

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
HEARINGS SECTION**

OIL AND GAS DOCKET NO. 03-0277421

APPLICATION OF EVERGREEN ENERGY, INC. TO SUPERCEDE THE PROVISIONS OF THE FINAL ORDER IN DOCKET NO. 03-0259768 SIGNED BY THE COMMISSIONERS MAY 18, 2010 REQUIRING NXL OIL, LLC TO PLUG THE MASTERTSON IRR. CO. FARM -B- (01105) LEASE, WELL NOS. 30, 32, 37, 38, 41 AND 42, DAMON MOUND FIELD, BRAZORIA COUNTY, TEXAS, AND TO APPROVE EVERGREEN ENERGY, INC. AS OPERATOR OF RECORD.

FINAL ORDER

The Commission finds that after statutory notice the above-captioned proceeding was heard by the examiners on August 15, 2012. Having been duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas, the Commission makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. NXL Oil, LLC (hereinafter "NXL") and Evergreen Energy, Inc. (hereinafter "Evergreen") were given at least 10 days notice of this proceeding. Evergreen appeared at the scheduled time and place for the hearing through its President, Paul Hendershott, and presented evidence. NXL did not appear. Evergreen has agreed on the record to waive issuance of a PFD and that this Final Order shall be effective as of the date a Master Order relating to this Final Order is signed.
2. Evergreen filed its first Commission Form P-5 (Organization Report) with the Commission on February 27, 2008 and is currently active. Evergreen posted financial assurance with the Commission in the form of a \$25,000 cash deposit which expires December 31, 2012.
3. NXL was recognized as the operator of the Mastertson Irr. Co. Farm -B- (01105) Lease, Well Nos. 30, 32, 37, 38, 41 and 42 after filing a Commission Form P-4 (Producer's Transportation Authority and Certificate of Compliance), effective September 5, 2007.
4. In Oil & Gas Docket No. 03-0259768, NXL was ordered to plug the Mastertson Irr. Co. Farm -B- (01105) Lease, Well Nos. 30, 32, 37, 38, 41 and 42, and pay an administrative penalty of \$22,000.00.
5. Evergreen provided copies of leases on the subject wells granted to Evergreen by numerous mineral interest owners in 93.461 acres of land in the D.B. Damon 157-acre subdivision of the A. Darst League, A-61, in Brazoria County, Texas.

6. Evergreen has filed a two-signature Form P-4 with the Commission seeking to become operator of the Masterson Irr. Co. Farm -B- (01105) Lease, Well Nos. 30, 37, 38, 41 and 42, Damon Mound Field, Brazoria County, Texas.
7. Evergreen did not request to be the operator of Well No. 32 on the Masterson Irr. Co. Farm -B- (01105) Lease. Well No. 32 was plugged and removed from schedule on April 10, 2012.
8. Superseding the requirement in the Final Order entered in Oil & Gas Docket No. 03-0259768 that the Masterson Irr. Co. Farm -B- (01105) Lease, Well Nos. 30, 37, 38, 41 and 42 be plugged is necessary to prevent waste. Evergreen believes that the wells, which have been inactive for 20 to 30 years, may have recharged. If so, the wells may produce as much as 15 to 30 BO per day.
9. The requirement in the Final Order in Oil & Gas Docket 03-0259768 that NXL pay an administrative penalty of \$22,000.00 will remain in effect.

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. Evergreen Energy, Inc. has a good faith claim of a right to operate the subject lease.
4. Evergreen Energy, Inc. 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 lease.
5. A Final Order superseding the Final Order entered in Oil & Gas Docket No. 03-0259768 requiring plugging of Well Nos. 30, 37, 38, 41 and 42 on the Masterson Irr. Co. Farm -B- (01105) Lease, Brazoria County, is necessary to prevent waste.
6. The Final Order in this Docket superseding the Final Order in Oil & Gas Docket 03-0259768 is effective only as to removing the plugging requirement for Well Nos. 30, 37, 38, 41 and 42 on the Masterson Irr. Co. Farm -B- (01105) Lease, Brazoria County, and does not relieve NXL Oil, LLC of its obligation to pay an administrative penalty of \$22,000.00 to the Railroad Commission.
7. Pursuant to §2001.144(a)(4) of the Texas Government Code, and the agreement of Evergreen Energy, Inc., this Final Order is effective when a Master Order relating to this Final Order is signed on September 11, 2012.

It is accordingly **ORDERED** that the provision in the Final Order entered in Oil & Gas Docket No. 03-0259768 requiring plugging of Well Nos. 30, 37, 38, 41 and 42 on the Masterson Irr.

Co. Farm -B- (01105) Lease, Brazoria County is hereby superceded. All other provisions of the Final Order shall remain in full force and effect.

It is further **ORDERED** that the two-signature Form P-4 (Certificate of Compliance and Transportation Authority) filed by Evergreen Energy, Inc. to change the operator of Well Nos. 30, 37, 38, 41 and 42 on the Masterson Irr. Co. Farm -B- (01105) Lease, Damon Mound Field, Brazoria County, from NXL Oil, LLC to Evergreen Energy, Inc. is hereby **APPROVED**.

It is further **ORDERED** by the Commission that this order shall be effective on September 11, 2012, when the Master Order relating to this Final Order is signed.

All pending motions and requests for relief not previously granted or granted herein are denied.

Done this 11th day of September, 2012, in Austin, Texas.

RAILROAD COMMISSION OF TEXAS

**(Order approved and signatures affixed by
OGC Unprotested Master Order dated
September 11, 2012)**