

January 28, 2008

OIL AND GAS DOCKET NO. 05-0254651

COMMISSION CALLED HEARING TO SUPERCEDE THE FINAL ORDER ISSUED APRIL 14, 1998 IN OIL AND GAS DOCKET NO. 05-0211978 REQUIRING PLUGGING OF WELL NO. 1, GARDNER (03207) LEASE, RED OAK, SOUTH (SUB-CLARKSVILLE) FIELD, LEON COUNTY, AND TO RECOGNIZE WORTHAM OIL & GAS AS THE OPERATOR OF RECORD OF THE WELL.

APPEARANCES FOR APPLICANT:

Paul Burns

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

DATE OF REQUEST FOR ACTION:	November 28, 2007
NOTICE OF HEARING:	December 27, 2007
DATE CASE HEARD:	January 25, 2008
HEARD BY:	Mark Helmueller, Hearings Examiner
PFD CIRCULATION DATE:	January 28, 2008

STATEMENT OF THE CASE

Wortham Oil & Gas (hereinafter "Wortham") requests that the Commission supercede the provisions in the Final Order entered in Oil and Gas Docket No. 05-0211978 requiring plugging of Well No. 1, Gardner (03207) Lease, Red Oak, South (Sub-Clarksville) Field, Leon County, (hereinafter "subject lease" and/or "subject wells") and recognize Wortham as the operator.

SUMMARY OF EVIDENCE

The examiner took official notice of records related to Wortham's most recent Commission Form P-5 (Organization Report), and records identifying the wells it currently operates. Wortham filed its most recent P-5 on November 14, 2007. Wortham has posted financial assurance with the Commission in the form of a \$25,000 letter of credit. Wortham is currently listed as the operator of 7 wells with a total depth of 61,811 feet.

The prior operator of the subject well, Texas Southern Resources, Inc., submitted a Commission Form P-4 (Producer's Transportation Authority and Certificate of Compliance) to operate the subject lease which was approved on April 13, 1994. The well is currently identified on Commission records as an orphan well.

Drilling was completed on the subject well on June 7, 2007. Production from the subject lease was last reported on or before January 1, 1993. The Commission ordered Texas Southern Resources, Inc. to plug the well due to violations of Statewide Rule 14 on April 14, 1998 after Texas Souther Resources, Inc. failed to comply with an Interim Order entered on September 16, 1997 allowing them to timely plug wells. Texas Southern Resources, Inc. was further ordered to pay an administrative penalty of \$26,000.00, with a credit of \$2,800.00.

Wortham has secured a currently effective oil and gas lease covering the subject property and has a good faith claim. Wortham represented that Texas Southern Resources, Inc. and its principals possess no current interest in the well and are not affiliated with Wortham. Wortham believes the well can be restored to flowing production on a timer. Wortham asserts that production ceased due to a "broken operator" which went bankrupt, as opposed to a "broken well." An observation valve on the well currently shows a pressure of 1150 psig. Wortham believes the well will produce between 12-20 barrels of oil per day.

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

Wortham 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 Texas Southern Resources, Inc. 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. Wortham has satisfied these requirements.

Wortham has met all requirements necessary for the entry of a Final Order superceding the provisions requiring plugging of Well No. 1, Gardner (03207) Lease, Red Oak, South (Sub-Clarksville) Field, Leon County. Wortham has established that it has a good faith claim to operate the subject well, and has verified that Texas Southern Resources, Inc. does not possess any interest in the well. Wortham has sufficient financial security in place and has shown 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 Wortham 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. Wortham Oil & Gas (hereinafter "Wortham"), was given at least 10 days notice of this proceeding. Wortham appeared at the hearing and presented evidence.
2. Wortham filed its most recent P-5 on November 14, 2007. Wortham has posted financial assurance with the Commission in the form of a \$25,000 letter of credit. Wortham is currently listed as the operator of 7 wells with a total depth of 61,811 feet.
3. The prior operator of Well No. 1 on the Gardner (03207) Lease, (hereinafter "subject well" and/or "subject lease") Texas Southern Resources, Inc., submitted a Commission Form P-4 (Producer's Transportation Authority and Certificate of Compliance) to operate the subject lease which was approved on April 13, 1994. The well is currently identified on Commission records as an orphan well.
4. Drilling was completed on the subject well on June 7, 2007. Production from the subject lease was last reported on or before January 1, 1993. The Commission ordered Texas Southern Resources, Inc. to plug the well due to violations of Statewide Rule 14 on April 14, 1998 after Texas Souther Resources, Inc. failed to comply with an Interim Order entered on September 16, 1997 allowing them to timely plug wells. Texas Southern Resources, Inc. was further ordered to pay an administrative penalty of \$26,000.00, with a credit of \$2,800.00.
5. Wortham has secured a currently effective oil and gas lease covering the subject property and has a good faith claim. Wortham represented that Texas Southern Resources, Inc. and its principals possess no current interest in the well and are not affiliated with Wortham.
6. Wortham believes the well can be restored to flowing production on a timer. An observation valve on the well currently shows a pressure of 1150 psig. Wortham believes the well will produce between 12-20 barrels of oil per day.
7. Superceding the plug only requirement in the Final Order entered in Oil and Gas Docket No. 05-0211978 requiring plugging of Well No. 1, Gardner (03207) Lease, Red Oak, South (Sub-Clarksville) Field, Leon 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. Wortham has a good faith claim of a continuing right to operate the subject well.
4. Wortham 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. 05-0211978 requiring plugging of Well No. 1, Gardner (03207) Lease, Red Oak, South (Sub-Clarksville) Field, Leon 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. 05-0211978 requiring plugging of Well No. 1, Gardner (03207) Lease, Red Oak, South (Sub-Clarksville) Field, Leon County. Additionally, the examiner recommends that Wortham be recognized as the operator of Well No. 1, Gardner (03207) Lease, Red Oak, South (Sub-Clarksville) Field, Leon County.

Respectfully submitted,

Mark J. Helmueller
Hearings Examiner