



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

PROPOSAL FOR DECISION

OIL & GAS DOCKET NO. 03-0312830

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the High Island 24-L, N/2, NW/4 (Gas ID No. 244703) Lease, High Is. Blk. 24-L (FJ Sand) (41142500) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312831

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the High Island 24-L, N/2, NW/4 (26021) Lease, High Is. Blk. 24L (FB-C, CM-11) (41209120) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312832

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the State (Gas ID No. 047122) Lease, High Is. Blk. 24L (FB-C, HC) (41209200) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312833

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the State Lease 59455 (Gas ID No. 055960) Lease, High Is. Blk. 24L (FB-C, GK) (41209155) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312834

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the State Lease 59455 (Gas ID No. 047118) Lease, High Is. Blk. 24L (FB-C, HC) (41209200) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312835

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the State Lease 59455 (09707) Lease, High Is. Blk. 24L (FB-C, CM-11) (41209120) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312836

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the State Lease 59456 (Gas ID No. 148594) Lease, High Is. Blk. 24L (FB-E, GP) (41209505) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312837

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the High Island 24L SL 59456 (Gas ID No. 165605) Lease, High Is. Blk. 24L (FB-E, GP) (41209505) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312839

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the High Island 24L SL 59455 (Gas ID No. 174818) Lease, High Is. Blk. 24L (FB-C, GK) (41209155) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312841

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the State Lease 60729 (09726) Lease, High Is. Blk. 24L (FB-A, HC) (41209040) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312842

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the State Lease 60729 (20448) Lease, High Island Blk. 24-L (FB-A, HF) (41209045) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312843

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the State Lease 60729 (26154) Lease, High Island Blk. 24L (FB-DD, HF) (41209491) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312844

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the State Lease 59454 (Gas ID No. 133033) Lease, High Island Blk. 24L (FB-D, HC) (41209360) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312845

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the High Island 24L (SL59455) (Gas ID No. 150773) Lease, High Island Blk. 24L (FB-B, GP) (41209058) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312846

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the State Lease 103389 (25415) Lease, High Is. Blk. 24-L (HD SD) (41142600) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312847

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the State Lease 59454 (Gas ID No. 141065) Lease, High Is. Blk. 24L (FB-DD, HF) (41209491) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312848

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the State Lease 59454 (20820) Lease, High Is. Blk. 24L (FB-DD, HC) (41209490) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312849

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the S/L 59455, High Island 24L (Gas ID No. 138911) Lease, High Is. Blk. 24L (FB-C, HC) (41209200) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312850

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the State Lease 59455 (09695) Lease, High Is. Blk. 24L (FB-C, GL) (41209160) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312851

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the State Lease 59455 (Gas ID No. 047121) Lease, High Is. Blk. 24L (FB-C, HC) (41209200) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312852

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the State Lease 59455 (Gas ID No. 138259) Lease, High Is. Blk. 24L (FB-C, GK) (41209155) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312853

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the High Island 24L SL59456 (Gas ID No. 162015) Lease, High Is. Blk. 24L (FB-E, IG) (41209680) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312854

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the High Island 24L SL59456 (Gas ID No. 167568) Lease, High Is. Blk. 24L (FB-E, HF) (41209600) Field, Jefferson County, Texas

OIL & GAS DOCKET NO. 03-0312855

Complaint by Texas General Land Office that Jefferson Block 24 Oil & Gas LLC Does Not Have a Good Faith Claim to Operate the High Island 24L SL59456 (23759) Lease, High Is. Blk. 24L (FB-E, HC) (41209520) Field, Jefferson County, Texas

EXAMINERS:

Jennifer Cook
Administrative Law Judge
Ashley Correll, P.G.
Technical Examiner

PROCEDURAL HISTORY:

Hearing Date -	November 26, 2018
Close of Record -	February 15, 2019
Proposal for Decision Issued -	April 12, 2019

APPEARANCES:

For Complainant Texas General Land Office -

Ken Mills, Director
Oil, Gas & Energy
Office of the General Counsel
Texas General Land Office

For Respondent Jefferson Block 24 Oil & Gas LLC -

Richard Morgan, Owner

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I. Statement of the Case

The Texas General Land Office (“Complainant” or “GLO”) filed a complaint (“Complaint”) claiming Jefferson Block 24 Oil & Gas LLC (“Respondent” or “Jefferson”) does not have a good faith claim to operate wells on 24 Commission leases in Jefferson County, Texas (“Wells”).

Complainant asserts Respondent does not have a good faith claim because the tracts where the Wells are located are unleased and any contractual lease relied on by Respondent has terminated for lack of production. Complainant requests the Commission order the Wells to be plugged.

Respondent acknowledges it has no contractual lease or other authorization giving it the right to operate the Wells. Respondent acknowledges that the Wells have not been productive since 2016 and it has the obligation to plug the Wells. Respondent claims it wants to get the Wells plugged in an orderly manner through an agreement with the GLO using funds held by the GLO. Respondent also asserts some of the Wells should not be plugged because they can be produced economically.

The Administrative Law Judge and Technical Examiner (collectively “Examiners”) respectfully submit this Proposal for Decision (“PFD”) and recommend the Railroad Commission (“Commission” or “RRC”) grant Complainant’s request. The Examiners recommend the Commission find Respondent failed to provide a reasonably satisfactory showing of a good faith claim to operate the Wells and order Respondent to plug the Wells.

II. Jurisdiction and Notice¹

Sections 81.051 and 81.052 of the Texas Natural Resources Code provide the Commission with jurisdiction over all persons owning or engaged in drilling or operating oil or gas wells in Texas, and the authority to adopt all necessary rules for governing and regulating persons and their operations under the jurisdiction of the Commission.

On October 30, 2018, the Hearings Division of the Commission sent a Joint Notice of Hearing (“Notice”) to Complainant and Respondent setting a hearing date of November 26, 2018. Consequently, the parties received more than 10 days’ notice. The Notice contains (1) a statement of the time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and rules involved; and (4) a short and plain statement of the matters asserted.² The hearing was held on November 26, 2018, as noticed. Complainant and Respondent appeared and participated at the hearing.

¹ The three audio hearing files in this case are referred to as “Tr. Part [file number] at [minutes].” Complainant’s exhibits are referred to as “Complainant Ex. [exhibit no(s)].” Respondent’s exhibits are referred to as “Respondent Ex. [exhibit no(s)].”

² See Tex. Gov’t Code §§ 2001.051, 052; 16 Tex. Admin. Code §§ 1.42, 1.45.

III. Applicable Legal Authority

Complainant alleges the Commission's current operator of record, Respondent, does not have a good faith claim to operate the Wells. A good faith claim is defined in the Texas Natural Resources Code and in Commission rule as:

A factually supported claim based on a recognized legal theory to a continuing possessory right in the mineral estate, such as evidence of a currently valid oil and gas lease or a recorded deed conveying a fee interest in the mineral estate.³

The applicable Commission rule in this case is Statewide Rule 15 (or "Rule 15"), which provides inactive well requirements.⁴ An inactive well is defined as:

An unplugged well that has been spudded or has been equipped with cemented casing and that has had no reported production, disposal, injection, or other permitted activity for a period of greater than 12 months.⁵

Rule 15 requires the plugging of inactive wells. Statewide Rule 15(b)(1) states:

(b) Plugging of inactive bay and offshore wells required.

(1) An operator of an existing inactive bay or offshore well as defined in §3.78 of this title (relating to Fees and Financial Security Requirements) must:

- (A) restore the well to active operation as defined by Commission rule;
- (B) plug the well in compliance with a Commission rule or order;
or
- (C) obtain the approval of the Commission or its delegate of an extension of the deadline for plugging an inactive bay or offshore well.⁶

So for an inactive well, an operator must plug it, obtain a plugging extension, or restore it to active status.

Rule 15(c) allows plugging extensions only if four specified criteria are met as follows:

(1) the operator has a current organization report;

³ Tex. Nat. Res. Code § 89.002(11); 16 Tex. Admin. Code § 3.15(a)(5).

⁴ Statewide Rule 15 refers to 16 Tex. Admin. Code § 3.15.

⁵ 16 Tex. Admin. Code § 3.15(a)(6).

⁶ 16 Tex. Admin. Code § 3.15(b)(1).

(2) the operator has, and on request provides evidence of, a good faith claim to a continuing right to operate the well;

(3) the well and associated facilities are otherwise in compliance with all Commission rules and orders; and

(4) 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 threat of harm to natural resources, including surface and subsurface water, oil, and gas.⁷

Thus, absent a good faith claim to operate, wells are not eligible for extensions to the plugging requirements in Statewide Rule 14 and 15.

IV. Discussion of Evidence

Complainant provided one witness and three exhibits. Respondent provided one witness and approximately 8 exhibits.

A. Summary of Complainant's Evidence and Argument

Complainant asserts Respondent does not have a good faith claim because the contractual lease relied on by Respondent has terminated for lack of production. The Wells have not been productive since 2016. Complainant requests the Commission order the Wells to be plugged and the associated equipment removed.⁸

Ken Mills, the Director of Oil, Gas & Energy in the Office of the General Counsel at the GLO, was the only witness for the GLO. A description of the Wells (24 RRC leases and 16 unique well API⁹ numbers) is as follows:

1. API No. 708-0094

- Oil & Gas Docket No. 03-0312830: the High Island 24-L, N/2, NW/4 (Gas ID No. 244703) Lease, High Is. Blk. 24-L (FJ Sand) (41142500) Field

⁷ Emphasis added.

⁸ See, e.g., Complainant Ex. 13.

⁹ Each well in the United States is given a unique identifier, called the API Number. In 1966 the American Petroleum Institute introduced the well identifier specifications to fulfill this role. The specifications were published as American Petroleum Institute Bulletin D12A. In 2010, the API transferred custody of this Standard to Professional Petroleum Data Management Association. As a revision to the API Well Number, the Well ID US work group developed the US Well Number, which assigns at least a 12-digit number to every wellbore. This standard provides for the unique identification of every wellbore. PPDM, Well ID US, https://ppdm.org/ppdm/PPDM/Well_ID_US_WG.aspx?WebsiteKey=927055e8-ec5d-4b51-96ef-5dbe0a133439; see also RRC, Well Bore Data, <https://www.rrc.texas.gov/about-us/resource-center/research/data-sets-available-for-purchase/well-data-subscriptions/>.

- Oil & Gas Docket No. 03-0312831: the High Island 24-L, N/2, NW/4 (26021) Lease, High Is. Blk. 24L (FB-C, CM-11) (41209120) Field
2. API No. 708-00112
 - Oil & Gas Docket No. 03-0312832: the State (Gas ID No. 047122) Lease, High Is. Blk. 24L (FB-C, HC) (41209200) Field
 - Oil & Gas Docket No. 03-0312833: the State Lease 59455 (Gas ID No. 055960) Lease, High Is. Blk. 24L (FB-C, GK) (41209155) Field
 3. API No. 708-00113
 - Oil & Gas Docket No. 03-0312834: the State Lease 59455 (Gas ID No. 047118) Lease, High Is. Blk. 24L (FB-C, HC) (41209200) Field
 - Oil & Gas Docket No. 03-0312835: the State Lease 59455 (09707) Lease, High Is. Blk. 24L (FB-C, CM-11) (41209120) Field
 4. API No. 708-30032
 - Oil & Gas Docket No. 03-0312836: the State Lease 59456 (Gas ID No. 148594) Lease, High Is. Blk. 24L (FB-E, GP) (41209505) Field
 5. API No. 708-30046
 - Oil & Gas Docket No. 03-0312837: the High Island 24L SL 59456 (Gas ID No. 165605) Lease, High Is. Blk. 24L (FB-E, GP) (41209505) Field
 6. API No. 708-30311
 - Oil & Gas Docket No. 03-0312839: the High Island 24L SL 59455 (Gas ID No. 174818) Lease, High Is. Blk. 24L (FB-C, GK) (41209155) Field
 7. API No. 708-30315
 - Oil & Gas Docket No. 03-0312841: the State Lease 60729 (09726) Lease, High Is. Blk. 24L (FB-A, HC) (41209040) Field
 - Oil & Gas Docket No. 03-0312842: the State Lease 60729 (20448) Lease, High Island Blk. 24-L (FB-A, HF) (41209045) Field
 8. API No. 708-30316
 - Oil & Gas Docket No. 03-0312843: the State Lease 60729 (26154) Lease, High Island Blk. 24L (FB-DD, HF) (41209491) Field
 9. API No. 708-30318
 - Oil & Gas Docket No. 03-0312844: the State Lease 59454 (Gas ID No. 133033) Lease, High Island Blk. 24L (FB-D, HC) (41209360) Field
 10. API No. 708-30322
 - Oil & Gas Docket No. 03-0312845: the High Island 24L (SL59455) (Gas ID No. 150773) Lease, High Island Blk. 24L (FB-B, GP) (41209058) Field

11. API No. 708-30323

- Oil & Gas Docket No. 03-0312846: the State Lease 103389 (25415) Lease, High Is. Blk. 24-L (HD SD) (41142600) Field

12. API No. 708-30327

- Oil & Gas Docket No. 03-0312847: the State Lease 59454 (Gas ID No. 141065) Lease, High Is. Blk. 24L (FB-DD, HF) (41209491) Field
- Oil & Gas Docket No. 03-0312848: the State Lease 59454 (20820) Lease, High Is. Blk. 24L (FB-DD, HC) (41209490) Field

13. API No. 708-30329

- Oil & Gas Docket No. 03-0312849: the S/L 59455, High Island 24L (Gas ID No. 138911) Lease, High Is. Blk. 24L (FB-C, HC) (41209200) Field
- Oil & Gas Docket No. 03-0312850: the State Lease 59455 (09695) Lease, High Is. Blk. 24L (FB-C, GL) (41209160) Field

14. API No. 708-30335

- Oil & Gas Docket No. 03-0312851: the State Lease 59455 (Gas ID No. 047121) Lease, High Is. Blk. 24L (FB-C, HC) (41209200) Field
- Oil & Gas Docket No. 03-0312852: the State Lease 59455 (Gas ID No. 138259) Lease, High Is. Blk. 24L (FB-C, GK) (41209155) Field

15. API No. 708-30347

- Oil & Gas Docket No. 03-0312853: the High Island 24L SL59456 (Gas ID No. 162015) Lease, High Is. Blk. 24L (FB-E, IG) (41209680) Field

16. API No. 708-30353

- Oil & Gas Docket No. 03-0312854: the High Island 24L SL59456 (Gas ID No. 167568) Lease, High Is. Blk. 24L (FB-E, HF) (41209600) Field
- Oil & Gas Docket No. 03-0312855: the High Island 24L SL59456 (23759) Lease, High Is. Blk. 24L (FB-E, HC) (41209520) Field

The Wells are offshore wells in the Gulf of Mexico, east of Galveston and south of the coast of Jefferson County. The tracts where the Wells are located (three quarters of GLO's Block 24) is unleased.¹⁰

Mr. Mills testified that the GLO is in charge of leasing minerals owned by the Texas Permanent School Fund. In the Gulf of Mexico, they are called fee tracts, and the Permanent School Fund owns both the surface and the minerals of these tracts. The only way the minerals on these tracts can be leased is via a sealed bid process that occurs two or three times a year. A person or entity nominates an unleased tract to be on the next bid sale. Once enough nominations are accumulated, the GLO conducts a sealed bid sale of oil and gas leases at one of the Texas School Land Board's regularly scheduled meetings. The nominator and anyone else can bid on the nominated tracts.

¹⁰ Tr. Part 1 at 4-13; Complainant Ex. 1-3.

The School Land Board typically approves the highest bid that meets the minimum bonus requirements. The GLO only nominates tracts that are unleased.¹¹

GLO contacted Respondent prior to an April 2018 sale but no tracts were nominated. For an October 2018 sale, Respondent nominated some but not all of the tracts. However, no bid was made. Mr. Mills asserts by nominating some of the tracts, Respondent acknowledges the tracts are unleased. Mr. Mills testified that there is no one who has a good faith claim to operate the Wells because all of the tracts where the Wells are located are unleased. Currently none of the tracts are nominated to be leased. Mr. Mills believes that there has been no production since 2016, and any leases for these tracts have terminated.¹²

B. Summary of Respondent's Evidence and Argument

Jefferson's only witness was Richard Morgan, Owner. He asserts he bought Jefferson in January 2016 when oil was \$29 a barrel and as a result, Jefferson lost money. He acknowledges there has been no production and there are no active leases.¹³

Now that oil prices have risen, Jefferson has been looking at what it can do with the Wells. Jefferson contacted the GLO regarding a past agreement in which a third party placed money in GLO's care regarding these wells. Jefferson proposes to have access to that money for plugging those of the Wells that are not economic and to start producing those of the Wells that are economic to produce. Mr. Morgan testified that in order to start producing any of the Wells a significant bond is required. Mr. Morgan claims that the prior agreement required the money set aside to be used to plug some or all the Wells. Mr. Morgan acknowledges he did nominate some of the Wells for bid. He testified that those wells that can be produced economically should not be plugged. He did not bid on any of the Wells because of the uncertainty of this pending RRC case.¹⁴

Mr. Morgan testified and provided a chronology of activities concerning the tracts where the Wells are located to show that money, approximately \$9.5 million, was set aside in the past by a third party and placed in GLO's care for plugging the Wells. Mr. Morgan acknowledged that according to that agreement, GLO has the sole discretion regarding disbursement of the funds. Mr. Morgan claims Jefferson should be the beneficiary of that money as a successor in interest. Mr. Morgan acknowledges Jefferson is responsible for plugging the Wells. Jefferson would like the cooperation of the GLO to use the money set aside to plug those of the Wells that are not economic to produce and then produce those of the Wells that would be economic.¹⁵

Mr. Morgan asserts there are some of the Wells that can be produced economically and provided calculations projecting that approximately six to eight of the Wells can potentially produce economically. According to Mr. Morgan's projections, he believes that

¹¹ Tr. Part 1 at 13-16.

¹² Tr. Part 1 at 16-19.

¹³ Tr. Part 1 at 20-21.

¹⁴ Tr. Part 1 at 21-24.

¹⁵ Tr. Part 1 at 23-28; Respondent Ex. 1.

producing some of the Wells is worth \$4.6 million. Jefferson proposed to use the money to plug those of the Wells that will not be economic; then Jefferson will nominate the remaining Wells to be leased.¹⁶

Mr. Morgan claims that GLO's Block 31, which Jefferson has leased, will not be able to be produced if the Wells are plugged because it shares facilities with the Wells. Mr. Morgan thinks that if Jefferson is required to plug the Wells, it should be allowed access to the money set aside and held by the GLO and ensure that it is used effectively.¹⁷

On cross-examination, Mr. Morgan acknowledged that there is no agreement between the GLO and Respondent regarding the money set aside. Mr. Morgan claims that Jefferson is a successor in interest. Mr. Morgan claims he has had meetings with representatives from the GLO and the GLO indicated it would allow the funds to be used by contractors hired by Respondent to plug some of the Wells. Mr. Morgan claims the GLO has reimbursed Respondent for plugging expenses in the past.¹⁸

Regarding Block 31, Mr. Morgan acknowledged that Block 31 shares an oil and water separator and loading facility with Block 24. Mr. Morgan acknowledged that whether the Wells are plugged or not, the shared facilities could still be used for the Block 31 wells. Mr. Morgan claims there is not enough production from Block 31 alone for operations to be economical. Currently, the wells on Block 31 are not producing. Mr. Morgan does not dispute that the Wells have not been produced since approximately 2016.¹⁹

In rebuttal, Mr. Mills testified there is an agreement that allows for certain funds to be used to plug some wells, including wells in GLO's Block 24. GLO disagrees that Jefferson has the right to draw on the funds held. The agreement imposes certain conditions for the use of the funds, including the submittal of plugging plans, which are required to be approved by the GLO. The Texas Land Commissioner has sole discretion as to when to disburse the funds. Mr. Mills asserts that the agreement regarding whether the GLO has money to fund plugging costs is not relevant to this case.²⁰

According to Commission records, Jefferson is the current operator of the Wells, and there has been no reported production from Wells since at least July 2016.²¹

V. Examiners' Analysis

¹⁶ Tr. Part 1 at 28-37; Tr. Part 2 at 1-3; Respondent Ex. 2-7.

¹⁷ Tr. Part 2 at 3-8; Respondent Ex. 4, 6, 7.

¹⁸ Tr. Part 2 at 15-18.

¹⁹ Tr. Part 2 at 22-27.

²⁰ Tr. Part 2 at 28-32. See *also* Respondent Ex.8A, 8B (documentation and agreements related to funds held by the GLO for plugging costs).

²¹ Examiners Ex. 1 (Official notice was taken at the hearing of Respondent's status as the operator of record and production records from the Wells. In a letter dated November 27, 2018, copies of the specific noticed records were provided to the parties as Examiners Ex. 1.

The Examiners recommend Complainant's request for relief be granted. The Examiners recommend the Commission find there was no reasonably satisfactory showing of a good faith claim to operate the Wells and the Wells should be ordered plugged.

Complainant alleges Respondent does not have a good faith claim to operate the Wells. A good faith claim is defined in Commission rule as:

A factually supported claim based on a recognized legal theory to a continuing possessory right in the mineral estate, such as evidence of a currently valid oil and gas lease or a recorded deed conveying a fee interest in the mineral estate.²²

The origin of the "good-faith claim" requirement comes from the Texas Supreme Court in *Magnolia Petroleum Co. v. Railroad Commission of Texas*.²³ In discussing the Commission's authority to grant a drilling permit, the Court stated:

The function of the Railroad Commission in this connection is to administer the conservation laws. When it grants a permit to drill a well it does not undertake to adjudicate questions of title or rights of possession. These questions must be settled in the courts.²⁴

The Court went on to state:

Of course, the Railroad Commission should not do the useless thing of granting a permit to one who does not claim the property in good faith. The Commission should deny the permit if it does not reasonably appear to it that the applicant has a good-faith claim in the property. If the applicant makes a reasonably satisfactory showing of a good-faith claim of ownership in the property, the mere fact that another in good faith disputes his title is not alone sufficient to defeat his right to the permit; neither is it ground for suspending the permit or abating the statutory appeal pending settlement of the title controversy.²⁵

The Commission does not adjudicate questions of title or right to possession, which are questions for the court system.²⁶ A showing of a good faith claim does not require an

²² 16 Tex. Admin. Code § 3.15(a)(5).

²³ *Id.*; see *Magnolia Petroleum Co. v. R.R. Comm'n of Tex.*, 170 S.W.2d 189, 191 (Tex. 1943); see also *Trapp v. Shell Oil Co.*, 198 S.W.2d 424, 437-38 (Tex. 1946); *Rosenthal v. R.R. Comm'n of Tex.*, 2009 WL 2567941, *3 (Tex. App.—Austin 2009, pet. denied); *Pan Am. Petroleum Corp. v. R.R. Comm'n of Tex.*, 318 S.W.2d 17 (Tex. Civ. App.—Austin 1958, no writ).

²⁴ *Magnolia Petroleum Co. v. R.R. Comm'n of Tex.*, 170 S.W.2d 189, 191 (Tex. 1943).

²⁵ *Id.* at 191 (emphasis added).

²⁶ *Magnolia Petroleum Co. v. R.R. Comm'n*, 170 S.W.2d 189, 191 (Tex. 1943); see also *Trapp v. Shell Oil Co.*, 198 S.W.2d 424, 437-38 (Tex. 1946); *Rosenthal v. R.R. Comm'n of Tex.*, 2009 WL 2567941, *3 (Tex. App.—Austin 2009, pet. denied) (mem. op.); 56 Tex. Jur. 3d *Oil and Gas* § 737, *Adjudication of title to property and contract rights*.

applicant to prove title or a right of possession. It is sufficient for an applicant to make a reasonably satisfactory showing of a good faith claim.²⁷

The parties do not dispute that Respondent has no contractual lease to support a good faith claim to operate the Wells. Respondent acknowledges the Wells have not been produced for years and are inactive.

While Jefferson may not agree with plugging the Wells, according to Commission rules, inactive wells are required to be plugged unless the operator obtains a plugging extension. Commission rules prohibit granting plugging extensions to operators who do not have a good faith claim to operate the inactive wells. In this case there is no dispute that Jefferson has no good faith claim and all of the Wells are inactive. Consequently, the Wells are required to be plugged. As the operator of record at the Commission, Jefferson is responsible for plugging the Wells.

Jefferson's proposals to the GLO and whether Jefferson is entitled to money from GLO is not relevant and does not change the result of this case.

For these reasons, the Examiners recommend the Commission find Respondent failed to provide a reasonably satisfactory showing of a good faith claim to operate the Wells and order Respondent to plug the Wells.

VI. Recommendation, Proposed Findings of Fact and Proposed Conclusions of Law

Based on the record and evidence presented, the Examiners recommend the Commission find Respondent failed to provide a reasonably satisfactory showing of a good faith claim to operate the Wells, grant Complainant's request to have the Wells ordered plugged and adopt the following findings of fact and conclusions of law.

Findings of Fact

1. The Texas General Land Office ("Complainant" or "GLO") filed a complaint ("Complaint") claiming Jefferson Block 24 Oil & Gas LLC ("Respondent" or "Jefferson") does not have a good faith claim to operate wells on 24 Commission leases ("Wells"). Identification for the Wells is as follows:
 1. API No. 708-0094
 - Oil & Gas Docket No. 03-0312830: the High Island 24-L, N/2, NW/4 (Gas ID No. 244703) Lease, High Is. Blk. 24-L (FJ Sand) (41142500) Field
 - Oil & Gas Docket No. 03-0312831: the High Island 24-L, N/2, NW/4 (26021) Lease, High Is. Blk. 24L (FB-C, CM-11) (41209120) Field
 2. API No. 708-00112

²⁷ *Id.*

- Oil & Gas Docket No. 03-0312832: the State (Gas ID No. 047122) Lease, High Is. Blk. 24L (FB-C, HC) (41209200) Field
 - Oil & Gas Docket No. 03-0312833: the State Lease 59455 (Gas ID No. 055960) Lease, High Is. Blk. 24L (FB-C, GK) (41209155) Field
3. API No. 708-00113
- Oil & Gas Docket No. 03-0312834: the State Lease 59455 (Gas ID No. 047118) Lease, High Is. Blk. 24L (FB-C, HC) (41209200) Field
 - Oil & Gas Docket No. 03-0312835: the State Lease 59455 (09707) Lease, High Is. Blk. 24L (FB-C, CM-11) (41209120) Field
4. API No. 708-30032
- Oil & Gas Docket No. 03-0312836: the State Lease 59456 (Gas ID No. 148594) Lease, High Is. Blk. 24L (FB-E, GP) (41209505) Field
5. API No. 708-30046
- Oil & Gas Docket No. 03-0312837: the High Island 24L SL 59456 (Gas ID No. 165605) Lease, High Is. Blk. 24L (FB-E, GP) (41209505) Field
6. API No. 708-30311
- Oil & Gas Docket No. 03-0312839: the High Island 24L SL 59455 (Gas ID No. 174818) Lease, High Is. Blk. 24L (FB-C, GK) (41209155) Field
7. API No. 708-30315
- Oil & Gas Docket No. 03-0312841: the State Lease 60729 (09726) Lease, High Is. Blk. 24L (FB-A, HC) (41209040) Field
 - Oil & Gas Docket No. 03-0312842: the State Lease 60729 (20448) Lease, High Island Blk. 24-L (FB-A, HF) (41209045) Field
8. API No. 708-30316
- Oil & Gas Docket No. 03-0312843: the State Lease 60729 (26154) Lease, High Island Blk. 24L (FB-DD, HF) (41209491) Field
9. API No. 708-30318
- Oil & Gas Docket No. 03-0312844: the State Lease 59454 (Gas ID No. 133033) Lease, High Island Blk. 24L (FB-D, HC) (41209360) Field
10. API No. 708-30322
- Oil & Gas Docket No. 03-0312845: the High Island 24L (SL59455) (Gas ID No. 150773) Lease, High Island Blk. 24L (FB-B, GP) (41209058) Field
11. API No. 708-30323
- Oil & Gas Docket No. 03-0312846: the State Lease 103389 (25415) Lease, High Is. Blk. 24-L (HD SD) (41142600) Field

12. API No. 708-30327

- Oil & Gas Docket No. 03-0312847: the State Lease 59454 (Gas ID No. 141065) Lease, High Is. Blk. 24L (FB-DD, HF) (41209491) Field
- Oil & Gas Docket No. 03-0312848: the State Lease 59454 (20820) Lease, High Is. Blk. 24L (FB-DD, HC) (41209490) Field

13. API No. 708-30329

- Oil & Gas Docket No. 03-0312849: the S/L 59455, High Island 24L (Gas ID No. 138911) Lease, High Is. Blk. 24L (FB-C, HC) (41209200) Field
- Oil & Gas Docket No. 03-0312850: the State Lease 59455 (09695) Lease, High Is. Blk. 24L (FB-C, GL) (41209160) Field

14. API No. 708-30335

- Oil & Gas Docket No. 03-0312851: the State Lease 59455 (Gas ID No. 047121) Lease, High Is. Blk. 24L (FB-C, HC) (41209200) Field
- Oil & Gas Docket No. 03-0312852: the State Lease 59455 (Gas ID No. 138259) Lease, High Is. Blk. 24L (FB-C, GK) (41209155) Field

15. API No. 708-30347

- Oil & Gas Docket No. 03-0312853: the High Island 24L SL59456 (Gas ID No. 162015) Lease, High Is. Blk. 24L (FB-E, IG) (41209680) Field

16. API No. 708-30353

- Oil & Gas Docket No. 03-0312854: the High Island 24L SL59456 (Gas ID No. 167568) Lease, High Is. Blk. 24L (FB-E, HF) (41209600) Field
- Oil & Gas Docket No. 03-0312855: the High Island 24L SL59456 (23759) Lease, High Is. Blk. 24L (FB-E, HC) (41209520) Field

2. Respondent is the Commission operator of record for the Wells.
3. The Wells are offshore wells in the Gulf of Mexico, south of the coast of Jefferson County.
4. The GLO is in charge of leasing minerals owned by the Texas Permanent School Fund. In the Gulf of Mexico, they are called fee tracts, and the Permanent School Fund owns both the surface and the minerals of these tracts. The only way the minerals on these tracts can be leased is via a sealed bid process that occurs two or three times a year. A person or entity nominates an unleased tract to be on the next bid sale. Once enough nominations are accumulated, the GLO conducts a sealed bid sale of oil and gas leases at one of the Texas School Land Board's regularly scheduled meetings. The nominator and anyone else can bid on the nominated tracts. The School Land Board typically approves the highest bid that meets the minimum bonus requirements. The GLO only nominates tracts that are unleased.

5. The tracts where the Wells are located are in GLO's Block 24. The Texas Permanent School Fund owns the surface and mineral estate for these tracts. The GLO is in charge of leasing the minerals of the tracts. The tracts where the Wells are located are unleased.
6. On October 30, 2018, the Hearings Division of the Commission sent a Joint Notice of Hearing ("Notice") to Complainant and Respondent setting a hearing date of November 26, 2018. Consequently, the parties received more than 10 days' notice. The Notice contains (1) a statement of the time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and rules involved; and (4) a short and plain statement of the matters asserted. The hearing was held on November 26, 2018, as noticed. Complainant and Respondent appeared and participated at the hearing.
7. Respondent acknowledges it has no lease or other authorization giving it authority to operate the Wells. Respondent acknowledges the Wells have not been productive since 2016.
8. There has been no production from the Wells since at least July 2016.
9. Respondent failed to demonstrate a reasonably satisfactory showing of a good faith claim to a continuing right to operate the Wells.
10. Absent a "good faith claim" to operate, the Wells are not eligible for extensions to the plugging requirements in Statewide Rule 14 and 15.
11. Any plugging extensions for the Wells should be canceled and the Wells should be plugged, which includes the removal of associated equipment.

Conclusions of Law

1. Proper notice of hearing was timely issued to persons entitled to notice. See, e.g., Tex. Gov't Code §§ 2001.051, 052; 16 Tex. Admin. Code §§ 1.42, 1.45.
2. The Commission has jurisdiction in this case. See, e.g., Tex. Nat. Res. Code § 81.051.
3. The Wells are inactive wells as that term is defined in Commission rule. 16 Tex. Admin. Code § 3.15(a)(6).
4. Respondent failed to provide a reasonably satisfactory showing of a good faith claim to operate the Wells. 16 Tex. Admin. Code § 3.15(a)(5).
5. The Wells are not eligible for plugging extensions. 16 Tex. Admin. Code § 3.15(c).

6. The Wells should be plugged, associated equipment should be removed, and the subject lease should be placed in compliance with Statewide Rules 14 and 15. 16 Tex. Admin. Code §§ 3.14 and 3.15.
7. Jefferson is responsible for plugging the Wells, including removing associated equipment. See, e.g., 16 Tex. Admin. Code § 3.58(a)(2).

Recommendations

The Examiners recommend the Commission find Respondent failed to provide a reasonably satisfactory showing of a good faith claim to operate the Wells, and grant Complainant's request to have the Wells ordered plugged.

Respectfully,



Jennifer Cook
Administrative Law Judge



Ashley Correll, P.G.
Technical Examiner