

July 23, 2007

OIL AND GAS DOCKET NO. 01-0252397

COMMISSION CALLED HEARING TO SUPERCEDE THE FINAL ORDER ISSUED JULY 6, 2006 IN OIL AND GAS DOCKET NO. 01-0246276 REQUIRING PLUGGING OF WELL NO. 1, FROST NATIONAL BANK (12931) LEASE, PEARSALL (AUSTIN CHALK) FIELD, DIMMIT COUNTY, AND TO RECOGNIZE TEXAS ENERGY SERVICES, L.P. AS THE OPERATOR OF RECORD OF THE LEASE AND WELL.

APPEARANCES FOR APPLICANT TEXAS ENERGY SERVICES, L.P.:

Gene Day
Phil McCool
Ken Carpenter

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

DATE OF REQUEST FOR ACTION:	June 8, 2007
NOTICE OF HEARING:	June 28, 2007
DATE CASE HEARD:	July 20, 2007
HEARD BY:	Mark Helmueller, Hearings Examiner
PFD CIRCULATION DATE:	July 23, 2007

STATEMENT OF THE CASE

Texas Energy Services, L.P. (hereinafter "Texas Energy") requests that the Commission supercede the provisions in the Final Order entered in Oil and Gas Docket No. 01-0246276 Requiring Plugging of Well No. 1, Frost National Bank (12931) Lease, Pearsall (Austin Chalk) Field, Dimmit County, (hereinafter "subject lease" and/or "subject well") and recognize Texas Energy as the operator.

SUMMARY OF EVIDENCE

The examiner took official notice of records related to Texas Energy's most recent Commission Form P-5 (Organization Report), and records identifying the wells it currently operates. Texas Energy filed its most recent P-5 on January 19, 2007. Texas Energy has posted financial assurance with the Commission in the form of a \$25,000 letter of credit. Texas Energy is currently listed as the operator of 1 well, a commercial disposal well in Jim Wells County which it has operated for the last 6 years.

The prior operator of the subject well, Mark Douglas Plocek DBA Plo's Oil & Gas (hereinafter "Plocek"), submitted a Commission Form P-4 (Producer's Transportation Authority and Certificate of Compliance) to operate the subject lease which was approved on May 1, 2000.

Production from the subject lease was last reported on or before August 31, 2000. The Commission ordered Plocek to plug the well due to a violation of Statewide Rule 14. Plocek was further ordered to pay an administrative penalty of \$2,000.00. Commission records show the administrative penalty was paid in February 2007.

Texas Energy obtained a salt water disposal agreement from the property owner, and submitted a dual signature P-4 to transfer the well. Plocek does not possess any current interest in the well and is not affiliated with Texas Energy.

Texas Energy is a salt water hauler and waste disposal company providing commercial disposal services for oil and gas operators. Texas Energy operates a commercial disposal well and facility in Jim Wells County. Texas Energy has recently opened a new truck yard in Dimmit County and intends to apply for a permit to convert the well to a commercial disposal well to facilitate salt water disposal associated with increased oil and gas activity in the area.

AUTHORITY

Texas Natural Resources Code §85.049(a) provides:

On a verified complaint of any person interested in the subject matter that waste of oil or gas is taking place in this state or is reasonably imminent, or on its own initiative, the commission after proper notice, may hold a hearing to determine whether or not waste is taking place or is reasonably imminent and if any rule or order should be adopted or if any other action should be taken to correct, prevent or lessen the waste.

Texas Natural Resources Code §89.041 establishes the affirmative statutory responsibility of the Commission concerning abandoned wells:

If it comes to the attention of the commission that a well has been abandoned or is not being operated is causing or is likely to cause pollution of fresh water above or below the ground or if gas or oil is escaping from the well, the commission may determine at a hearing, after due notice, whether or not the well was properly plugged as provided in Section 89.011 or Section 89.012 of this code.

Texas Natural Resources Code §89.042(a) provides:

If the commission finds that the well was not properly plugged, it shall order the operator to plug the well according to the rules of the commission in effect at the time the order is issued.

Texas Natural Resources Code §91.107 requires that an operator file financial assurance in the form of a bond, letter of credit or cash deposit in the amount necessary for both existing wells operated and any wells being transferred, prior to Commission approval of the transfer.

Under Statewide Rules 14 and 58, the Commission may require an operator of a well to provide evidence of a good faith claim of a continuing right to operate.

EXAMINER'S OPINION

Texas Energy claims that it can meet the requirements to be recognized as the operator of the subject wells. However, this claim is complicated by the Final Order requiring that Plocek plug the wells. An order superceding a plug only requirement in a Commission Final Order may be warranted if the operator shows: 1) that it has a good faith claim of a continuing right to operate the well or lease; 2) that it has met the financial assurance requirements of Texas Natural Resources Code §91.107; and 3) that a superceding order is necessary to prevent waste. Texas Energy has satisfied these requirements.

Texas Energy has met all requirements necessary for the entry of a Final Order superceding the plug only provision in the Final Order entered in Oil & Gas Docket No. 05-0226610. Texas Energy has established that it has a good faith claim to operate the subject well, and has verified that Plocek does not possess any interest in the well. Texas Energy has sufficient financial security in place and has shown a current need for the well to provide commercial disposal services for the oil and gas industry in the area. Accordingly the examiner concludes that an order superceding the plug only provision should be entered, and Texas Energy should be recognized as the operator of the subject wells. All other provisions in the Final Order shall remain in full force and effect.

FINDINGS OF FACT

1. Texas Energy Services, L.P. (hereinafter "Texas Energy"), was given at least 10 days notice of this proceeding. Texas Energy appeared at the hearing and presented evidence.
2. Texas Energy filed its most recent Commission Form P-5 (Organization Report) on January 19, 2007. Texas Energy has posted financial assurance with the Commission in the form of a \$25,000 letter of credit. Texas Energy is currently listed as the operator of 1 well, a commercial disposal well in Jim Wells County which it has operated for the last 6 years.

3. The prior operator of the subject well, Mark Douglas Plocek DBA Plo's Oil & Gas (hereinafter "Plocek"), submitted a Commission Form P-4 (Producer's Transportation Authority and Certificate of Compliance) to operate the subject lease which was approved on May 1, 2000.
4. Production from the subject lease was last reported on or before August 31, 2000. The Commission ordered Plocek to plug the well due to a violation of Statewide Rule 14. Plocek was further ordered to pay an administrative penalty of \$2,000.00. Commission records show the administrative penalty was paid in February 2007.
5. Texas Energy obtained a salt water disposal agreement from the property owner, and submitted a dual signature P-4 to transfer the well. Plocek does not possess any current interest in the well and is not affiliated with Texas Energy.
6. Texas Energy is a salt water hauler and waste disposal company providing commercial disposal services for oil and gas operators. Texas Energy operates a commercial disposal well and facility in Jim Wells County. Texas Energy has recently opened a new truck yard in Dimmit County and intends to apply for a permit to convert the well to a commercial disposal well to facilitate salt water disposal associated with increased oil and gas activity in the area.
7. Superceding the plug only requirement in the Final Order entered in Oil and Gas Docket No. 01-0246276 requiring plugging of Well No. 1, Frost National Bank (12931) Lease, will facilitate commercial disposal of oil and gas wastes associated with active oil and gas operations in the area.

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. Texas Energy has a good faith claim of a continuing right to operate the subject well.
4. Texas Energy has filed financial assurance in the type and amount required under Texas Natural Resources Code §91.107 to be approved as the operator of the subject well.
5. A Final Order superceding the "plug only" provision in the Final Order entered in Oil and Gas Docket No. 01-0246276 requiring plugging of Well No. 1, Frost National Bank (12931) Lease, will facilitate commercial disposal of oil and gas wastes associated with active oil and gas operations in the area.

RECOMMENDATION

The examiner recommends that the Commission grant the request to supercede the provisions in the Final Order entered in Oil and Gas Docket No. 01-0246276 requiring plugging of Well No. 1, Frost National Bank (12931) Lease. Converting the well to a disposal well will facilitate commercial disposal of oil and gas wastes associated with active oil and gas operations in the area. Additionally, the examiner recommends that Texas Energy Services, L.P.. be recognized as the operator of Well No. 1 on the Frost National Bank (12931) Lease.

Respectfully submitted,

Mark J. Helmueller
Hearings Examiner