



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

PROPOSAL FOR DECISION

OIL AND GAS DOCKET No. 20-0297302

**HEARING ON THE APPLICATION OF HIGH PLAINS GAS SYSTEMS, INC.
FOR UNRESTRICTED RENEWAL OF ITS P-5 AND TO CONTEST STAFF
DETERMINATION THAT ITS P-5 CANNOT BE RENEWED DUE TO NON-
COMPLIANCE WITH THE INACTIVE WELL REQUIREMENTS OF
STATEWIDE RULE 15**

APPEARANCES

FOR THE RAILROAD COMMISSION OF TEXAS:

Heather Pharr, Staff Attorney, Enforcement Section
Bill Drury, Legal Assistant
Jennifer Gilmore, Team Lead, P-5 Financial Assurance Unit

FOR HIGH PLAINS GAS SYSTEMS, INC.:

John G. Soule, Attorney
Joachim Leicht, Consultant

PROCEDURAL HISTORY:

Notice of Hearing:	September 9, 2015
Hearing on the merits:	October 7, 2015
Proposal for Decision:	December 8, 2015
Heard by:	Terry Johnson, Hearings Examiner Karl D. Caldwell, Technical Examiner
Prepared by:	Ryan M. Lammert, Administrative Law Judge

SUMMARY

In Docket No. 20-0297302, High Plains Gas Systems, Inc. (Operator No. 385551), (High Plains), challenges Commission Staff's determination that renewal of its P-5 Organization Report (P-5) cannot be approved due to High Plains' failure to comply with the inactive well requirements of Statewide Rule 15 (SWR 15). High Plains is the current operator of 16 non-compliant (single-completion) oil and gas wells and 3 non-compliant (multi-completion) oil and gas wells (subject wells).

High Plains appeared at hearing but failed to present evidence sufficient to show that it was in compliance with the inactive well requirements of SWR 15. The record evidence demonstrates that the subject wells fail to comply with SWR 15. As a result, High Plains failed to overcome Commission Staff's determination that renewal of its P-5 cannot be approved.

The Administrative Law Judge recommends that the Commission deny the unrestricted renewal of High Plains' P-5 and order High Plains to bring the subject wells into compliance.

EVIDENCE PRESENTED

ENFORCEMENT'S CASE

At hearing, Heather Pharr, Staff Attorney, submitted evidence demonstrating that High Plains is the current operator of 22 wells that fail to comply with the inactive well requirements of SWR 15.¹

Jennifer Gilmore, Team Lead, testified that High Plains' P-5 renewal was due on March 1, 2015.

As a result, Ms. Pharr, submitted evidence demonstrating that, on December 5, 2014, Commission Staff generated a "renewal packet" for High Plains' P-5 renewal application. The evidence indicates that the "renewal packet" included information related to House Bill 2259, House Bill 3134, and SWR 15, as it was relevant to High Plains – including an exhaustive list of High Plains' 22 non-compliant wells.

Ms. Pharr also submitted evidence demonstrating that, on or before March 4, 2015, Commission Staff determined that High Plains' P-5 renewal should be denied solely because of non-compliance with the inactive well requirements of SWR 15.

By notice dated March 5, 2015, Commission Staff notified High Plains' that its P-5 renewal would be denied for failure to meet the inactive well requirements of SWR 15 and granted a 90-day extension to High Plains in order to complete compliance work related to the non-compliant wells.

¹ 16 TEX. ADMIN. CODE § 3.15 (Surface Equipment Removal and Inactive Wells).

Attached to the notice was an exhaustive list of High Plains' 22 non-compliant wells accompanied by a description of their respective deficiencies. Of the 22 wells, the evidence shows that all lacked an approved Form W-3X (plugging extension), two lacked certified W-3C Forms (surface equipment removal), and two required a resolution to a field operation H-15 failure.

The 90-day extension expired on May 31, 2015. As a result, Ms. Gilmore testified that, in a certified letter issued June 3, 2015, Commission Staff informed High Plains that it remained non-compliant with the inactive well requirements of SWR 15. Attached to the letter was an exhaustive list of High Plains' 22 non-compliant wells accompanied by a description of their respective deficiencies – identical in content to the March 5, 2015, notice.

Lastly, Ms. Gilmore testified that all of the subject wells remained out of compliance with the inactive well requirements of Statewide Rule 15 at the time of the hearing on October 7, 2015.²

HIGH PLAINS' CASE

John Soule, Attorney, and Joachim Leicht, Consultant, appeared at hearing on behalf of High Plains. As a preliminary matter, Mr. Soule and Mr. Leicht presented evidence that only 19 wells were at issue in the captioned docket – as opposed to the 22 asserted by Ms. Pharr. To that end, Mr. Soule and Mr. Leicht noted that, of the 22 wells asserted by Enforcement, 3 multi-completion wells were counted twice (a technicality which ultimately does not affect the proposed decision in this matter).

In his opening statement, Mr. Soule asserted that “High Plains Gas Systems recognizes that it is not in compliance with Statewide Rule 15” but that it intended to achieve compliance in short order.³ To bolster that position, Mr. Soule submitted evidence demonstrating that High Plains had prepared two Form W-3C's which it intended to submit to the Commission shortly after hearing – as soon as surface equipment was removed from each site.

Mr. Leicht then testified that High Plains had prepared a Form W-3X for each non-compliant well. Mr. Leicht testified that High Plains intended to submit the forms as soon as it could secure the necessary surety bond, as required by the Commission in lieu of other sufficient documentation. Mr. Soule then submitted a letter dated October 6, 2015, as evidence that High Plains had applied to an insurance agency for the requisite surety bond. In a similar vein, Mr. Soule also submitted proof that High Plains had prepared two Form W-3A's dated September 14, 2015, and September 15, 2015, as evidence of its intent to plug and abandon non-compliant wells as soon as possible.

² Attached Appendix 1, admitted into record at hearing, identifies the subject wells and their respective deficiencies.

³ Tr. pg. 15.

For the balance of their time, Mr. Soule and Mr. Leicht presented evidence which illustrated a series of events that culminated in the field operation H-15 failure associated with the John Mitchell 2L, 2U (multi-completion) Well (API No. 39102751). Mr. Leicht testified that a combination of high personnel turnover and other unfortunate circumstances resulted in High Plains conducting an improper inactive well test, precluding it from resolving extension compliance issues.

During his closing statement, Mr. Soule reaffirmed High Plains' intent to quickly achieve compliance.

ADMINISTRATIVE LAW JUDGE'S OPINION

Texas law expressly conditions renewal of a P-5 Organization Report on an operator's compliance with the requirements of Statewide Rule 15.⁴ Among other things, the rule establishes a deadline for plugging an inactive well. Unless the current operator obtains an extension of the plugging deadline, it must either reestablish production or plug the well within the deadline established by Commission rules.

At the October 7th hearing, High Plains failed to present evidence sufficient to show that it was in compliance with the inactive well requirements of Statewide Rule 15. Rather, High Plains submitted evidence only of its *intent* to achieve compliance. As a result, High Plains failed to overcome Commission Staff determination that renewal of its P-5 cannot not be approved.

Nonetheless, in a letter dated November 6, 2015, the Administrative Law Judge proposed to take official notice of Commission records reflecting the P-5 Renewal Status of the subject wells. The letter was circulated to the service list and requested that the parties make objections, if any. Neither party objected.

On November 18, 2015, the Administrative Law Judge took official notice of Commission records reflecting the P-5 Renewal Status of the subject wells. On that date, Commission records reflected that each of the subject wells remained non-compliant – all lacked an approved Form W-3X (plugging extension) and one multi-completion well required a resolution to a field operation H-15 failure.⁵

The evidence of record in this case shows that High Plains is the current operator of 16 single-completion oil and gas wells and 3 multi-completion oil and gas wells which fail to meet the requirements of Statewide Rule 15.

A list of the subject wells, which also identifies compliance deficiencies as of the date of hearing, is attached as Appendix 1. Appendix 1 is hereby incorporated by reference for all purposes.

⁴ TEX. NAT. RES. CODE § 89.022(c).

⁵ Attached Appendix 2, Commission records reflecting the P-5 Renewal Status of the subject wells as of November 18, 2015.

For comparison, a list of the subject wells, which also identifies compliance deficiencies as of November 18, 2015, is attached as Appendix 2. Appendix 2 is hereby incorporated by reference for all purposes.

The Administrative Law Judge also hereby takes official notice of and incorporates by reference attached Appendix 3, High Plains' current P-5, which identifies Edward Gregg Wallace, Jr. as a person who holds a position of ownership or control.

CONCLUSION

The Administrative Law Judge agrees with Enforcement that High Plains should be denied unrestricted renewal of its P-5 Organization Report and makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. High Plains Gas Systems, Inc. holds Railroad Commission Operator Number 385551.
2. High Plains is the current operator of the wells identified on attached Appendix 1, which is hereby adopted and incorporated by reference for all purposes.
3. On or about March 5, 2015, High Plains was sent notification from the Commission's P-5 Financial Assurance Unit that renewal of its P-5 Organization Report would be denied for failure to meet the inactive well requirements of 16 TEX. ADMIN. CODE § 3.15. The notice identified each of High Plains' non-compliant wells and included a description of their respective deficiencies.
4. On or about June 3, 2015, High Plains was sent notification from the Commission's P-5 Financial Assurance Unit that renewal of its P-5 Organization Report would be denied for failure to meet the inactive well requirements of 16 TEX. ADMIN. CODE § 3.15.
 - a. The notice identified each of High Plains' non-compliant wells and included a description of their respective deficiencies.
 - b. The notice also established a 30-day deadline by which High Plains could request a hearing to challenge Commission staff determination.
5. High Plains timely requested a hearing on the matter.
6. The oil and gas wells identified on Appendix 1 fail to meet the requirements of Statewide Rule 15, which is hereby adopted and incorporated by reference for all purposes.
 - a. Each well identified lacks an approved Form W-3X (plugging extension).

- b. One multi-completion well (API No. 39102751) requires a resolution to a field operation H-15 failure.
7. For purposes of TEX. NAT. RES. CODE § 91.114, at all times relevant hereto Edward Gregg Wallace, Jr. is a person who held a position of ownership or control in High Plains.

CONCLUSIONS OF LAW

1. High Plains Gas Systems, Inc. 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. High Plains failed to comply with the requirements of TEX. NAT. RES. CODE, Chapter 89, Subchapter B-1 and 16 TEX. ADMIN. CODE § 3.15.
3. High Plains' P-5 Organization Report may not be renewed or approved. TEX. NAT. RES. CODE § 89.022(c).

RECOMMENDATIONS

The Administrative Law Judge recommends the Commission enter an order denying the unrestricted renewal of High Plains' P-5 Organization Report.

The Administrative Law Judge also recommends that the Commission cancel all P-4 Certificates of Compliance issued to High Plains and sever all related pipeline or other carrier connections.

The Administrative Law Judge also recommends that High Plains be directed to place the subject wells into compliance with all Commission Statewide Rules.

The Administrative Law Judge also recommends that Edward Gregg Wallace, Jr., President of High Plains Gas Systems, Inc., be made subject to the restrictions of TEX. NAT. RES. CODE § 91.114.

RESPECTFULLY SUBMITTED,



RYAN M. LAMMERT
Administrative Law Judge

API Number	District	ID Number	Lease Name	Well Number
089 32354	03	203388	SAN BERNARD	1
Surface equipment must be removed (certify on Form W-3C) No approved W-3X on file				
391 02750	02	08662	MITCHELL, JOHN N. UNIT	1
No approved W-3X on file				
391 02751	02	03246	MITCHELL, JOHN N.	2 U
No approved W-3X on file Must resolve Field Operations H-15 failure preventing 14(B)(2) approval				
391 02751	02	031072	MITCHELL, JOHN N.	2 L
No approved W-3X on file Must resolve Field Operations H-15 failure preventing 14(B)(2) approval				
391 02774	02	187985	SHELTON, J. ISABELLA -D-	B 2
No approved W-3X on file				
391 02777	02	01080	SHELTON, J. ISABELLA -C-	7
No approved W-3X on file				
391 02778	02	08707	SHELTON, J. ISABELLA	B 8
No approved W-3X on file				
391 32589	02	207036	SCANIO/SHELTON	2
No approved W-3X on file				
391 32604	02	207859	SCANIO/SHELTON	4
No approved W-3X on file				
391 32604	02	234536	SCANIO/SHELTON	4
No approved W-3X on file				
391 32605	02	226852	SCANIO/SHELTON	5
No approved W-3X on file				
391 32607	02	223050	SCANIO / SHELTON	6
No approved W-3X on file				
391 32609	02	205432	SCANIO/SHELTON	3
No approved W-3X on file				
391 32745	02	221611	SCANIO/SHELTON	7
No approved W-3X on file				
391 32745	02	254386	SCANIO/ SHELTON	7
No approved W-3X on file				
391 32759	02	235535	SCANIO-HAWN	1
No approved W-3X on file				
391 32782	02	234544	SCANIO/SHELTON	8
No approved W-3X on file				
391 32827	02	243787	SCANIO/SHELTON	10
Production fluids must be purged (certify on Form W-3C) No approved W-3X on file				

API Number	District	ID Number	Lease Name	Well Number
391 32828 No approved W-3X on file	02	250577	SCANIO/SHELTON	11
391 32852 No approved W-3X on file	02	241967	SCANIO/SHELTON	12
409 80198 No approved W-3X on file	04	00130	BARRY-GREEN	1
409 81257 No approved W-3X on file	04	09309	GUSTAFSON	1