



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

OIL & GAS DOCKET NO. 06-0307914

COMPLAINT OF WAYMOND NOBLES THAT BILL HILL OIL & GAS, INC. (OPERATOR NO. 070844) DOES NOT HAVE A GOOD FAITH CLAIM TO OPERATE THE J.E. NOBLES ET AL. UNIT (LEASE NO. 10150), CENTER (SARATOGA) FIELD, SHELBY COUNTY, TEXAS

PROPOSAL FOR DECISION

HEARD BY:

Jennifer Cook – Administrative Law Judge
Karl Caldwell – Technical Examiner

PROCEDURAL HISTORY:

Complaint Filed -	September 28, 2017
Notice of Deficiency -	November 29, 2017
Hearing Request Form sent -	January 2, 2018
Notice to Set Hearing letter sent -	January 19, 2018
Notice of Hearing -	February 7, 2018
Hearing Date -	March 8, 2018
Close of Record -	May 31, 2018
Proposal for Decision Issue -	June 21, 2018

APPEARANCES:

For Complainant Waymond Nobles -
Annie Briscoe
Attorney at Law

For Respondent Bill Hill Oil & Gas, Inc. -
Michael E. Starr
Coghlán, Crowson

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I. Statement of the Case

Waymond Nobles (“Complainant”) filed a complaint (“Complaint”) claiming that Bill Hill Oil & Gas, Inc. (“Respondent”) does not have a good faith claim to operate the J.E. Nobles Et Al. Unit, Lease No. 10150 and the J.E. Nobles Lease, Lease No. 11828, both in the Center (Saratoga) Field in Shelby County, Texas. Respondent only operates one well on the leases, which is also the only productive well on the leases. Complainant requests the Commission find Respondent does not have a good faith claim such that Complainant can seek another operator to operate the well at issue.

Complainant asserts Respondent does not have a good faith claim because the contractual lease regarding Complainant’s mineral interests is invalid. Complainant also argues Respondent has acted in bad faith regarding the leases and well at issue. Complainant requests the Commission find Respondent does not have a good faith claim to operate the well.

Respondent asserts it has multiple contractual leases with other mineral rights owners covering the well at issue in this case. These contractual leases establish a good faith claim to operate the well. Moreover, Respondent asserts the contractual lease covering Complainant’s mineral interests is in full force and effect; rather, the parties have a lease dispute, the determination of which is outside the Commission’s jurisdiction, and does not defeat Respondent’s good faith claim.

The Administrative Law Judge and Technical Examiner (collectively “Examiners”) respectfully submit this Proposal for Decision (“PFD”) and recommend the Railroad Commission (“Commission” or “RRC”) deny Complainant’s request. The Examiners find Respondent has provided a reasonably satisfactory showing of a good faith claim to operate the well at issue. The Examiners find that while there may be a bona fide contractual dispute between the parties, the determination of such a dispute is outside the jurisdiction of the Commission, and the dispute does not defeat Respondent’s showing of a good faith claim.

II. Jurisdiction and Notice¹

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.

On February 7, 2018, the Hearings Division of the Commission sent a Notice of Hearing (“Notice”) to Complainant and Respondent setting a hearing date of March 8, 2018.² Consequently, all parties received more than 10 days’ notice. The Notice contains (1) a statement of the time, place, and nature of the hearing; (2) a statement of the legal

¹ The hearing transcript in this case is referred to as “Tr. at [page(s)].” Complainant’s exhibits are referred to as “Complainant Ex. [exhibit no].” Respondent’s exhibits are referred to as “Respondent Ex. [exhibit no].”

² See Notice of Hearing issued February 7, 2018.

authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and rules involved; and (4) a short and plain statement of the matters asserted.³ The hearing was held on March 8, 2018, as noticed. Complainant and Respondent appeared at the hearing.

III. Applicable Legal Authority

Complainant alleges the Commission's current operator of record, Respondent, does not have a good faith claim to operate the well. A "good faith claim" is defined in the Texas Natural Resources Code and in Commission rule 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.⁴

IV. Discussion of Evidence

Complainant provided the testimony of three witnesses and approximately twenty-two exhibits. Respondent provided the testimony of one witness and seven exhibits.

At the hearing, Complainant expressed confusion as to the identity, operational status and location of wells on tracts he has mineral interests in that are operated by Respondent. He originally complained about the J.E. Nobles Et Al. Unit, Lease No. 10150, Well No. 1. Based on the evidence and Commission records, this well ("Plugged Well 1") was plugged in 1986. The operator at the time of plugging was Bill Hill, an individual, not Respondent. After Bill Hill passed away, Respondent took over Mr. Hill's remaining operations. Mr. Hill's remaining operations included operating the J.E. Nobles Lease, Lease No. 11828, Well No. 2 ("Nobles Well 2"), which is the only well at issue in this case.⁵ A more thorough discussion of these wells is in subsection C below.

A. Summary of Complainant's Evidence and Argument

Complainant asserts Respondent does not have a good faith claim because the lease regarding Complainant's mineral interests is invalid. Complainant also argues Respondent has acted in bad faith regarding the leases. Complainant requests the Commission find Respondent does not have a good faith claim to operate.

Complainant's first witness was Edna Nobles Walker. The property at issue is about 75 acres in Shelby County, which was acquired by her family in 1904 and passed down to various family members over the years.⁶ The parties did not dispute that Complainant owns mineral rights on tracts where both the Plugged Well 1 and Nobles Well 2 are located.

³ See TEX. GOV'T CODE §§ 2001.051, 052; 16 TEX. ADMIN. CODE §§ 1.42, 1.45.

⁴ TEX. NAT. RES. CODE § 89.002(11); 16 TEX. ADMIN. CODE § 3.15(a)(5).

⁵ The parties agreed there was sufficient notice that the scope of the hearing encompassed both wells. Tr. at 126-128.

⁶ Tr. at 19-21; Complainant Ex. T.

Ms. Walker described a lawsuit between her family and Respondent regarding the contractual leases covering the Nobles Well 2. One of the issues she complained of is that the contractual leases had blank spaces where the amount of royalty should have been. She was also confused as to which wells were producing or plugged and claimed she was unable to obtain information regarding wells and production. A primary concern was that she was unable to determine what amount of royalties Complainant was owed.⁷

Complainant's second witness was Mr. Lee Perry. He is an operator registered with the Commission and has been in the business of oil and gas operations for approximately 46 years. He also performs work as a joint venture auditor, environmental auditor and fraud specialist. He has inspected the property where Complainant has mineral interests. He observed a well labeled "Well No. 2" producing during his visits. He could find no indication that there was a second well on the property. He also opined that Respondent should not have been allowed to become an operator of wells on the property because the underlying contractual leases are invalid since they failed to include a monetary amount for the royalty payment. He has never seen a lease that has a blank where the royalty amount should be. He does not believe there were actually two wells; he believes there was one well changed from "Well No. 1" to "Well No. 2."⁸

Complainant's final witness was Mr. Waymond Nobles. He filed the Complaint on behalf of his parents.⁹ He believes his family has not been treated fairly. He expressed concern regarding the contractual leases that had blanks where the royalty amount was supposed to be. While he was offered a settlement in the lawsuit, he does not believe he has been provided sufficient information to ascertain whether the settlement offer is reasonable. He has tried to obtain information about the wells by asking for information from Respondent, reviewing documentation and looking at Commission records. Mr. Nobles acknowledged that other members of his family did agree to settle the court lawsuit and signed ratifications of eight leases.¹⁰

Complainant expressed confusion regarding a *Ratification and Memorandum of Joint Operating Agreement* regarding a Nobles Gas Unit, Nobles 1H Well ("Nobles Gas Unit") filed in Shelby County. One of the leases within this unit is identified as the "Greer, Valton" lease.¹¹

Complainant also expressed confusion as to a Commission record showing a "Valton Greer" lease ("Valton Greer Lease") operated by Bill Hill. Complainant requested an inspection of this lease. According to the inspection report, there is no wellhead visible on the lease and records indicate the well was plugged in September 2006. Respondent had no knowledge about this lease or well.¹²

⁷ Tr. at 21-35.

⁸ Tr. at 35-49.

⁹ Both his parents have passed away. Tr. at 50.

¹⁰ Tr. at 49-75.

¹¹ Tr. at 94 - 97; Complainant Ex. N.

¹² Tr. at 96-97; Complainant Ex. V.

B. Summary of Respondent's Evidence and Argument

Respondent asserts it has multiple contractual leases with other mineral rights owners covering the wells at issue in this case. These leases establish a good faith claim to operate the well at issue. Moreover, Respondent asserts the contractual lease covering Complainant's mineral interests is not invalid; rather the parties have a lease dispute, the determination of which is outside the Commission's jurisdiction and does not defeat Respondent's good faith claim.

Respondent's only witness was Ms. Rhonda Hamilton. Bill Hill was her father and she is president of Bill Hill Oil and Gas, Inc. She formed the corporation after her father died. Prior to that, her father operated as a sole proprietorship. The only well Respondent operates is the Nobles Well 2. It was a well Mr. Hill recompleted and it was productive. It had been abandoned by the prior operator. That was the only well her father was operating at the time of his death. She incorporated Respondent to continue operating that one well.¹³

Ms. Hamilton testified that Respondent has been involved with litigation with members of the Nobles family since 2012. Respondent settled with approximately 15 people. The family members who settled ratified the eight leases that either they, their parents or grandparents signed with Mr. Hill. All the leases were transferred from Mr. Hill to Respondent. All of the Nobles family members owned undivided interests in some portion of the minerals beneath the 75-acre tract. Nobles Well 2 is producing and Respondent is paying the settling Nobles family members royalties.¹⁴

Ms. Hamilton testified that Plugged Well 1 has been plugged. According to Commission records, Plugged Well 1 was plugged in July 1986.¹⁵ Ms. Hamilton testified Respondent never operated Plugged Well 1.¹⁶

C. Summary of Commission records regarding wells discussed at hearing

In an effort to obtain clarity regarding the leases and wells discussed, at the hearing the Examiners notified the parties that they planned to take official notice of Commission records regarding Plugged Well 1, Nobles Well 2, the Nobles Gas Unit and the Valton Greer Lease. No one objected at the hearing. In a letter dated May 15, 2018, a copy of the records was sent to each party with an opportunity to object. The records were attached to the letter as Examiners' Exhibits 1-6. No party filed an objection.¹⁷

Official notice was taken of records concerning Bill Hill. Bill Hill registered with the Commission as an operator on September 14, 1981. He registered as a sole proprietor

¹³ Tr. at 76-78, 102-103.

¹⁴ Tr. at 78-81; Respondent Ex. 6-7.

¹⁵ Tr. at 81-85; Respondent Ex. 1-2.

¹⁶ Tr. at 85-87.

¹⁷ Tr. at 124-125, 136; Examiners Ex. 1-6.

and was given operator number 386840. His status at the Commission is inactive as of June 30, 2014.¹⁸

Respondent, Bill Hill Oil & Gas, Inc., registered with the Commission as an operator on June 10, 2014. Respondent registered as a corporation and was given Commission operator number 070844. Respondent's status at the Commission is active. Respondent is the operator of record for one well, the Nobles Well 2.¹⁹

1. The J.E. Nobles et al. Unit, Commission Lease No. 10150, Well No. 1 (i.e. Plugged Well 1)

Plugged Well 1 is a distinct well from Nobles Well 2. It is almost due east of Nobles Well 2 on the same tract. Its API number is 419-30044 and its Commission lease number is 10150. It was completed on April 18, 1975. On about November 30, 1975, a Commission Form W-2 *Oil Well Potential Test, Completion or Recompletion Report and Log* was filed concerning the well by operator Dear Minerals, Inc. On about September 1, 1981, a Commission form titled *Producer's Certificate of Compliance and Authorization to Transport Oil and/or Casinghead Gas from an Oil Lease or Gas and/or Condensate from a Gas Well* was filed by Bill Hill, transferring Plugged Well 1 from Dear Minerals, Inc. to Mr. Hill as operator of record. Mr. Hill became the operator of the well effective September 8, 1981. On September 2, 1986, a Commission Form W-3 *Plugging Record* was filed for the well. Plugged Well 1 is the only well on Lease No. 10150. The lease was removed from the Commission's schedule in 1986 because the well had been plugged and abandoned.²⁰ Commission production data records only go back to 1993. There are no production records for this well.

2. The J.E. Nobles Lease, Commission Lease No. 11828, Well No. 2 (i.e. Nobles Well 2)

Nobles Well 2 is a distinct well from Plugged Well 1. It is almost due west of Plugged Well 1 on the same tract. Its API number is 419-30386²¹ and its Commission lease number is 11828. The well was originally completed as a dry hole by Marshall Expl. Inc. on December 24, 1981. On about July 14, 1984, Mr. Hill filed a Commission Form W-1 *Application for Permit to Drill, Deepen, Plug Back or Re-Enter* for what is referred to as Well No. 2 on Lease No. 10150. However, Mr. Hill filed a Commission Form W-2 *Oil Well Potential Test, Completion or Recompletion Report and Log* for Nobles Well 2 on November 8, 1985, indicating it was a re-entry of a well that was drilled by Marshall Expl. Co. The Commission lease number for this well was changed to 11828. There were various operators of the well after 1995, including associates of Mr. Hill. Mr. Hill²² was the operator of record from December 31, 1985 to October 1, 1991. Production records for

¹⁸ Examiner Ex. 2.

¹⁹ Examiner Ex. 1; Examiner Ex. 3 at 000069.

²⁰ Examiner Ex. 4.

²¹ For some period of time, Commission records contained an incorrect API number for Well 2. In a letter dated February 8, 2006, the Commission corrected the API number from the incorrect number of 419-80038 to the correct number of 419-30386. Examiners Ex. 3 at 000066.

²² During some of this period, the operator's registered name was Bill Hill and Associates.

Nobles Well 2 dating back from 1993²³ show that Bill Hill most recently became the operator of record in July 1996. The well has been productive since that time and was transferred to Respondent in April 2014. Nobles Well 2 is the only well on this Commission lease.²⁴

3. The Valton Greer Lease, Commission Lease No. 05653

The Valton Greer Lease has one well, referred to as Well No. 2. The Commission lease number is 05653 and the well's API number is 419-30015. The Valton Greer well is almost due east from Nobles Well 2 and appears to be on the same tract. The well was originally drilled in 1972. On about October 9, 1973, a Commission Form W-1 *Application for Permit to Drill, Deepen, Plug Back or Re-Enter* was filed for the well by Dear Minerals, Inc. as the record operator at the time. On about May 14, 1973, a Commission Form W-2 *Oil Well Potential Test, Completion or Recompletion Report and Log* was filed for the well. Another Form W-2 was filed on around May 30, 1975, also by Dear Minerals, Inc. Production records for the Valton Greer Lease well dating back from 1993 show that Bill Hill was the operator of record from June 1996 to February 1998. Mr. Hill was also the last operator of record starting in March 2005. There has been no reported production since September 2006. On about September 27, 2006, a Commission Form W-3 *Plugging Record* was filed for the well. At the time, Bill Hill was the operator. The well was removed from the Commission's schedule on December 31, 2006 because it was plugged and abandoned.²⁵

4. The Nobles Lease, Commission Lease No. 257367 (i.e. the Nobles Gas Unit)

The Nobles Lease (i.e. Nobles Gas Unit) has one horizontal well, referred to as Well No. 1H. That is the only well on the lease. The Commission lease number is 257367 and the well's API number is 419-31577. The Nobles Gas Unit well is southeast of the Nobles Well 2 and appears to be on the same tract. On about April 12, 2010, Chesapeake Operating, Inc. was issued a drilling permit for the well to drill it as a new well. Production records for the lease began in June 2010. Chesapeake Operating, Inc. and then Chesapeake Operating, L.L.C. were the operators of record from June 2010 until January 2015. The well has been and continues to be productive. The current operator of record is Weatherly Oil & Gas, LLC.

V. Examiners' Analysis

The Examiners recommend Complainant's requested relief be denied and the Commission find Respondent provided a reasonably satisfactory showing of a good faith claim to operate the Nobles Well 2.

²³ Commission online production records go back until 1993.

²⁴ Examiner Ex. 3.

²⁵ Examiner Ex. 5.

Complainant alleges Respondent does not have a good faith claim to operate the wells on the leases at issue. The scope of the complaint includes Plugged Well 1 and Nobles Well 2. Plugged Well 1 was plugged in 1986. Respondent only operates the Nobles Well 2, which is the only productive well on the leases.

A good faith claim is defined in Commission rule 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.²⁶

The origin of the “good-faith claim” requirement comes from the Texas Supreme Court in *Magnolia Petroleum Co. v. Railroad Commission of Texas*.²⁷ In discussing the Commission’s authority to grant a drilling permit, the Court stated:

The function of the Railroad Commission in this connection is to administer the conservation laws. When it grants a permit to drill a well it does not undertake to adjudicate questions of title or rights of possession. These questions must be settled in the courts.²⁸

The Court went on to state:

Of course, the Railroad Commission should not do the useless thing of granting a permit to one who does not claim the property in good faith. The Commission should deny the permit if it does not reasonably appear to it that the applicant has a good-faith claim in the property. If the applicant makes a reasonably satisfactory showing of a good-faith claim of ownership in the property, the mere fact that another in good faith disputes his title is not alone sufficient to defeat his right to the permit; neither is it ground for suspending the permit or abating the statutory appeal pending settlement of the title controversy.²⁹

In sum, the Commission does not adjudicate questions of title or right to possession, which are questions for the court system.³⁰ A showing of a good faith claim does not require an applicant to prove title or a right of possession. It is sufficient for an applicant

²⁶ 16 TEX. ADMIN. CODE 3.15(a)(5).

²⁷ *Id.*; see *Magnolia Petroleum Co. v. R.R. Comm’n of Tex.*, 170 S.W.2d 189, 191 (Tex. 1943); see also *Trapp v. Shell Oil Co.*, 198 S.W.2d 424, 437-38 (Tex. 1946); *Rosenthal v. R.R. Comm’n of Tex.*, 2009 WL 2567941, *3 (Tex. App.—Austin 2009, pet. denied); *Pan Am. Petroleum Corp. v. R.R. Comm’n of Tex.*, 318 S.W.2d 17 (Tex. Civ. App.—Austin 1958, no writ).

²⁸ *Magnolia Petroleum Co. v. R.R. Comm’n of Tex.*, 170 S.W.2d 189, 191 (Tex. 1943).

²⁹ *Id.* at 191 (emphasis added).

³⁰ *Magnolia Petroleum Co. v. R.R. Comm’n*, 170 S.W.2d 189, 191 (Tex. 1943); see also *Trapp v. Shell Oil Co.*, 198 S.W.2d 424, 437-38 (Tex. 1946); *Rosenthal v. R.R. Comm’n of Tex.*, 2009 WL 2567941, *3 (Tex. App.—Austin 2009, pet. denied) (mem. op.); 56 Tex. Jur. 3d *Oil and Gas* § 737, *Adjudication of title to property and contract rights* (June 2016 Update).

to make a reasonably satisfactory showing of a good faith claim, and another's good faith dispute of title or possessory interest will not defeat the good faith claim.³¹

Respondent provided an exemplar contractual lease and ratification of lease covering the Nobles Well 2. Additionally, Respondent has seven more leases with corresponding ratifications with other mineral rights owners covering the well. Even if Complainant's lease covering the well were invalid, these other contractual leases are sufficient to establish a good faith claim.

The litigation regarding Complainant's mineral rights is ongoing. The Commission has no jurisdiction to determine whether the underlying contractual lease is invalid or not. Complainant's lease dispute with Respondent does not defeat Respondent's good faith claim. The issue of whether or not Respondent has acted in good faith or not regarding lease obligations is encompassed within the private dispute Complainant has with Respondent. It is not relevant to the "good faith claim" analysis performed within in the regulatory framework of the Commission.

For these reasons, the Examiners conclude based on the evidence provided, Respondent has made a reasonably satisfactory showing of a good faith claim. Examiners recommend Complainant's requested relief be denied.

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

Based on the record in this case and evidence presented, the Examiners recommend Complainant's requested relief be denied, the Commission find that Respondent provided a reasonably satisfactory showing of a good faith claim to operate the Nobles Well 2, and the Commission adopt the following findings of fact and conclusions of law.

Findings of Fact

1. Waymond Nobles ("Complainant") filed a complaint that Bill Hill Oil & Gas, Inc. ("Respondent") does not have a good faith claim to operate the J.E. Nobles Et Al. Unit, Lease No. 10150, Well No. 1 ("Plugged Well 1") and the J.E. Nobles Lease, Lease No. 11828, Well No. 2 ("Nobles Well 2") in the Center (Saratoga) Field in Shelby County, Texas. Complainant requests that the Commission find Respondent does not have a good faith claim such that Complainants can seek another operator to operate the wells at issue.
2. Complainant asserts Respondent does not have a good faith claim because the contractual lease regarding Complainant's mineral interests is invalid. Complainant also argues Respondent has acted in bad faith regarding the leases and wells at issue.

³¹ *Id.*

3. Plugged Well 1 was plugged in 1986. The operator of record when it was plugged was Bill Hill (an individual). Respondent never operated Plugged Well 1. Plugged Well 1 is the only well on Commission lease number 10150.
4. Respondent became the operator of record for Nobles Well 2 in April 2014. Nobles Well 2 has been productive since Respondent became the operator of record. Nobles Well 2 is the only well on Commission lease number 11828. Nobles Well 2 is the only well Respondent operates.
5. On February 7, 2018, the Hearings Division of the Commission sent a Notice of Hearing ("Notice") to Complainant and Respondent setting a hearing date of March 8, 2018. Consequently, all parties received more than 10 days' notice. The Notice contains (1) a statement of the time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and rules involved; and (4) a short and plain statement of the matters asserted. The hearing was held on March 8, 2018, as noticed. Complainant and Respondent appeared at the hearing.
6. Respondent has an active Commission Form P-5 *Organization Report*.
7. Respondent has eight contractual leases with corresponding ratifications with other undivided mineral rights owners covering the Nobles Well 2, giving Respondent a right to operate the Nobles Well 2.
8. The litigation regarding Complainant's mineral rights is ongoing. The Commission has no jurisdiction to determine whether the lease is invalid or not. Complainant's lease dispute with Respondent does not defeat Respondent's good faith claim. The issue of whether or not Respondent has acted in good faith or not regarding lease obligations is encompassed within the private dispute Complainant has with Respondent.
9. Respondent has demonstrated a reasonably satisfactory showing of a good faith claim to a continuing right to operate the Wells.

Conclusions of Law

1. Proper notice of hearing was timely issued to appropriate persons entitled to notice. See, e.g., TEX. GOV'T CODE §§ 2001.051, 052; 16 TEX. ADMIN. CODE §§ 1.42, 1.45.
2. The Commission has jurisdiction in this case. See, e.g., TEX. NAT. RES. CODE § 81.051.

3. At the hearing in this matter, Respondent provided a reasonably satisfactory showing of a good faith claim to continue operating the Nobles Well 2. 16 TEX. ADMIN. CODE § 3.15(a)(5).
4. Complainant's good faith dispute with Respondent does not defeat Respondent's reasonably satisfactory showing of a good faith claim.
5. Complainant's request for relief should be denied.

Recommendations

The Examiners recommend the Commission enter an order finding Respondent demonstrated a good faith claim to operate the Nobles Well 2 and denying Complainant's request for relief.

Respectfully,



Jennifer Cook
Administrative Law Judge



Karl Caldwell
Technical Examiner