

December 13, 2006

OIL AND GAS DOCKET NO. 01-0249266

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**THE APPLICATION OF KB HOMES LONE STAR, L.P. TO CONSIDER APPROVAL OF A QUALIFIED SUBDIVISION PURSUANT TO STATEWIDE RULE 76 FOR A 33.6 ACRE TRACT SUBDIVISION, IN TRAVIS COUNTY, TEXAS.**

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**APPEARANCES:**

For Applicant KB Homes Lone Star, L.P.

Patrick Thompson  
John Bohnen  
Greg Cloud

**EXAMINERS' REPORT AND RECOMMENDATION**

**PROCEDURAL HISTORY**

<b>Application Filed:</b>	October 6, 2006
<b>Notice of Hearing:</b>	November 8, 2006
<b>Hearing Held:</b>	December 4, 2006
<b>Heard By:</b>	Mark Helmueller, Hearings Examiner Andres J. Trevino, Technical Examiner
<b>Report Issued:</b>	December 13, 2006
<b>Status:</b>	Unprotested

**STATEMENT OF THE CASE**

KB Homes Lone Star, L.P. ("KB Homes") has filed an application for approval of a qualified subdivision pursuant to Statewide Rule 76. On December 4, 2006, the Commission held a hearing at its offices located at 1701 N. Congress Avenue, Austin, Texas, to consider evidence offered by KB Homes in support of its application. No parties appeared at the hearing to protest the application. The examiners recommend approval.

**SUMMARY OF EVIDENCE PRESENTED**

KB Homes's 33.6 acre tract is located within the L.C. Cunningham Survey No. 68, A-163

in Travis County, a county with a population in excess of 400,000. The proposed qualified subdivision designates a 2.015 acre tract for future drilling operations. A plat of the proposed subdivision is attached.

Notice of the hearing was issued to all of the mineral interest owners. No protests were filed and no appearance was made at the hearing to protest the proposed qualified subdivision

There has been no development of the minerals within the 2.5 miles surrounding the proposed qualified subdivision. There are no known Railroad Commission designated fields within the 2.5 mile radius of review. KB Homes identifies 1 well within a 2.5 mile radius of the proposed qualified subdivision, which was drilled in August 1959 to a depth of 700 feet. The application to plug and well record for the well indicates the well was dry and requested instructions for plugging noting the formations heave in within a week or 10 days. There is no record that the well was ever plugged and abandoned.

The proposed 2.015 acre drillsite tract is located on the eastern border of the proposed qualified subdivision and is adjacent to an existing road. KB Homes represents that the location for the proposed drillsite tract will allow future mineral development of the entire tract.

#### **EXAMINERS' RECOMMENDATION**

The examiners believe that the evidence presented satisfies the requirements of Statewide Rule 76. The acreage designated for the site is sufficient to allow for any potential operations. Accordingly, the examiners recommend that the qualified subdivision be approved.

#### **FINDINGS OF FACT**

1. At least 10 days notice of this hearing was given to all owners of the possessory mineral interest and to the mineral lessors of the proposed qualified subdivision.
2. KB Homes Lone Star L.P. ("KB Homes") has authority to represent all surface owners of land contained in the proposed qualified subdivision.
3. No protest was filed, and no one appeared at the hearing to protest the application.
4. KB Homes's 33.6 acre tract located within the L.C. Cunningham Survey No. 68, A-163 in Travis County meets the requirements of a qualified subdivision.
  - a. The proposed qualified subdivision is a tract less than 640 acres in size.
  - b. Travis County is a county with a population in excess of 400,000 residents.
  - c. The proposed operation site contains sufficient acreage and access thereto for equipment and pipelines adequate to ensure the full and effective development of the

minerals which might underlie the proposed qualified subdivision.

5. There are no wells currently producing on the acreage of the proposed qualified subdivision.
6. The tract has been subdivided in a manner authorized by law by the surface owners for residential, commercial, or industrial use.
7. There has been no development of the minerals within the 2.5 miles surrounding the proposed qualified subdivision.
  - a. There are no known Railroad Commission designated fields within the 2.5 mile radius of review.
  - b. KB Homes identifies 1 well within a 2.5 mile radius of the proposed qualified subdivision, which was drilled in August 1959 to a depth of 700 feet. The application to plug and well record for the well indicates the well was dry and requested instructions for plugging noting the formations heave in within a week or 10 days. There is no record that the well was ever plugged and abandoned.
8. The proposed 2.015 acre operation site provides a sufficient area for any potential future drilling and production related to the development of the mineral interests underlying the proposed qualified subdivision.

#### CONCLUSIONS OF LAW

1. The application for the proposed qualified subdivision was properly filed with the Railroad Commission pursuant to its jurisdictional authority.
2. Proper and adequate notice was given by the Railroad Commission to persons legally entitled to such notice.
3. All things have been done or have occurred to give the Railroad Commission jurisdiction to decide this matter.
4. The application complies with the requirements of Statewide Rule 76 and Texas Natural Resources Code §§ 92.001 - 92.004.
5. Approval of this application will provide for the full and effective development of the minerals underlying the subject property as well as allow for the fullest and most efficient use of the surface estate.

**RECOMMENDATION**

KB Homes Lone Star L.P. has satisfied the requirements of Statewide Rule 76 for approval of its qualified subdivision plan. Accordingly, the examiners recommend that the application be approved.

Respectfully submitted,

Mark Helmueller  
Hearings Examiner

Andres J. Trevino  
Technical Examiner