



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

PROPOSAL FOR DECISION

OIL AND GAS DOCKET No. 20-0298406

HEARING ON THE APPLICATION OF TAHITI PARTNERS ENERGY SOLUTIONS CORP. (OPERATOR NO. 834487) 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:

David M. Bell, Staff Attorney, Enforcement Section
Mysti Doshier, Manager, P-5 Financial Assurance Unit

FOR TAHITI PARTNERS ENERGY SOLUTIONS CORP.:

Geoffrey S. Payne, CFO and Principal
Jerry S. Henderson, Vice President

PROCEDURAL HISTORY:

Notice of Hearing:	December 1, 2015
Hearing on the merits:	January 20, 2016
Proposal for Decision:	March 8, 2016
Heard by:	Ryan M. Lammert, Administrative Law Judge Peggy Laird, Technical Examiner

SUMMARY

In Docket No. 20-0298406, Tahiti Partners Energy Solutions Corp. (Operator No. 834487), (Tahiti), challenges Commission Staff's (Staff) determination that renewal of its Form P-5 Organization Report (P-5) cannot be approved due to Tahiti's failure to comply with the inactive well requirements of Statewide Rule 15 (SWR 15). Tahiti is the current operator of 22 non-compliant oil or gas wells (subject wells). All 22 of the subject wells lack an approved Form W-3X (Application for an Extension of Deadline for Plugging an Inactive Well), (W-3X).

Tahiti appeared at the 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, specifically SWR 15(d)(1).¹ As a result, Tahiti failed to overcome 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 Tahiti's P-5 and order Tahiti to bring the subject wells into compliance with the inactive well requirements of SWR 15.

EVIDENCE PRESENTED

ENFORCEMENT'S CASE

At hearing, David Bell, Enforcement Attorney, (Enforcement), submitted evidence demonstrating that Tahiti is the current operator of 22 wells that fail to comply with the inactive well requirements of SWR 15(d)(1).

Mysti Doshier, Manager, (Staff), testified that Tahiti's P-5 renewal was due on June 1, 2015.

As a result, Enforcement submitted evidence demonstrating that, on March 6, 2015, Staff generated a "renewal packet" for Tahiti's P-5 renewal application. The evidence indicates that the "renewal packet" included information related to House Bill 2259 (annual requirements for an operator to address its inventory of inactive wells in order to obtain renewal of its annual organization report), House Bill 3134 (procedures to be followed subsequent to Commission Staff determination that an operator is not in compliance inactive well requirements), and SWR 15, as it was relevant to Tahiti – including an exhaustive list of Tahiti's 22 non-compliant wells.^{2, 3}

¹ 16 TEX. ADMIN. CODE § 3.15(d)(1) (Inactive Well Requirements).

² Acts 2009, 81st Leg., R.S., Ch. 442 (H.B. 2259), Sec. 2, eff. September 1, 2009.

³ Acts 2011, 82nd Leg., R.S., Ch. 562 (H.B. 3134), Sec. 1, eff. June 17, 2011.

Enforcement also submitted evidence demonstrating that, on or before May 15, 2015, Staff determined that Tahiti's P-5 renewal should be denied solely because of non-compliance with the inactive well requirements of SWR 15(d)(1).

By notice dated May 15, 2015, Staff notified Tahiti that its P-5 renewal would be denied for failure to meet the inactive well requirements of SWR 15(d)(1) and granted a 90-day extension to Tahiti in order to complete compliance work related to the non-compliant wells.

Attached to the notice was an exhaustive list of Tahiti's 22 non-compliant wells accompanied by a description of their respective deficiencies. Of the 22 wells, the evidence shows that all lacked an approved W-3X, and 10 were delinquent in conducting a fluid level test and filing a Form H-15 (Test on an Inactive Well Over 25 Years Old), (H-15).

The 90-day extension expired on August 31, 2015. As a result, Staff testified that, in a certified letter issued September 2, 2015, Staff informed Tahiti that it remained non-compliant with the inactive well requirements of SWR 15(d)(1). Attached to the letter was an exhaustive list of Tahiti's 22 non-compliant wells accompanied by a description of their respective deficiencies – identical in content to the May 15, 2015, notice.

Lastly, Staff testified that all of the subject wells remained out of compliance with the inactive well requirements of Statewide Rule 15(d)(1) at the time of the hearing on January 20, 2016.⁴

TAHITI'S CASE

Geoffrey S. Payne, CFO and Principal, and Jerry S. Henderson, Vice President, appeared at hearing. Tahiti did not appear with counsel.

Tahiti failed to provide evidence, or otherwise articulate a legal basis, to contradict proof that Tahiti is responsible for its failure to comply with the inactive well requirements of SWR 15.

In its direct case, Tahiti explained a series of unfortunate incidents which culminated in it becoming non-compliant with SWR 15.

Regardless, Tahiti affirmed its intent to quickly achieve compliance with all Commission rules and requirements, and asserted its willingness to work diligently with Staff to attain compliance.

⁴ Attached Appendix 1, admitted into record at hearing, identifies the subject wells and their respective deficiencies.

ADMINISTRATIVE LAW JUDGE'S OPINION

Pursuant to Statewide Rule 1, “. . . no organization . . . operating wholly or partially within this state . . . for the purpose of performing operations within the jurisdiction of the Commission shall perform such operations without having on file with the Commission an approved organization report . . .”⁵ Accordingly, an operator seeking to conduct oil and gas operations within the State must have on file with the Commission a current, active Form P-5 Organization Report.

However, Texas law expressly conditions renewal of a P-5 on an operator's compliance with the requirements of SWR 15.⁶ 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 re-establish production or plug the well within the deadline established by Commission rules.⁷

An inactive well is defined as “an unplugged well that has been spudded or has been equipped with the cemented casing and has no reported production, disposal, injection, or other permitted activity for a period of greater than 12 months.”⁸

In the instant matter, Tahiti failed to “obtain approval of the Commission or its delegate of an extension of the deadline for plugging” its 22 inactive wells.⁹

In order to obtain an extension of deadline for plugging an inactive land well, it is necessary that:

- (1) the Commission or its delegate approves the operator's W-3X;
- (2) the operator has a current organization report (Form P-5 Organization Report);
- (3) the operator has, and on request provides evidence of, a good faith claim to a continuing right to operate the well;
- (4) the well and associated facilities are otherwise in compliance with all Commission rules and orders; and
- (5) for a well more than 25 years old, the operator successfully conducts and the Commission or its delegate approves a fluid level or hydraulic pressure test establishing that the well does not pose a potential

⁵ 16 TEX. ADMIN. CODE § 3.1(a)(1).

⁶ TEX. NAT. RES. CODE § 89.022(c).

⁷ 16 TEX. ADMIN. CODE § 3.15(d)(1).

⁸ 16 TEX. ADMIN. CODE § 3.15(a)(6).

⁹ 16 TEX. ADMIN. CODE § 3.15(d)(1)(C).

threat of harm to natural resources, including surface and subsurface water, oil, and gas.¹⁰

Terms and conditions to apply for an extension of deadline for plugging an inactive land well are dictated by SWR 15(f).¹¹

At the January 20th hearing, it was incumbent upon Tahiti to provide evidence sufficient to demonstrate that it had secured from the Commission the necessary extensions of plugging deadline for each of its 22 inactive wells. Tahiti failed to present such evidence. Rather, Tahiti submitted evidence only of its *intent* to achieve compliance.

The evidence of record in this case shows that Tahiti is the current operator of 22 oil or gas wells which fail to meet the requirements of Statewide Rule 15(d)(1). Tahiti failed to secure from the Commission approved extensions of deadline for plugging 22 of its inactive land wells. As a result, each of Tahiti's 22 inactive wells is non-compliant with the inactive well requirements of SWR 15; and, thus, Tahiti failed to overcome Commission Staff determination that renewal of its P-5 cannot not be approved.

As of the date of this Proposal for Decision, Commission records indicate that 10 H-15 tests have been completed and filed with the Commission – however, it remains that each well lacks an approved W-3X.

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.

The Administrative Law Judge also hereby takes official notice of and incorporates by reference attached Appendix 2, Tahiti's current P-5, which identifies Aleksandra Lyons, Geoffrey S. Payne, and Jerry S. Henderson, as individuals who hold a position of ownership or control.

CONCLUSION

The Administrative Law Judge and Technical Examiner agree with Enforcement that Tahiti should be denied unrestricted renewal of its P-5 Organization Report and make the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Tahiti Partners Energy Solutions Corp. (Tahiti) holds Railroad Commission Operator Number 834487.
2. Tahiti is the current operator of the wells identified on attached Appendix 1, which is hereby adopted and incorporated by reference for all purposes.

¹⁰ 16 TEX. ADMIN. CODE § 3.15(e).

¹¹ 16 TEX. ADMIN. CODE § 3.15(f).

3. On or about May 15, 2015, Tahiti 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(d)(1). The notice identified each of Tahiti's non-compliant wells and included a description of their respective deficiencies.
4. On or about September 2, 2015, Tahiti 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(d)(1).
 - a. The notice identified each of Tahiti's non-compliant wells and included a description of their respective deficiencies.
 - b. The notice also established a 30-day deadline by which Tahiti could request a hearing to challenge Commission staff determination.
5. Tahiti timely requested a hearing on the matter.
 - a. At hearing, Tahiti presented no evidence of compliance.
 - b. At hearing, Tahiti affirmed its intent to achieve compliance.
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. Ten wells are delinquent in conducting an H-15 (fluid level test).
7. For purposes of TEX. NAT. RES. CODE § 91.114, at all times relevant hereto Aleksandra Lyons, Geoffrey S. Payne, and Jerry S. Henderson, are individuals who held a position of ownership or control in Tahiti.

CONCLUSIONS OF LAW

1. Tahiti Partners Energy Solutions Corp. has been provided notice and an opportunity for hearing regarding compliance with TEX. NAT. RES. CODE §§ 89.021-89.030 or 16 TEX. ADMIN. CODE § 3.15.
2. Tahiti failed to comply with the requirements of TEX. NAT. RES. CODE, Chapter 89, Subchapter B-1 and 16 TEX. ADMIN. CODE § 3.15.
3. Tahiti's P-5 Organization Report may not be renewed or approved. TEX. NAT. RES. CODE § 89.022(c).

RECOMMENDATIONS

The Administrative Law Judge and Technical Examiner recommend the Commission enter an order denying the unrestricted renewal of Tahiti's P-5 Organization Report.

The Administrative Law Judge and Technical Examiner also recommend that the Commission cancel all P-4 Certificates of Compliance issued to Tahiti and sever all related pipeline or other carrier connections.

The Administrative Law Judge and Technical Examiner also recommend that Tahiti be directed to place the subject wells into compliance with all Commission Statewide Rules.

The Administrative Law Judge and Technical Examiner also recommend that Aleksandra Lyons, Geoffrey S. Payne, and Jerry S. Henderson be made subject to the restrictions of TEX. NAT. RES. CODE § 91.114(a)(2).

RESPECTFULLY SUBMITTED,



RYAN M. LAMMERT
Administrative Law Judge



PEGGY LAIRD
Technical Examiner

API Number	District	ID Number	Lease Name	Well Number
331 31818	01	09053	MATZIG, OTTO	1
No approved W-3X on file				
331 32017	01	09580	HENDERSON, JOHN -A-	2A
No approved W-3X on file				
331 32040	01	09384	BATTE, R.L.	1
No approved W-3X on file				
331 32419	01	09384	BATTE, R.L.	2
No approved W-3X on file				
331 32709	01	10163	HENDERSON -B- (MPM)	1
No approved W-3X on file				
Must resolve Field Operations H-15 delinquency preventing 14B2 approval				
331 32726	01	10197	HENDERSON -B-	5
No approved W-3X on file				
Must resolve Field Operations H-15 delinquency preventing 14B2 approval				
331 32761	01	10197	HENDERSON -B-	9
No approved W-3X on file				
Must resolve Field Operations H-15 delinquency preventing 14B2 approval				
331 32762	01	10197	HENDERSON -B-	8
No approved W-3X on file				
Must resolve Field Operations H-15 delinquency preventing 14B2 approval				
331 32764	01	10197	HENDERSON -B-	6
No approved W-3X on file				
Must resolve Field Operations H-15 delinquency preventing 14B2 approval				
331 32815	01	10722	HENDERSON -A-2-	5
No approved W-3X on file				
331 32818	01	10197	HENDERSON -B-	20
No approved W-3X on file				
Must resolve Field Operations H-15 delinquency preventing 14B2 approval				
331 32820	01	10197	HENDERSON -B-	18
No approved W-3X on file				
Must resolve Field Operations H-15 delinquency preventing 14B2 approval				
331 32822	01	10197	HENDERSON -B-	16
No approved W-3X on file				
Must resolve Field Operations H-15 delinquency preventing 14B2 approval				
331 32825	01	10197	HENDERSON -B-	14
No approved W-3X on file				
Must resolve Field Operations H-15 delinquency preventing 14B2 approval				
331 32927	01	10722	HENDERSON -A-2-	11
No approved W-3X on file				
331 32930	01	10722	HENDERSON -A-2-	6
No approved W-3X on file				

API Number	District	ID Number	Lease Name	Well Number
331 32933	01	10722	HENDERSON -A-2-	14
No approved W-3X on file				
331 80045	01	01203	HENDERSON, JOHN ETAL	1
No approved W-3X on file				
331 80046	01	01203	HENDERSON, JOHN ETAL	2
No approved W-3X on file				
339 30049	03	15711	KEYSTONE MILLS CO.	1 W
No approved W-3X on file				
339 30176	03	075213	KEYSTONE MILLS CO.	2 W
No approved W-3X on file				
339 30402	03	095913	KEYSTONE MILLS	3 W
No approved W-3X on file				
Must resolve Field Operations H-15 delinquency preventing 14B2 approval				

