

June 19, 2006

OIL AND GAS DOCKET NO. 05-0247280

COMMISSION CALLED HEARING TO SUPERCEDE THE FINAL ORDER ISSUED APRIL 10, 2001 IN OIL AND GAS DOCKET NO. 05-0226610 REQUIRING PLUGGING OF WELL NOS. 1, 2, 3 AND 4 ON THE FOWLER, O. F. AND NEILL, P. E. (01229) LEASE, VAN (SHALLOW) FIELD, VAN ZANDT COUNTY, AND TO ENABLE OMNI OIL & GAS, INC. TO BECOME THE OPERATOR OF RECORD FOR THE ABOVE-REFERENCED LEASE AND WELLS.

**APPEARANCES:
FOR APPLICANT OMNI OIL & GAS, INC.:**

John Riley
Rick Dickerson

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

DATE OF REQUEST FOR ACTION:	April 26, 2006
NOTICE OF HEARING:	May 15, 2006
DATE CASE HEARD:	June 15, 2006
HEARD BY:	Mark Helmueller, Hearings Examiner
PFD CIRCULATION DATE:	June 19, 2006

STATEMENT OF THE CASE

Omni Oil & Gas, Inc. (hereinafter "Omni") requests that the Commission supercede the provisions in the Final Order entered in 05-0226610 requiring plugging of Well Nos. 1, 2, 3 and 4 on the Fowler, O. F. and Neill, P. E. (01229) Lease, Van (Shallow) Field, Van Zandt County, (hereinafter "subject lease" and/or "subject wells") and recognize Omni as the operator.

SUMMARY OF EVIDENCE

The examiner took official notice of records related to Omni's most recent Commission Form P-5 (Organization Report), and records identifying the wells it currently operates. Omni filed its most recent P-5 on September 27, 2005. Omni has posted financial assurance with the Commission in the form of a \$50,000 letter of credit. Omni is currently listed as the operator of 69 wells with a total depth of 114,168 feet.

The prior operator of the subject well, Pangaea Enterprises, Inc. (hereinafter "Pangaea"), submitted a Commission Form P-4 (Producer's Transportation Authority and Certificate of Compliance) to operate the subject lease which was approved on July 27, 1999.

Production from the subject lease was last reported on or before January 1, 1993. The Commission ordered Pangaea to plug the wells due to violations of Statewide Rules 13 and 14. Pangaea was further ordered to pay an administrative penalty of \$14,000.00.

Omni obtained a new lease from the mineral interest owners, and submitted a single signature P-4 to transfer the wells. Omni notes the President of Pangaea, Don Dacus, is now deceased, and the corporation is no longer in good standing as reported by the Secretary of State. Pangaea does not possess any current interest in the wells and is not affiliated with Omni.

Omni operates several wells on adjacent leases completed in the Van (Shallow) Field. Wells on these properties are responding favorably to the injection of salt water in the producing formation. Production has increased from 150 barrels to over 2000 barrels per month. The subject wells will be produced as Omni believes they will also respond favorably to the current injection project.

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

Omni 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 Pangaea 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. Omni has satisfied these requirements.

Omni 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. Omni has established that it has a good faith claim to operate the subject wells, and has verified that Pangaea does not possess any interest in the wells. Omni has sufficient financial security in place and has shown that wells on adjacent leases have been restored to production due to a fluid injection project in the same formation. Accordingly the examiner concludes that an order superceding the plug only provision should be entered, and Omni 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. Omni Oil & Gas, Inc. (hereinafter "Omni"), was given at least 10 days notice of this proceeding. Omni appeared at the hearing and presented evidence.
2. Omni filed its most recent Commission Form P-5 (Organization Report) on September 27, 2005. Omni has posted financial assurance with the Commission in the form of a \$50,000 letter of credit. Omni is currently listed as the operator of 69 wells with a total depth of 114,168 feet.
3. The prior operator of the Fowler, O. F. and Neill, P. E. (01229) Lease, (hereinafter "subject lease" and/or "subject wells"), Pangaea Enterprises, Inc. (hereinafter "Pangaea"), submitted a Commission Form P-4 (Producer's Transportation Authority and Certificate of Compliance) to operate the subject lease which was approved on July 27, 1999.

4. Production from the subject lease was last reported on or before January 1, 1993. The Commission ordered Pangaea to plug the wells due to violations of Statewide Rules 13 and 14. Pangaea was further ordered to pay an administrative penalty of \$14,000.00.
5. Omni obtained a new lease from the mineral interest owners. It submitted a single signature P-4 to be recognized as the operator of the subject lease, as Pangaea's President of Pangaea, Don Dacus, is now deceased. Pangaea is no longer in good standing as reported by the Secretary of State. Pangaea is not affiliated with Omni and possesses no interest in the lease.
6. Omni operates several wells on adjacent leases completed in the Van (Shallow) Field. Wells on these properties are responding favorably to the injection of salt water in the producing formation. Production has increased from 150 barrels to over 2000 barrels per month. The subject wells will be produced as Omni believes they will also respond favorably to the current injection project.
7. Superceding the plug only requirement in the Final Order entered in Oil & Gas Docket No. 05-0226610 for Well Nos. 1, 2, 3 and 4 on the Fowler, O. F. and Neill, P. E. (01229) Lease, Van (Shallow) Field, Van Zandt County, is necessary to prevent waste.

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. Omni has a good faith claim of a continuing right to operate the subject wells.
4. Omni 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 wells.
5. A Final Order superceding the "plug only" provision in the Final Order entered in Oil & Gas Docket No. 05-0226610 for Well Nos. 1, 2, 3 and 4 on the Fowler, O. F. and Neill, P. E. (01229) Lease, Van (Shallow) Field, Van Zandt County, is necessary to prevent waste.

RECOMMENDATION

The examiner recommends that the Commission grant the request to supercede the provisions in the Final Order entered in Oil & Gas Docket No. 05-0226610 requiring plugging of Well Nos. 1, 2, 3 and 4 on the Fowler, O. F. and Neill, P. E. (01229) Lease, Van (Shallow) Field, Van Zandt County. The examiner further recommends that all other provisions of the Final Order remain in full force and effect. Finally, the examiner recommends that Omni Oil & Gas, Inc. be recognized as the operator of Well Nos. 1, 2, 3 and 4 on the Fowler, O. F. and Neill, P. E. (01229) Lease.

Respectfully submitted,

Mark J. Helmueller
Hearings Examiner