



RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

March 28, 2008

OIL AND GAS DOCKET NO. 7B-0255078

COMMISSION CALLED HEARING TO SUPERCEDE THE FINAL ORDER ISSUED SEPTEMBER 12, 2002 IN OIL AND GAS DOCKET NO. 7B-0230550 REQUIRING PLUGGING OF WELL NO. 1, MCWHORTER (27348) LEASE, WILDCAT FIELD, CALLAHAN COUNTY, AND TO RECOGNIZE WHITT OIL AND GAS, INC. AS THE OPERATOR OF RECORD OF THE WELL.

APPEARANCES FOR APPLICANT:

W. J. Whitt

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

DATE OF REQUEST FOR ACTION:	December 31, 2007
NOTICE OF HEARING:	January 10, 2008
DATE CASE HEARD:	March 27, 2008
HEARD BY:	Mark Helmueller, Hearings Examiner
PFD CIRCULATION DATE:	March 28, 2008

STATEMENT OF THE CASE

Whitt Oil and Gas, Inc. (hereinafter "Whitt") requests that the Commission supercede the provisions in the Final Order entered in Oil and Gas Docket No. 7B-0230550 requiring plugging of Well No. 1, McWhorter (27348) Lease, Wildcat Field, Callahan County, (hereinafter "subject lease" and/or "subject well") and recognize Whitt as the operator.

SUMMARY OF EVIDENCE

The examiner took official notice of records related to Whitt's most recent Commission Form P-5 (Organization Report), and records identifying the wells it currently operates. Whitt filed its most recent P-5 on November 30, 2007. Whitt has posted financial assurance with the Commission in the form of a \$50,000 bond. Whitt is the operator of 37 wells with a total depth of 88,030 feet.

The prior operator of the subject well, WesPac Technologies Corp. (hereinafter "WesPac") designated itself to the Commission as the operator of the subject lease by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission, effective January 1, 2000.

WesPac is a Minnesota corporation, whose officers are Leon A. Romero, President; Robert Teague, Vice President; and Terrence A. Tecco, Vice President-Secretary. WesPac's certificate of authority to transact business in Texas as a foreign corporation was forfeited by the Texas Secretary of State on March 22, 2002, for failure to satisfy state tax requirements. WesPac last filed a Form P-5 Organization Report with the Commission on March 1, 2000, and its Organization Report is currently delinquent.

No production has ever been reported from the subject well. Commission records show that the well has had 6 different operators since it was completed on March 24, 1994. Commission records also show that the subject well was permitted as a secondary recovery injection well on May 29, 1997. Injection activity records show no reported injection activity for the subject well since the date of issuance of the UIC permit.

The Commission ordered WesPac to plug the well due to a violation of Statewide Rule 14 on September 12, 2002 in Oil & Gas Docket No. 7B-0230550. WesPac was further ordered to pay an administrative penalty of \$3,500.00.

Whitt has secured currently effective oil and gas leases covering the subject property from all of the mineral interest owners. Whitt represented that WesPac and its principals possess no current interest in the well and are not affiliated with Whitt.

Whitt believes the well can be restored to active production on a pump. Currently the well is flowing oil on the surface, and tests performed by another operator showed an initial potential of 17 bopd. While acknowledging that no there has never been any reported production for the well, Whitt believes the well was produced by prior operators who did not properly report the production.

Whitt intends to reenter the well and produced any accumulated fluids in the wellbore. The well will be swabbed in order to relieve any pressure. Whitt will then log the well to determine where the well is perforated as he does not believe the perforations reported on Commission records accurately reflect the current configuration of the well.

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 §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

Whitt claims that it can meet the requirements to be recognized as the operator of the subject well. However, this claim is complicated by the Final Order requiring that WesPac plug the well. 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. Whitt has satisfied these requirements.

Whitt met all requirements necessary for the entry of a Final Order superceding the provisions requiring plugging of the subject well. Whitt has established a good faith claim to operate the subject well, and verified that WesPac does not possess any interest in the well. Whitt has sufficient financial security in place and demonstrated that the well may be restored to productive use. Accordingly the examiner concludes that an order superceding the plug only provision should be entered, and Whitt should be recognized as the operator of the subject well. All other provisions in the Final Order shall remain in full force and effect.

FINDINGS OF FACT

1. Whitt Oil and Gas, Inc. (hereinafter "Whitt"), was given at least 10 days notice of this proceeding. Whitt appeared at the hearing and presented evidence.
2. Whitt filed its most recent P-5 on November 30, 2007. Whitt has posted financial assurance with the Commission in the form of a \$50,000 bond. Whitt is the operator of 37 wells with a total depth of 88,030 feet.
3. The prior operator of Well No. 1 on the McWhorter (27348) Lease, Wildcat Field, Callahan County, (hereinafter "subject well" and/or "subject lease") WesPac Technologies Corp. (hereinafter "WesPac") designated itself to the Commission as the operator of the subject lease by filing a Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission, effective January 1, 2000.
4. WesPac is a Minnesota corporation, whose officers are Leon A. Romero, President; Robert Teague, Vice President; and Terrence A. Tecco, Vice President-Secretary. WesPac's certificate of authority to transact business in Texas as a foreign corporation was forfeited by the Texas Secretary of State on March 22, 2002, for failure to satisfy state tax

requirements. WesPac last filed a Form P-5 Organization Report with the Commission on March 1, 2000, and its Organization Report is currently delinquent.

5. No production has ever been reported from the subject well. Commission records show that the well has had 6 different operators since it was completed on March 24, 1994. Commission records also show that the subject well was permitted as a secondary recovery injection well on May 29, 1997. Injection activity records show no reported injection activity for the subject well since the date of issuance of the UIC permit.
6. The Commission ordered WesPac to plug the well due to a violation of Statewide Rule 14 on September 12, 2002 in Oil & Gas Docket No. 7B-0230550. WesPac was further ordered to pay an administrative penalty of \$3,500.00.
7. Whitt has secured currently effective oil and gas leases covering the subject property from all of the mineral interest owners. Whitt represented that WesPac and its principals possess no current interest in the well and are not affiliated with Whitt.
8. Whitt believes the well can be restored to active production on a pump. Currently the well is flowing oil on the surface, and tests performed by another operator showed an initial potential of 17 bopd. While acknowledging that no there has never been any reported production for the well, Whitt believes the well was produced by prior operators who did not properly report the production.
9. Whitt intends to reenter the well and produced any accumulated fluids in the wellbore. The well will be swabbed in order to relieve any pressure. Whitt will then log the well to determine where the well is perforated as he does not believe the perforations reported on Commission records accurately reflect the current configuration of the well.
10. Superceding the plug only requirement in the Final Order entered in Oil and Gas Docket No. 7B-0230550 requiring plugging of Well No. 1 on the McWhorter (27348) Lease, Wildcat Field, Callahan County, will prevent waste of oil and gas resources that would not be produced if the well is plugged.

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. Whitt has a good faith claim of a continuing right to operate the subject well.
4. Whitt 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. 7B-0230550 requiring plugging of Well No. 1 on the McWhorter (27348) Lease, Wildcat Field, Callahan County, will prevent waste of oil and gas resources.

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. 7B-0230550 requiring plugging of Well No. 1 on the McWhorter (27348) Lease, Wildcat Field, Callahan County. Additionally, the examiner recommends that Whitt be recognized as the operator of Well No. 1, McWhorter (27348) Lease, Wildcat Field, Callahan County.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark J. Helmueller', with a long horizontal line extending to the right.

Mark J. Helmueller
Hearings Examiner