



# RAILROAD COMMISSION OF TEXAS

## HEARINGS DIVISION

### **OIL & GAS DOCKET NO. 20-0308588**

**APPLICATION OF DYERSDALE PRODUCTION CO, INC. FOR UNRESTRICTED RENEWAL OF ITS P-5 AND TO CONTEST THE STAFF DETERMINATION THAT ITS P-5 CANNOT BE RENEWED BECAUSE IT HAS NOT COMPLIED WITH THE INACTIVE WELL REQUIREMENTS OF STATEWIDE RULE 15**

### **PROPOSAL FOR DECISION**

#### **HEARD BY:**

Jennifer Cook – Administrative Law Judge  
Peggy Laird – Technical Examiner, P.G.

#### **PROCEDURAL HISTORY:**

Hearing Request Date:	January 4, 2018
Notice of Hearing Date:	April 9, 2018
Hearing Date:	May 9, 2018
Transcript Received:	May 30, 2018
Proposal for Decision Issued:	July 2, 2018

#### **APPEARANCES:**

##### **For Staff –**

Melissa Glaze, Staff Attorney, Enforcement Section

##### **For Dyersdale Production Co, Inc. –**

Kelli Kenney  
McElroy, Sullivan, Miller & Weber, LLP

## Table of Contents

I.	Statement of the Case .....	3
II.	Jurisdiction and Notice .....	3
III.	Applicable Legal Authority .....	4
IV.	Discussion of Evidence .....	6
V.	Examiners' Analysis .....	6
VI.	Recommendation, Proposed Findings of Fact and Proposed Conclusions of Law.....	7

## **I. Statement of the Case**

Dyersdale Production Co, Inc. ("Dyersdale"), Operator No. 237752, seeks a determination, contrary to Railroad Commission ("Commission" or "RRC's") staff's ("Staff's") prior determination, that it is in compliance with the Commission's inactive well rules and should thus be allowed to renew its Commission Form P-5 *Organization Report* ("Form P-5").

The parties agree Dyersdale was not in compliance with inactive well requirements as to one well. At the hearing, Dyersdale indicated it expected to be in compliance within 45 days of the hearing, which would be by June 23, 2018. Dyersdale also stated it would file documentation of compliance once compliance was achieved. However, Dyersdale did not file documentation of compliance by June 23, 2018.

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

## **II. Jurisdiction and Notice<sup>1</sup>**

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 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.<sup>2</sup>

In a letter to Dyersdale dated September 22, 2017, Staff notified Dyersdale that Staff had determined renewal of Dyersdale's Form P-5 should be denied because Dyersdale was

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<sup>1</sup> The hearing transcript in this case is referred to as "Tr. at [page(s)]." Staff's exhibits are referred to as "Staff Ex. [exhibit no(s).]" Dyersdale's exhibits are referred to as "Dyersdale Ex. [exhibit no(s).]"

<sup>2</sup> TEX. NAT. RES. CODE § 89.022(d); see also 16 TEX. ADMIN. CODE § 3.15(g)(3).

non-compliant with inactive well requirements; Staff also provided the reasons for the determination.<sup>3</sup> This letter also provided Dyersdale 90 days to comply with the inactive well requirements.

After the initial letter, 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.<sup>4</sup>

In a letter dated December 5, 2017, Staff again notified Dyersdale that Staff had determined renewal of Dyersdale's P-5 should be denied because Dyersdale was non-compliant with inactive well requirements; Staff again provided the reasons for the determination.<sup>5</sup> The December 5, 2017 letter provides Dyersdale 30 days to request a hearing regarding this determination. In a letter filed January 4, 2018, Dyersdale requested a hearing. This case followed.

On April 9, 2018, the Commission's Hearings Division issued a Notice of Hearing for this case setting it for hearing on May 9, 2018.<sup>6</sup> The Notice of Hearing was sent to Staff and Dyersdale. Both Staff and Dyersdale 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.<sup>7</sup> Section 89.022 of the Texas Natural Resource Code specifically provides:

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<sup>3</sup> Staff Ex. 2.

<sup>4</sup> TEX. NAT. RES. CODE § 89.022(e); see also 16 TEX. ADMIN. CODE § 3.15(g)(4).

<sup>5</sup> Staff Ex. 3.

<sup>6</sup> Dyersdale Ex. 1.

<sup>7</sup> 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.<sup>8</sup>

The applicable Commission rule in this case is Statewide Rule 15 (or "Rule 15"), which provides inactive well requirements.<sup>9</sup> 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.<sup>10</sup>

For Dyersdale to show compliance with inactive well requirements, Dyersdale must show it is in compliance with Statewide Rule 15 such that all inactive wells have either been restored to active status, plugged or subject to approved plugging extensions. Otherwise, the Commission must refuse to renew Dyersdale's P-5.

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<sup>8</sup> See also 16 TEX. ADMIN. CODE § 3.15(d).

<sup>9</sup> Statewide Rule 15 refers to 16 TEX. ADMIN. CODE § 3.15.

<sup>10</sup> 16 TEX. ADMIN. CODE § 3.15(d).

#### IV. Discussion of Evidence

At the hearing, Dyersdale and Staff agreed and provided evidence that one of Dyersdale's wells is inactive and not in compliance with inactive well requirements.<sup>11</sup> Dyersdale's non-compliant well is Well No. 1W on the West Jacksonville Woodbine Unit, Lease No. 10158 (the "Well").<sup>12</sup> Dyersdale estimated it would be in compliance approximately 45 days after the hearing.<sup>13</sup> At the hearing, the parties also agreed to file documentation of compliance once compliance was achieved. As of the date of this PFD, which is more than 45 days after the hearing in this case, no documentation of compliance has been filed.

#### V. Examiners' Analysis

The Examiners recommend Dyersdale's request for renewal of its organization report be denied and Dyersdale be ordered to comply with inactive well rules. The parties do not dispute the facts in this case or that Dyersdale 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 inactive well requirements before the time of renewal of the operator's P-5.<sup>14</sup> If the operator fails to achieve compliance before the renewal date, the Commission is required to refuse to renew the operator's P-5.<sup>15</sup>

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.<sup>16</sup>

The parties agreed and provided evidence the Well is an inactive well.

Statewide Rule 15 requires inactive wells to either (1) be plugged, (2) be put back into production or (3) be subject to plugging extensions.<sup>17</sup> At the hearing, the parties agreed the Well is not in compliance with inactive well requirements, i.e. it is not plugged or subject to plugging extensions. It remains non-compliant as of the date of this PFD.

Pursuant to section 89.022 of the Texas Natural Resources Code, the Commission cannot renew Dyersdale's organization report because Dyersdale is non-compliant with

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<sup>11</sup> Tr. at 8 to 22; Staff Ex. 1-4; Dyersdale Ex. 1-6.

<sup>12</sup> See, e.g., Staff Ex. 1, 4; Dyersdale Ex. 2-4.

<sup>13</sup> Tr. at 8 to 9, 16.

<sup>14</sup> See TEX. NAT. RES. CODE § 89.022(a).

<sup>15</sup> See TEX. NAT. RES. CODE § 89.022(c) and (d).

<sup>16</sup> 16 TEX. ADMIN. CODE § 3.15(a)(6).

<sup>17</sup> 16 TEX. ADMIN. CODE § 3.15(d).

Commission inactive well rules. For these reasons, the Examiners conclude Dyersdale's request for renewal of its P-5 should be denied and Dyersdale 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 Dyersdale's request for renewal be denied, Dyersdale be ordered to comply with Statewide Rule 15, and the Commission adopt the following findings of fact and conclusions of law.

### **Findings of Fact**

1. Dyersdale Production Co, Inc. ("Dyersdale"), Commission Operator No. 237752, is the current operator of Well No. 1W on the West Jacksonville Woodbine Unit, Lease No. 10158 (the "Well").
2. In a letter to Dyersdale dated September 22, 2017, Staff notified Dyersdale that Staff had determined renewal of Dyersdale's Commission Form P-5 *Organization Report* ("Form P-5") should be denied because Dyersdale was not compliant with inactive well requirements; Staff also provided the reasons for the determination. This letter also provided Dyersdale 90 days to comply with the inactive well requirements.
3. In a letter dated December 5, 2017, Staff again notified Dyersdale that Staff had determined renewal of Dyersdale's P-5 should be denied because Dyersdale was non-compliant with inactive well requirements; Staff again provided the reasons for the determination. The December 5, 2017 letter provides Dyersdale 30 days to request a hearing regarding this determination.
4. In a letter filed and dated January 4, 2018, Dyersdale requested a hearing.
5. Both parties agreed and provided evidence that the Well has had no reported production, disposal, injection, or other permitted activity for a period of greater than 12 months. The Well meets the definition of an inactive well.
6. The Well is not plugged, has not been placed back into production and does not have plugging extensions.
7. The Well is not in compliance with the requirements of Statewide Rule 15.

### Conclusions of Law

1. Dyersdale 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. Dyersdale failed to comply with the requirements of TEX. NAT. RES. CODE §§ 89.021-89.030 and 16 TEX. ADMIN. CODE § 3.15.
3. Dyersdale'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 Dyersdale's Form P-5 *Organization Report*. The Examiners also recommend that Dyersdale be ordered to place the Well into compliance with Statewide Rule 15.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Jennifer Cook', written over the word 'Respectfully,'.

Jennifer Cook  
Administrative Law Judge

A handwritten signature in blue ink, appearing to read 'Peggy Laird', written below the signature of Jennifer Cook.

Peggy Laird, P.G.  
Technical Examiner