Section 89.023, on or before the date the operator is required to renew the operator's organization report required by Section 91.142, an operator of an inactive well must plug the well in accordance with statutes and commission rules in effect at the time of plugging. . . .
- (c) The commission may not renew or approve the organization report . . . for an operator that fails to comply with the requirements of this subchapter. . . .
- (f) If the commission determines following the hearing that the operator has failed to comply with the requirements of this subchapter or the operator fails to file a timely request for a hearing, the commission by order shall refuse to renew the organization report. The organization report remains in effect until the commission's order becomes final.¹⁰

The applicable Commission rule in this case is Statewide Rule 15 (or "Rule 15"), which provides inactive well requirements.¹¹ Statewide Rule 15(d) states:

(d) Plugging of inactive land wells required.

- (1) An operator that assumes responsibility for the physical operation and control of an existing inactive land well must maintain the well and all associated facilities in compliance with all applicable Commission rules and orders and within six months after the date the Commission or its delegate approves an operator designation form must either:
 - (A) restore the well to active status as defined by Commission rule;
 - (B) plug the well in compliance with a Commission rule or order;
or
 - (C) obtain approval of the Commission or its delegate of an extension of the deadline for plugging an inactive well.¹²

For Tahiti to show compliance with inactive well requirements, Tahiti must show that it is in compliance with Statewide Rule 15 such that all inactive wells have either been

¹⁰ See also 16 TEX. ADMIN. CODE § 3.15(d).

¹¹ Statewide Rule 15 refers to 16 TEX. ADMIN. CODE § 3.15.

¹² 16 TEX. ADMIN. CODE § 3.15(d).

restored to active status, plugged or subject to approved plugging extensions. Otherwise, the Commission must refuse to renew Tahiti's P-5.

IV. Discussion of Evidence

At the beginning of the hearing, Tahiti and Staff stipulated in agreement that approximately thirty (30) of Tahiti's wells are inactive and not in compliance with the inactive well requirements.¹³ Staff's exhibits show twenty-nine (29) wells to be noncompliant.¹⁴

Without objection, Staff submitted the following four exhibits documenting pertinent facts regarding the case:¹⁵

1. A general timeline of events and statements of information regarding the status and dates of correspondence relating to Tahiti's inactive wells;¹⁶
2. Letter dated June 6, 2017, with attachments from Staff to Tahiti providing initial notice to Tahiti of the determination to not renew Tahiti's P-5 and providing 90 days to achieve compliance;¹⁷
3. Letter dated September 5, 2017 with attachments from Staff to Tahiti providing second notice to Tahiti of the determination to not renew Tahiti's P-5 and providing 30 days to request a hearing;¹⁸ and
4. Identifying information about the noncompliant wells, including what is required to gain compliance.¹⁹

The Examiners explained that as Tahiti has stipulated to the violations, nothing other than a recommendation that includes noncompliance with Statewide Rule 15 can be made.²⁰

On February 9, 2018, the Examiners requested the parties provide a compliance update.

On February 13, 2018, Staff filed its update, stating that a Commission District inspection confirmed the removal of surface equipment from the well requiring such, however, a Form W3-C *Certification of Surface Equipment Removal for an Inactive Well*

¹³ Tr. at 9:17 to 10:3 and Tr. at 11:17 to 11:22

¹⁴ Staff Ex. 1 and 4

¹⁵ Tr. at 14:1 to 14:10.

¹⁶ Staff Ex. 1.

¹⁷ Staff Ex. 2.

¹⁸ Staff Ex. 3.

¹⁹ Staff Ex. 4.

²⁰ Tr. at 12:23 to 13:9.

certifying the removal of the surface equipment had not been filed. Staff stated that Tahiti remained noncompliant on twenty-nine (29) wells, as shown in the following table.

Lease Name	District No.	Lease No.	Well No.
WARD-HILLMAN UNIT	03	14589	1
MATZIG, OTTO	01	09053	1
HENDERSON, JOHN -A-	01	09580	3A
HENDERSON, JOHN -A-	01	09580	2A
BATTE, R.L.	01	09384	1
BATTE, R.L.	01	09384	2
HENDERSON -B- (MPM)	01	10163	1
HENDERSON -B- (MPM)	01	10163	5
HENDERSON -B- (MPM)	01	10163	4
HENDERSON -B-	01	10197	1
HENDERSON -B-	01	10197	5
HENDERSON -B-	01	10197	9
HENDERSON -B-	01	10197	8
HENDERSON -B-	01	10197	7
HENDERSON -B-	01	10197	6
HENDERSON -A-2-	01	10722	4
HENDERSON -A-2-	01	10722	5
HENDERSON -B-	01	10197	16
HENDERSON -A-2-	01	10722	11
HENDERSON -A-2-	01	10722	6
HENDERSON -A-2-	01	10722	14
HENDERSON, JOHN ETAL	01	01203	1
HENDERSON, JOHN ETAL	01	01203	2
HENDERSON, JOHN ETAL	01	01203	3
HENDERSON, JOHN ETAL	01	01203	6
HENDERSON, JOHN ETAL	01	01203	8
KEYSTONE MILLS CO.	03	15711	1 W
KEYSTONE MILLS CO.	03	075213	2 W
KEYSTONE MILLS	03	095913	3 W

On February 23, 2018, Tahiti filed its response, stating: that three wells had been brought back on-line; various well testing had been performed; surface equipment was removed and a Form W-3C filed concurrently with its response to the Examiners; all outstanding fees/penalties had been paid; and Forms W-3X *Application for an Extension of Deadline for Plugging an Inactive Well* had been submitted and were expected to be approved.

On March 20, 2018, the Examiners took official notice of Commission records regarding Statewide Rule 15 compliance which show Tahiti to still be lacking approved Forms W-3X on the twenty-nine (29) wells.

V. Examiners' Analysis

The Examiners recommend that Tahiti's request for renewal of its organization report be denied and that Tahiti be ordered to comply with inactive well rules. The parties do not dispute the facts in this case or that Tahiti is not in compliance with inactive well rules.

Section 89.022 of the Texas Natural Resources Code requires an operator of an inactive well to comply with the inactive well requirements before the time of renewal of the operator's P-5.²¹ If the operator fails to achieve compliance before the renewal date, the Commission is required to refuse to renew the operator's P-5.²²

The definition of an inactive well is:

An unplugged well that has been spudded or has been equipped with cemented casing and that has had no reported production, disposal, injection, or other permitted activity for a period of greater than 12 months.²³

The parties stipulate that the Wells are non-compliant with the inactive well requirements.²⁴

Statewide Rule 15 requires inactive wells to either (1) be plugged, (2) be put back into production or (3) be subject to plugging extensions.²⁵ The parties stipulate the Well is not in compliance with inactive well requirements, i.e. it is not plugged or subject to plugging extensions.

Pursuant to section 89.022 of the Texas Natural Resources Code, the Commission cannot renew Tahiti's organization report because Tahiti is non-compliant with Commission inactive well rules. For these reasons, the Examiners conclude that Tahiti's request for renewal of its P-5 should be denied and Tahiti should be ordered to place the Well in compliance with Statewide Rule 15.

VI. Recommendation, Proposed Findings of Fact and Proposed Conclusions of Law

Based on the record in this case and evidence presented, the Examiners recommend that Tahiti's request for renewal be denied, that Tahiti be ordered to comply with Statewide Rule 15, and that the Commission adopt the following findings of fact and conclusions of law.

²¹ See TEX. NAT. RES. CODE § 89.022(a).

²² See TEX. NAT. RES. CODE § 89.022(c) and (d).

²³ 16 TEX. ADMIN. CODE § 3.15(a)(6).

²⁴ Tr. at 9:17 to 10:3 and Tr. at 11:17 to 11:22

²⁵ 16 TEX. ADMIN. CODE § 3.15(d).

Findings of Fact

1. Tahiti Partners Energy Solutions Corporation (“Tahiti”), Commission Operator No. 834487, is the current operator of the following wells at issue (“Wells”):
 1. Ward-Hillman Unit (14589) Lease, Well No. 1
 2. Matzig, Otto (09053) Lease, Well No. 1
 3. Henderson, John -A- (09580) Lease, Well No. 3A
 4. Henderson, John -A- (09580) Lease, Well No. 2A
 5. Batte, R.L. (09384) Lease, Well No. 1
 6. Batte, R.L. (09384) Lease, Well No. 2
 7. Henderson -B- (MPM) (10163) Lease, Well No. 1
 8. Henderson -B- (MPM) (10163) Lease, Well No. 5
 9. Henderson -B- (MPM) (10163) Lease, Well No. 4
 10. Henderson -B- (10197) Lease, Well No. 1
 11. Henderson -B- (10197) Lease, Well No. 5
 12. Henderson -B- (10197) Lease, Well No. 9
 13. Henderson -B- (10197) Lease, Well No. 8
 14. Henderson -B- (10197) Lease, Well No. 7
 15. Henderson -B- (10197) Lease, Well No. 6
 16. Henderson -A-2- (10722) Lease, Well No. 4
 17. Henderson -A-2- (10722) Lease, Well No. 5
 18. Henderson -A-2- (10722) Lease, Well No. 11
 19. Henderson -A-2- (10722) Lease, Well No. 6
 20. Henderson -A-2- (10722) Lease, Well No. 14
 21. Henderson -B- (10197) Lease, Well No. 16
 22. Henderson, John Etal (01203) Lease, Well No. 1
 23. Henderson, John Etal (01203) Lease, Well No. 2
 24. Henderson, John Etal (01203) Lease, Well No. 3
 25. Henderson, John Etal (01203) Lease, Well No. 6
 26. Henderson, John Etal (01203) Lease, Well No. 8
 27. Keystone Mills Co. (15711) Lease, Well No. 1W
 28. Keystone Mills Co. (075213) Lease, Well No. 2W
 29. Keystone Mills (095913) Lease, Well No. 3W
2. In a letter to Tahiti dated June 6, 2017, Staff notified Tahiti that Staff had determined renewal of Tahiti’s Commission Form P-5 *Organization Report* (“P-5”) should be denied because Tahiti was not compliant with the inactive well requirements; Staff also provided the reasons for the determination. This letter also provided Tahiti 90 days to comply with the inactive well requirements.
3. In a letter dated September 5, 2017, Staff again notified Tahiti that Staff had determined renewal of Tahiti’s P-5 should be denied because Tahiti was non-compliant with the inactive well requirements; Staff again provided the reasons for the determination. The September 5, 2017 letter provides Tahiti 30 days to request

a hearing regarding this determination.

4. In a letter filed and dated September 27, 2017, Tahiti requested a hearing.
5. As the parties stipulated, the twenty-nine (29) Wells had no reported production, disposal, injection, or other permitted activity for a period of greater than 12 months. The Wells meet the definition of inactive wells.
6. The Wells are not plugged, have not been placed back into active status and do not have plugging extensions.
7. The Wells are not in compliance with the requirements of Statewide Rule 15.

Conclusions of Law

1. Tahiti has been provided notice and an opportunity for hearing regarding compliance with TEX. NAT. RES. CODE §§ 89.021-89.030 and 16 TEX. ADMIN. CODE § 3.15.
2. Tahiti failed to comply with the requirements of TEX. NAT. RES. CODE §§ 89.021-89.030 and 16 TEX. ADMIN. CODE § 3.15.
3. Tahiti's Commission Form P-5 *Organization Report* may not be renewed or approved. TEX. NAT. RES. CODE § 89.022(c).

Recommendation

The Examiners recommend the Commission enter an order denying the renewal of Tahiti's Form P-5 *Organization Report*. The Examiners also recommend that Tahiti be ordered to place the Well into compliance with Statewide Rule 15.

Respectfully,



Kristi M. Reeve
Administrative Law Judge



Peggy Laird, P.G.
Technical Examiner