

Mike's July 5-9, 2010 Trip to Texas (or how I spent 5 days on the road)

Hi All,

This is a fairly long letter concerning my trip last week to TX. This letter also covers my recommendations of where I think you all need to go in holding the price lands together and moving forward.

I made this trip for several reasons.

1. To collect, for safekeeping, the Pecos Property records held by Tom Scott.
2. To meet with the Swallow Group, to evaluate them in an attempt to possibly replace the departing services received from Tom Scott.
3. To meet and discuss a future grazing lease with Tommy Smithson, the son of the current lease holder.

I spent about 5 1/2 hours (and lunch) talking with Tom Scott. I then met with the Swallow Group (Jack & Julia Swallow) for about 2 hours concerning what they could do for in managing the property interests. And, finally, I met with Tommy Smithson, the grazing lease holder, and went out to see the property.

First off:

In viewing the property I was amazed by how green everything was. Granted most was mesquite, sagebrush, tumbleweed, thorn brush, and yucca plants, but there really was some actual grass - grin. Tommy stated that in the last 50 years he has been running around the area of the property (since he was 10); he has never seen it so green. He stated they've had more rain the last couple of months than the previous 2+ years combined. And also, I got to see the mighty Pecos River, all the ~30 feet width of it.

Now to the "meat" of the trip info:

**Meeting with Tom Scott:**

I think I now have the majority of Tom Scott's records here at home in Wewa. They fill 8 "banker's boxes". Thankfully, Carol (Tom's secretary) had them alphabetically indexed by box. They told me they could not find some of the really old files and others had been previously shredded. Tom said they might also still find some stuff as they go through the rest of his office and the practices historic files in storage.

While the records are well indexed, there are some problems. I made a cursory exam of some of them and it appears that along with reduced activity, the level of record keeping had fallen off the last several years.

Examples:

1. When talking with Tom, I had with me a copy of a 2002 Oil & Gas lease from Mexco that we were not receiving any royalties for. I asked what the story was and he checked the records. We found a signed Release for the lease that had never been recorded with the County. - If there is no production during the term of a lease, as was the case here, then at the end of that lease term we need a "Lease Release" to clear the property so it can be available to be leased to a new party. If a "Release" is not recorded, O&G companies searching for new properties to lease just pass over ones that already appear to be under lease.
2. While looking up info on the existing grazing lease in preparation for a new 5 year lease requested by Tommy Smithson, I found the last document in the files appears to be a photo copy of a 2005 check from the lease holder - Tommy's mom. (AND it was in a "general correspondence" folder, not the folder

concerning the grazing lease.) In addition, it appears that the last actually signed lease was in 1967 to a Louie McDonald. The lease has subsequently been re-assigned twice ending with Tommy Smithson's parents.

3. Tom held on to one file, concerning a West Texas Utilities (WTU) easement, because he still had funds on account that he need to disburse to the McClintock group – I don't know how far back that that income came in, but I don't remember any income from WTU to Cindel since 2005.
4. When asked for a current list of interest holders (owners), Tom could not provide me with a "definitive" list.

The above examples are from a "quick look" at the records. There may be other discrepancies, I just don't know at this time.

Moving on to possibly replacing Tom's services:

**Visit to the Swallow Group:**

Background - Tom Scott originally started making noise about getting out of the management of the Price account in 2005. He finally pointed me to Jack Swallow last year, 2009. I've talked by phone with Jack (58)-a Landman - and his wife Julia (43) – an Oil & Gas Attorney - several times in the intervening months. I have previously sent all of you some promotional information provided to me by this group.

After picking up the files from Tom, I met with Jack and Julia Swallow at their Midland office. While theirs is a new organization (they went in to business together at the beginning of this year), my first impression of them and their operation was very good. They both have long successful histories in their respective fields.

During the 2 hours we spoke, I provided Jack and Julia (as I earlier did to all of you) an overview of my understanding of the current state of affairs with the property and its ownership. I described the three major groups of owners and their percentage of ownership, along with a sketch of the structure of the three different groups. I provided information on the number of production wells and a rough approximation of the current annual income from O&G royalties (~\$240,000) for the entire property. I also covered the general income (~\$1130.00/yr) and status (last signed lease in 1967) of the current grazing lease.

Jack discussed the need to review the status all active leases and their production records with the view towards getting releases of those no longer producing, opening up the opportunities for / pursuit of / new O&G leases. In this same vein, as he could see that a lot of the earlier drilling on the property was pre-80's, he mentioned identifying any past exploratory work or no longer producing wells on the property that might lead to new opportunities based on advances in drilling technologies. He touched on the possibilities of wind energy / wind turbine leases, but as we are in a valley, not much was said (More on this below under the Tommy Smithson section). We also discussed the management – in coordination with the grazing lease holder – of surface work site conditions as a result of drilling or pipeline / Powerline right of ways, such as trash, land erosion, and scrap materials left behind.

Julia primarily talked of the organization of the ownership and its impact on the property management. She talked about the fact that up until Tom Scott stopped having the Price Power of Attorney we benefited by having only 3 or 4 (or so) signatures required to exercise a lease. She was trying to make a case for putting the ownership under some kind of umbrella organization to reduce the number of signatures needed to sign leases and to protect an individuals ownership from possible unrelated personal liabilities (covered more below).

She stated (and it makes sense) that O&G developers generally have a cutoff number such as say 90% for the number of owners (needed signatures) of a property that they can find to lease from. If they can only find 89% then they will pass on the property and look elsewhere. She stated that there are properties out there that have so many undivided interest owners that they (the properties) are un-leasable.

As for where we stand now for “required signatures” with the loss of Tom, to get a lease signed for the property as Lessor, we would need to coordinate getting a total of at least 11 signatures - 8 Price, 1 Miller and at least 2 McClintock. I’m not sure of the total as Tom was not sure of the total on the McClintock side NOT under a power of attorney with Pamela Friend. I am going to press Pamela in getting a status report of her side together. The Miller side is under one Trust with Brad Miller as the Trustee, and he stated that when it transfers, it will still be one trust under a Bank Trustee. To make matters worse, If a Trust document specifically prohibits delegation via a Power of Attorney, a Trustee of a Trust holding one of the smaller undivided interests would be required to sign the lease. All of which makes getting new leases into effect, including the new grazing lease Tommy Smithson wants, more difficult.

In addition, Julia reiterated what I already knew concerning protection of the undivided interests from personal lawsuits - If an undivided interest is not held in a trust or something similar and the interest owner involved with a liability lawsuit (traffic accident, etc), the “other party” could go after everything including the undivided interest, which the individual owned.

Julia had several suggestions as to how we could proceed. One way was to create a “family business company” that would hold all of the undivided interests and each family would have voting rights. She had a couple of options, but I’m not up to speed on these types of things. She said she could provide some guidance. There also is the issue of the other two groups fitting into the payment of services.

I asked for some more information. I took the listing of their services (which you all should have a copy of) and said that it shows what they do, but I needed the “Why” of doing it. Jack said he would cover the whys of the O&G and land management services and Julie said she would cover the Ownership organization / management issues and alternatives. I expect it to be a couple of weeks before they get back to me with the additional info.

Finally, I asked Jack about what he expects for the future of his company. – Will we need to look for another management company if he dies or retires? He stated that their plans were to bring people into their company with the goal to have an organization that outlives both he and Julia. Sort of what was I guess was originally expected with Bullock/Scott....Well Julia is only 43 so she should still have some miles left- grin

You all have their company brochure, and their website is [www.swallowgroup.com](http://www.swallowgroup.com) where you can read about their professional history. I did an online Texas civil records check and a national criminal background search through Intelius on both Jack and Julie – Except for Jack’s speeding ticket in 1993 – both came up squeaky clean. – While Intelius is a well established online Background Search company, they could miss something but I think it was worth doing, the dollars well spent.

On to the grazing lease:

**Tommy Smithson / Grazing Lease:**

I don’t think there could be a better steward / leaseholder for the surface property than Tommy. I definitely came away with the impression that he loves the property and he stated several times that he would love to hold the surface lease in his family into the far future. His pleasure with “working” the property was readily apparent, and he comes across as a very smart guy. It is his drive that has held the current right of way holders to clean up after

themselves and to restore the work sites after they are done working. It is he who pushed for the current work to correct some erosion problems along the pipeline Right of Ways.

He also made mention about the Wind Farms which surround the valley the property is in. He stated that what he hears is that once the high tension power lines are in (the route has been decided and we have not heard any word, so they are probably not going through the property) then the move would be to cover the valley with turbines starting from the east where the wind funnels between the hills. So wind energy leases may be in the future (10 or 15 years, depending on the speed of progress)

Tommy's parents were assigned the surface lease (originally dated 1967) in 1987 – 23 years ago. He is currently not running any cattle or horses on it (loosing money) to give the grass a chance to come back due to the recent rains. As Tommy stated – If he was into money he wouldn't be a West Texas Rancher – It's his and his wife's day jobs, teaching high school, that pays the bills.

He wishes a new 5 year lease with a 5 year option. This new lease would allow his banker to approve money for "improvements" Tommy wants to make – such as better fencing, some new water tanks, and improvement to a water well. I have talked with most of you and Brad Miller about this proposed 5 year lease and with that input, I told Tommy (on a hand shake) that as far as I can see it is a done deal. I explained that as of now everything was verbal and he understood. But, he said based on our earlier phone conversations, he's already spent more in the last month on fencing and such on the property than the whole previous year.

As far as I can tell, the current annual lease on the 2805.31 acres of surface land ends October 30<sup>th</sup>. (long past the written lease period). The current rate they have been paying is about 40 cents an acre which covers the surface land taxes. In talking earlier with Jack Swallow about going rates for similar land and dickering with Tommy, we came to an agreement on 50 cents an acre that will more than cover any property taxes.

After some research, I discovered that most grazing lease rates are figured on an "animal use unit" per acre rate with a base/floor fee that should cover the property taxes. If this land, with the help of global warming or such, ever becomes actual grassy pasture land, then the rate per acre could be revisited.

Also, it came out that Tommy's son, Seth (who is getting married soon), would jump on the chance to move on to the property if the lease was firm. Seth has a horse training business and it would provide enough area for some stalls, pens and pasture for his horses. His soon to be wife has a traveling job so it doesn't matter to her to live so far out. While this would seem to be a reason to increase the rent, I personally know horse training operations are not a high profit margin business. In addition, a live-in set of eyes on the property is not a bad thing for the land owners. In looking at old correspondence, there have been previous adverse possession issues with other people using or crossing the land.

Due to the complexity of land use liabilities, defaults, access for exploitation of resources, and such – Plus the situation of all the signatures needed - I feel this new lease needs a lawyer's touch. If we move with the Swallow Group, this could be their first work. Or if any of you have a Real Estate or such lawyer familiar with Texas law on call that could do the lease. If not, and we procrastinate or fail in getting a land management firm, then I propose we get the Swallow Group to do it as a single piece of business in the near future. I'd like to get started as soon as possible.

**My Conclusions / things I feel need to be done:**

Urgent, need to complete prior to October 29, 2010

1. Pull together a current and complete list of who has to sign leases  
Miller group is done, I have everyone in the Price group, but no current contact info for Jim Roush, and I will work with Pamela Friend on the McClintock group.
  2. Put the Grazing Lease in place.  
Somebody have a lawyer in mind who knows TX law? Or I wish (to see if / push for) the Swallow Group to do it.
- Not as urgent, but I feel of high importance:
3. Decide on whether or not to put an umbrella group in place. And who would be under it.  
Again, this could/would provide for fewer required signatures to enact leases, thereby making them more desirable to Lessees.
  4. Decide on employing the Swallow Group or another management firm.  
I strongly recommend this, as it would be a fiduciary relationship where they would, by law, be required to work in the owners' best interest.

Well, that was saying a lot. Hope I didn't boor you too much.

But really folks, these issues need to be addressed if you want this property to prosper or even just hold together. It really needs some direct oversight and continuity of management, and the sooner the better.

Example: In the report by A.C. Atkins titled "A brief history of the lands of C.J. Price & Associates" produced in 1996 for Cindel and her mom Arnette, a copy of which was given to each of the Price members at the time, there was a statement in the royalties section of a well where "shut in royalties currently paid by Shell Western". Cindel gets no "shut in" royalties that I know of.

Now, with the loss of Tom, and without some sort of new management team in place, each of us would have to do our own research to answer questions like this.

Some have said that we could do a lot of it ourselves – searching out and correlating payments from oil leases with the state records, chasing down lease releases, keeping track of who needs to sign leases, etc. That is true. But who will do it? As for the "Cost" of doing something here, the saying is "you have to spend money to make money". And in this case, except for possibly the grazing lease, almost all "Costs" are a small percentage of the unearned income from the property before you see it, NOT out of pocket.

In my case, I started this as a project to give Cindel an idea of what she received from her mother. As for being responsible to all (how I feel) in continuing this endeavor over time, I have to say the same thing I say to Cindel every time she starts talking about starting another small business or some such. I am retired and what part of the word "retired" do you not understand? – Grin

Yours truly,

Mike

July 13, 2010

I am sending a copy of this to both Brad Miller and Pamela Friend.

