

**OIL & GAS DOCKET NO. 7B-0261728**

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**COMMISSION CALLED HEARING ON THE REQUEST OF LEO C. WILLIAMS FOR AN OPPORTUNITY TO SHOW CAUSE WHY HE IS NOT LEGALLY RESPONSIBLE FOR PLUGGING THE WILLIAMS #1A (117690), WILLIAMS #2A (118107), WILLIAMS #3A (118688), WILLIAMS #5A (118685) AND THE WATKINS #2A (118302), LINDE (FRYE) FIELD, EASTLAND COUNTY, TEXAS**

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**APPEARANCES:**

**FOR APPLICANT:**

Leo C. Williams  
David Williams

**APPLICANT:**

Leo C. Williams

**FOR INTERVENOR:**

Kelli A. Tieken  
Keith Barton

**INTERVENOR:**

Enforcement Section  
Railroad Commission of Texas

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

<b>DATE REQUEST FOR HEARING FILED:</b>	April 24, 2009
<b>DATE OF NOTICE OF HEARING:</b>	May 8, 2009
<b>DATE OF HEARING:</b>	June 12, 2009
<b>HEARD BY:</b>	James M. Doherty, Hearings Examiner
<b>DATE RECORD CLOSED:</b>	July 16, 2009
<b>DATE PFD CIRCULATED:</b>	August 25, 2009

**STATEMENT OF THE CASE**

This hearing was requested by Leo C. Williams (Operator No. 925464) (“Williams”) to provide Williams with an opportunity to show cause why he is not legally responsible for plugging the Williams Lease, Well No. 1A (RRC No. 117690), Williams Lease, Well No. 2A (RRC No. 118107), Williams Lease, Well No. 3A (RRC No. 118688), and Williams Lease, Well No. 5A (RRC No. 118685), and the Watkins Lease, Well No. 2A (RRC No. 118302), Linde (Frye) Field, Eastland County, Texas. A hearing was held on June 12, 2009. Williams and the Enforcement Section

appeared and presented evidence. The record was held open until July 16, 2009, for submission by the Enforcement Section of District Office inspection reports relating to post-hearing inspections and to allow Williams time to consider options to bring the subject wells into compliance.

### **BACKGROUND**

The subject wells have been inactive since prior to January 1, 1993, and do not have Statewide Rule 14(b)(2) plugging extensions. The wells are thus “delinquent inactive wells” as defined by §89.002(a)(7) of the Texas Natural Resources Code. The Form P-5 organization report of Williams is delinquent and Williams has no financial assurance on file.

On April 8, 2009, the Abilene District Office sent notices to Williams regarding the subject wells. These notices stated that it had been determined that the wells were abandoned or not being operated, were leaking saltwater, oil, or gas, or were likely to leak such substances, and such leakage would cause or would likely cause a serious threat of pollution or injury to the public health. The notices stated further that the subject wells were delinquent inactive wells, did not have plugging extensions, and were in violation of Statewide Rule 14(b)(2). Williams was directed to plug the wells.

The April 8, 2009, notices advised Williams that the District Office was recommending that the wells be scheduled for plugging with state funds. Williams was notified that if he believed that he is not legally required to plug the wells, and if a hearing on the matter had not been conducted, Williams could request a hearing. Williams was further notified that if the Commission plugged the wells with state funds: (1) all well-site equipment and hydrocarbons would be presumed to have been abandoned and could be disposed of by the Commission under Texas Natural Resources Code §89.085; and (2) Williams could be liable for administrative penalties assessed by the Commission and for the cost of state-funded plugging operations, and the Attorney General could file suit against Williams for additional civil penalties.

### **DISCUSSION OF THE EVIDENCE**

#### **Matters Officially Noticed**

At the hearing, the examiner announced that he would take official notice of the Commission’s P-4 Inquiry, P-4 Certificate of Compliance/Certified Letter/Cancellation/Reissue, Oil and Gas W-2/G-1 Record, and On-Schedule Leases, Wells, Wellbores by Operator databases to which there was no objection. These records establish that Leo C. Williams became the operator of each of the subject wells by filing Forms P-4 (Certificate of Compliance and Transportation Authority) approved on December 6, 1996, effective September 20, 1996. These records show further that the Williams Lease, Well No. 1A (RRC No. 117690) was completed on July 10, 1985, the Williams Lease, Well No. 2A (RRC No. 118107) was completed on July 5, 1985, the Williams Lease, Well No. 3A (RRC No. 118688) was completed on September 30, 1985, the Williams Lease, Well No. 5A (RRC No. 118685) was completed on September 26, 1985, and the Watkins Lease,

Well No. 2A (RRC No. 118302) was completed on August 10, 1985. These, and one other well not involved in this docket, the Williams Lease, Well No. 1 (RRC No. 118108), are the only wells of which Leo C. Williams is the designated operator. The examiner has also taken official notice of the P-5 Financial Assurance Inquiry database, which shows that Leo C. Williams has no financial assurance on file with the Commission.

### **Williams**

Williams is the owner of the surface estate of both the Williams Lease and the Watkins Lease, where the subject wells are located. He also owns a 89% interest in the mineral estate of the Williams Lease and a 94% interest in the mineral estate of the Watkins Lease. The subject wells were drilled by Circle Exploration Company in the mid-1980s. According to Williams' recollection, Circle produced the wells until about 1988 or 1989 when reserves were severely depleted, and then abandoned the wells during a period of low gas prices. Williams claims that to preserve the use of a domestic gas well, he filed an "erroneous" Form P-4 by which he assumed the responsibility for plugging the wells.

Williams claims that the Williams #1A is a domestic gas well hooked up to supply gas to his private residence. This well is still being used by Williams as a domestic gas well. According to Williams recollection, except for the domestic gas well which does not produce commercially, none of the wells have produced gas since about 1988 or 1989. Williams agreed that the subject wells do not have plugging extensions and are in violation of Statewide Rule 14(b)(2). He did not plug the wells as directed by the District Office because he believes the wells have some value, although he stated uncertainty about this. Williams does not have the money to plug all the wells and expressed an interest in exploring his options for bringing the wells back into compliance with Commission rules. He believes that the wells are cemented in a manner that they are no threat to fresh water. There is no threat of leaks, and no fresh water in the area. At the very least, Williams would like to preserve the wells used as domestic gas wells and plug the others.<sup>1</sup>

### **Enforcement**

Leo C. Williams is a sole proprietor. His last Form P-5 organization report was approved on November 3, 1992. When Williams signed the single-signature Forms P-4 that resulted in transfer of the subject wells to him, he acknowledged on the forms that he was responsible for the regulatory compliance of the wells, including well plugging responsibility, and would remain the designated operator of the wells until new Forms P-4 were approved designating a new operator. No production has been reported to the Commission for any of the subject wells since prior to January 1, 1993. The wells were approved for plugging with State funds on April 16, 2009, and the

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<sup>1</sup> Williams testified that although the wells, other than his domestic gas well, have been inactive since he became operator in 1996, he did not earlier make any attempt to place the wells into compliance with Commission rules because he had no use for the wells and just "let them float" until he started to receive notice of the Commission's intent to plug the wells with State funds.

estimated cost to the State to plug the wells is \$3,800 per well.

Keith Barton, P.E., Field Operations, testified that Commission policy permits use of a well as a domestic gas well as long as the system is properly maintained and is not a threat to public health or safety. Barton believed that the Williams Lease, Well No. 1A had been used by Leo C. Williams as a domestic gas well. According to Barton's interpretation, a domestic gas well must be plugged when it becomes inactive. The remainder of the subject wells were believed by Barton not to be in the domestic gas well category. These wells have been inactive for a number of years, and do not have plugging extensions. Furthermore, Leo C. Williams does not have an active Form P-5 Organization Report or approved financial assurance on file. To put the subject wells into compliance, other than by plugging the wells, Williams would be required to renew his Form P-5 Organization Report, file financial assurance in the required amount, and either properly shut-in the wells with plugging extensions or restore the wells to active production.

A District Office inspection of the subject wells was made on June 24, 2009. The inspection reports resulting from this inspection show that the well currently used by Leo C. Williams as a domestic gas well is the Williams Lease, Well No. 1 (RRC No. 118108), a well not involved in this docket. Well No. 1 was mis-identified by a sign designating the well as Well No. 1A. No pollution or pit violations were observed and the wellhead was found to be secure. The inspection report noted that Well No. 1 was actively in use as a domestic gas well for use in the home of Leo C. Williams. The well was equipped with 2 3/8" tubing in casing with flow line connected. The inspection showed that this well is in compliance with Statewide Rule 14(b)(2).

The June 24, 2009, inspection reports show also that the Williams Lease, Well No. 5A (RRC No. 118685) is hooked up to a line to the home of the daughter of Leo C. Williams, apparently for use as a domestic gas well. A sign was properly posted to identify this well, no pollution or pit violations were observed, the wellhead was secure, the well was equipped with 2 3/8" tubing in casing, and the tubing valve was open. The inspection report showed this well to be in compliance with Statewide Rule 14(b)(2).

The June 24, 2009, inspection reports show that all other wells involved in this docket are inactive and in violation of Statewide Rule 14(b)(2).

#### **EXAMINER'S OPINION**

Pursuant to Texas Natural Resources Code §89.043(a), if the Commission determines at a hearing under §89.041 that a well has not been properly plugged, the Commission, through its employees or through a person acting as an agent for the Commission, may plug the well if neither the operator or nonoperator can be found or neither the operator or nonoperator has assets with which to properly plug the well.

Pursuant to §89.043(b) of the Code, if a well is leaking saltwater, oil or gas or is likely to leak saltwater, oil or gas, and the leakage will cause or is likely to cause a serious threat of pollution or injury to the public health, the Commission, through its employees or agents, may direct the

operator to take remedial action or to plug the well or may plug or replug the well without holding a hearing under §89.041 or giving notice under §89.043(c). Pursuant to §89.043(c), not later than the 30th day before the date the Commission enters into a contract to plug a delinquent inactive well, the Commission must send a notice by certified mail to the operator of the well at the address last reported on the operator's organization report directing the operator to plug the well and stating, among other things, that the Commission may plug the well and foreclose its statutory lien under §89.083 unless the operator requests a hearing. Pursuant to §89.043(c)(3), if the Commission plugs a well, it by order may require the operator to reimburse the Commission for the plugging costs or may request the attorney general to file suit against the operator to recover those costs.

Leo C. Williams is the operator of the Williams Lease, Well No. 1A (RRC No. 117690), the Williams Lease, Well No. 2A (RRC No. 118107), the Williams Lease, Well No. 3A (RRC No. 118688), and the Watkins Lease, Well No. 2A (RRC No. 118302) with the responsibility to plug these wells pursuant to §89.002 and §89.011 of the Texas Natural Resources Code and Statewide Rule 14(b)(2). These wells are in violation of Statewide Rule 14(b)(2), and Williams should be ordered to plug the wells. Williams has stated that he is without sufficient assets to plug the wells. There is no nonoperator that can be looked to for the plugging of the wells. The District Office has determined that the wells are likely to leak saltwater, oil, or gas and such leakage likely will cause a serious threat of pollution or injury to the public health. Accordingly, if Williams fails to plug the wells as ordered, the Commission may use State funds to plug the wells pursuant to §89.043(a) and §89.043(b) of the Texas Natural Resources Code.

The Commission has no rule that specifically addresses domestic gas wells. The Commission has an informal policy that has permitted the use of such wells in particular circumstances where the gas is to be used for household purposes only on the operator/mineral owner's property. The filing of Forms G-1/W-2 and P-4 is required to convert a well to a domestic gas well. The well then receives a special code on the proration schedule to identify it as a domestic gas well. The operator of a domestic gas well must file a Form P-5 Organization Report but is not required to pay a filing fee or renew the Form P-5 annually. Filing of financial assurance for an operator of domestic gas wells only is not required. Neither is the filing of production reports required. When an annual G-10/W-10 test is due, a notice is printed out and sent to the District Office where a decision is made as to whether the domestic gas well should be inspected.

The June 24, 2009, District Office inspection reports show that the Williams Lease, Well No. 5A (RRC No. 118685) is hooked up to a line to the home of the daughter of Leo C. Williams on the property of Mr. Williams, apparently for use as a domestic gas well. The inspection report shows that the well is compliant with Statewide Rule 14(b)(2). Accordingly, the examiner does not recommend that Leo C. Williams be ordered to plug this well or that the Commission plug the well with State funds. No action is required with respect to the Williams Lease, Well No. 1 (RRC No. 118108), which is a domestic gas well not involved in this docket.<sup>2</sup>

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<sup>2</sup> Evidence presented at the hearing suggested that the domestic gas well connected to Williams' home is the Williams No. 1A. However, the June 24, 2009, inspection by the District Office disclosed that this well is actually Well No. 1, misidentified by a sign at the well location as Well No. 1A.

Based on the record in this case, the examiner recommends adoption of the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

1. At least ten days notice of the hearing in this docket was provided to all interested persons, including Leo C. Williams who requested the hearing. Leo C. Williams appeared at the hearing and presented evidence.
2. Leo C. Williams is a sole proprietor. The last Form P-5 Organization Report filed by Leo C. Williams with the Commission was approved on November 3, 1992. Leo C. Williams has no approved financial assurance on file with the Commission.
3. Leo C. Williams designated himself the operator of the Williams Lease, Well No. 1A (RRC No. 117690), the Williams Lease, Well No. 2A (RRC No. 118107), the Williams Lease, Well No. 3A (RRC No. 118688), the Williams Lease, Well No. 5A (RRC No. 118685), and the Watkins Lease, Well No. 2A (RRC No. 118302) (“subject wells”), Linde (Frye) Field, Eastland County, Texas, by filing Forms P-4 (Certificate of Compliance and Transportation Authority) approved by the Commission on December 6, 1996, effective September 20, 1996.
4. The subject wells have been inactive since 1988 or 1989, when the original operator abandoned the wells. No production for the wells has been reported to the Commission since at least January 1, 1993.
5. The subject wells do not have Statewide Rule 14(b)(2) plugging extensions.
6. On April 8, 2009, the Commission’s Abilene District Office sent Leo C. Williams a Notice to Operator and Request for State Funds. This notice stated that it had been determined that the subject wells were abandoned or not being operated, were leaking saltwater, oil or gas or were likely to leak such substances, and such leakage, occurring or likely to occur, would cause or would likely cause a serious threat of pollution or injury to the public health.
  - a. The notice directed Leo C. Williams to plug the wells.
  - b. The notice also stated that the District Office was recommending that the subject wells be plugged with State funds, and notified Leo C. Williams that if he believed he was not legally required to plug the wells, and if a hearing on the matter had not been held, he could request a hearing.
  - c. This notice also notified Leo C. Williams that if the Commission plugged the subject wells: (i) all well-site equipment and hydrocarbons would be presumed to have been abandoned and could be disposed of by the Commission under Texas Natural

Resources Code §89.085; and ii) Leo C. Williams could be liable for administrative penalties assessed by the Commission, and for the cost of state-funded plugging operations, and the Attorney General could file suit against Williams for additional civil penalties.

7. On April 16, 2009, the subject wells were administratively approved for plugging with State funds.
8. On April 24, 2009, Leo C. Williams requested the hearing in this docket.
9. The Williams Lease, Well No. 1A (RRC No. 117690), the Williams Lease, Well No. 2A (RRC No. 118107), the Williams Lease, Well No. 3A (RRC No. 118688), and the Watkins Lease, Well No. 2A (RRC No. 118302) are delinquent inactive wells that present a serious threat of pollution or injury to the public health.
  - a. The Abilene District Office has determined that these wells are likely to leak saltwater, oil, or gas and such leakage likely would cause a serious threat of pollution or injury to the public health.
  - b. These wells are about 24 years old, have been inactive for about 21 years, and have not been properly plugged.
  - c. These wells have not been pressured tested to determine mechanical integrity.
10. Leo C. Williams is without assets with which to plug the Williams Lease, Well No. 1A (RRC No. 117690), the Williams Lease, Well No. 2A (RRC No. 118107), the Williams Lease, Well No. 3A (RRC No. 118688), and the Watkins Lease, Well No. 2A (RRC No. 118302), and there is no nonoperator to look to for assets with which to plug the wells.
11. The Williams Lease, Well No. 5A (RRC No. 118685) is a domestic gas well currently in compliance with Statewide Rule 14(b)(2).
  - a. This well is hooked up to a line to the home of the daughter of Leo C. Williams, for use as a domestic gas well.
  - b. The home of the daughter of Leo C. Williams to which this well is connected is located on property owned by Leo C. Williams. Williams owns the surface of this property and 89% of the mineral interest.
  - c. As of the date of a District Office inspection on June 24, 2009, a sign was properly posted to identify this well, no pollution or pit violations were observed, the wellhead was secure, the well was equipped with 2 3/8" tubing in casing, and the tubing valve was open. The inspection report showed this well to be in compliance with Statewide Rule 14(b)(2).

12. Under current Commission policy, an operator of domestic gas wells only is required to file a Form P-5 Organization Report, but is not required to renew this report annually and is not required to file financial assurance for domestic gas wells. A domestic gas well is not required to be plugged while being actively used as a domestic gas well for household use only.

**CONCLUSIONS OF LAW**

1. Proper notice of hearing was timely issued to appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. Leo C. Williams is the operator of the Williams Lease, Well No. 1A (RRC No. 117690), the Williams Lease, Well No. 2A (RRC No. 118107), the Williams Lease, Well No. 3A (RRC No. 118688), and the Watkins Lease, Well No. 2A (RRC No. 118302), Linde (Frye) Field, Eastland County, Texas, with the responsibility to plug these wells pursuant to §89.002 and §89.011 of the Texas Natural Resources Code and Statewide Rule 14(b)(2) [16TEX. ADMIN. CODE §14(b)(2)].
4. The Williams Lease, Well No. 1A (RRC No. 117690), the Williams Lease, Well No. 2A (RRC No. 118107), the Williams Lease, Well No. 3A (RRC No. 118688), and the Watkins Lease, Well No. 2A (RRC No. 118302), Linde (Frye) Field, Eastland County, Texas, are delinquent inactive wells, have not been properly plugged, and are in violation of Statewide Rule 14(b)(2).
5. Leo C. Williams did not show cause why he is not legally responsible for plugging the Williams Lease, Well No. 1A (RRC No. 117690), the Williams Lease, Well No. 2A (RRC No. 118107), the Williams Lease, Well No. 3A (RRC No. 118688), and the Watkins Lease, Well No. 2A (RRC No. 118302), Linde (Frye) Field, Eastland County, Texas.
6. In the event Leo C. Williams does not plug the Williams Lease, Well No. 1A (RRC No. 117690), the Williams Lease, Well No. 2A (RRC No. 118107), the Williams Lease, Well No. 3A (RRC No. 118688), and the Watkins Lease, Well No. 2A (RRC No. 118302) as ordered, the Commission may use State funds to plug these wells pursuant to §89.043(a) and §89.043(b) of the Texas Natural Resources Code, foreclose its statutory lien under Texas Natural Resources Code §89.083, make disposition of well-site equipment and any amount of hydrocarbons from the wells stored on the subject leases as provided in Texas Natural Resources Code §89.085, and seek reimbursement of all reasonable expenses of plugging the wells from Leo C. Williams.
7. The Williams Lease, Well No. 5A (RRC No. 118685), Linde (Frye) Field, Eastland County, Texas, is a domestic gas well currently in compliance with Statewide Rule 14(b)(2) and use of State funds to plug this well is not currently authorized.

**RECOMMENDATION**

The examiner recommends that the Commission adopt the attached final order requiring Leo C. Williams to plug the Williams Lease, Well No. 1A (RRC No. 117690), the Williams Lease, Well No. 2A (RRC No. 118107), the Williams Lease, Well No. 3A (RRC No. 118688), and the Watkins Lease, Well No. 2A (RRC No. 118302), Linde (Frye) Field, Eastland County, Texas, and providing that if Leo C. Williams does not plug these wells in compliance with the order, the Commission may proceed to use State funds to plug the wells, foreclose its statutory lien under Texas Natural Resources Code §89.083, make disposition of well-site equipment and any amount of hydrocarbons from the wells stored on the subject leases as provided in Texas Natural Resources Code §89.085, and seek reimbursement of all reasonable expenses of plugging the wells from Leo C. Williams.

Respectfully submitted,

James M. Doherty  
Hearings Examiner