

**OIL AND GAS DOCKET NO. 01-0246615**

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**THE APPLICATION OF SABINAL RESOURCES, INC. TO INJECT FLUID INTO A RESERVOIR NOT PRODUCTIVE OF OIL OR GAS, LENA BUERGER LEASE WELL NO. 2, PEARSALL (AUSTIN CHALK) FIELD, FRIO COUNTY, TEXAS**

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**HEARD BY:** Donna K. Chandler, Technical Examiner  
Mark J. Helmueller, Hearings Examiner

**APPEARANCES:**

**APPLICANT:**

Lloyd Muennink  
Curtis Boyles

**REPRESENTING:**

Sabinal Resources, Inc.

**PROTESTANT:**

John Quinlan

Margaret Mueller  
H. A. Buerger Estate Partnership  
Mark S. Moore  
Lucille B. Moore Family Partners, Ltd.

**PROCEDURAL HISTORY**

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| Application Filed:            | February 3, 2006  |
| Request for Hearing:          | February 23, 2006 |
| Notice of Hearing:            | March 20, 2006    |
| Date of Hearing:              | April 21, 2006    |
| Transcript Received:          | May 1, 2006       |
| Record Closed:                | May 5, 2006       |
| Proposal For Decision Issued: | June 27, 2006     |

**EXAMINERS' REPORT AND PROPOSAL FOR DECISION**

**STATEMENT OF THE CASE**

Sabinal Resources, Inc. ("Sabinal") requests authority pursuant to Statewide Rule 9 to dispose of produced saltwater into Well No. 2 on its Lena Buerger (13860) Lease in the Pearsall (Austin Chalk) Field. This application is protested by several surface owners, some of which are also mineral owners of the Lena Buerger lease.

In its original application, Sabinal was seeking authority to inject into the productive Austin Chalk and Olmos formations between 4,490 and 6,681 feet. The application was thus filed pursuant to Rule 46. At the hearing, Sabinal amended its proposed injection interval to include the non-productive Olmos and San Miguel formations between 4,490 and 5,350 feet in the No. 2 well.<sup>1</sup>

Sabinal does not hold the mineral interest for the subject Lena Buerger lease, but will purportedly serve as the contract operator of the lease for Mid Texas Natural Gas. Sabinal asserts disposal operations in its Lena Buerger Well No. 2 will allow for the economic production of wells on its lease as well as from Well No. 7 on Mid Texas' separate Lena Buerger lease. Sabinal asserts that these two separate Railroad Commission recognized leases, and two additional Railroad Commission recognized leases, are all covered by a 1975 lease agreement covering 1,931 acres.

### **DISCUSSION OF THE EVIDENCE**

#### **MATTERS OFFICIALLY NOTICED**

The examiners have officially noticed the Commission Organization Report Records for Sabinal and Mid Texas Natural Gas. Sabinal is an active operator which last filed a Commission Form P-5 (Organization Report) on December 13, 2005. The most recently filed P-5 identifies James Carl Yeatman as President, Douglas A. Newman as Chief Financial Officer, and Dean Philpot, as Vice President. Sabinal currently is recognized as the operator of 41 well bores with a total depth of 187,133 feet. Sabinal has posted a \$50,000 bond with the Commission as its financial security for its operations subject to Commission jurisdiction.

Mid Texas Natural Gas is an active operator which last filed an Organization Report on March 20, 2006. The most recently filed P-5 identifies William B. Ogletree as President, and Sharon K. Ogletree, as Director. Mid Texas currently is recognized as the operator of 3 well bores with a total depth of 16,838 feet. Mid Texas has posted a \$25,000 bond with the Commission as its financial security for its operations subject to Commission jurisdiction.

Additionally, the examiners have also officially notice Commission Oil & Gas Docket Inquiry Records from the Commission's Mainframe Computer System which identify Sabinal as a respondent in an active Enforcement action filed for violations of Statewide Rule 14(b)(2). In Oil & Gas Docket 03-0246035, Enforcement alleges that Sabinal is in violation of Statewide Rule 14(b)(2) for four wells on its Stockdick (02410) Lease, Harris County, Texas. The matter is not currently set for hearing.

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<sup>1</sup> There is a Pearsall (San Miguel) and Pearsall (Olmos A) Field carried on the Commission's proration schedule. However, neither field has an active producing well. The examiners did not require Sabinal to re-file the application on Form W-14.

**APPLICANT'S EVIDENCE**

The Lena Buerger No. 2 was drilled in 1977 to a total depth of 6,996 feet. The well was completed in the Austin Chalk and produced from perforations between 6,337-6,681 feet. Sabinal plans to use the well to dispose of produced water from its other producing well, the No. 4, on the Lena Buerger (13860) Lease, as well as produced water from other wells covered by the 1,931 acre Lena Buerger mineral lease. The use of the proposed disposal well will provide an economical means of disposal of produced water. Without the disposal well, Sabinal claims that it will be uneconomic to continue production due to costs associated with hauling water.

The No. 2 well has 479 feet of 12 ¼ " surface casing with cement circulated from the casing shoe to the ground surface. The well has 4½" casing set at 6,996 feet, with calculated top of cement at 3,914 feet. A multi-stage cementing tool was placed at 3,669 feet, with cement circulated to surface. The Texas Commission on Environmental Quality recommends that usable-quality ground water be protected to a depth of 3,050 feet. The proposed injection will be through 2 ⅝" tubing set on a packer at approximately 4,420 feet. The proposed injection interval includes the Olmos and San Miguel formations, with proposed perforations between 4,490 and 5,350 feet. According to Form W-2 for the well, the top of the Olmos is at 4,595 feet and the top of the San Miguel is at 5,170 feet. (See Wellbore Diagram attachment). The proposed maximum injection volume is 700 BWPD, with an estimated average of 250 BWPD. The proposed maximum injection pressure is 800 psig.

There are no other wellbores within a ¼ mile radius of the No. 2. The nearest well is the Lena Buerger No. 3, which was drilled in 1977 and plugged in 1987. This well is just slightly outside the ¼ mile radius of review.

Notice of the subject application was published in *The Frio-Nueces Current*, a newspaper of general circulation in Frio County, on February 9, 2006. A copy of the application was mailed to the Frio County Clerk's Office, the surface owner, and offsetting operators within ½ mile.

The original oil, gas and mineral lease agreement covering the Lena Buerger (13860) Lease was made in September 1975. Other Commission Leases covered by the original lease agreement include: the Buerger (05629) Lease, which contains three wells currently operated by Square One Corporation; the Buerger (05555) Lease, which contains one well currently operated by McDay Energy Corp.; and Lena Buerger (05567) Lease, which contains one well currently operated by Mid Texas Natural Gas. A copy of a Commission map including an outline of the acreage in the original lease is attached for reference purposes.

Sabinal asserts that September 1975 lease remains in effect due to continued production and/or operations from wells on the Buerger (05629) Lease. Copies of Commission records confirming reported production were submitted to verify this claim. Sabinal admits that it does not hold the mineral interest, but will purportedly serve as the contract operator of the lease for Mid Texas Natural Gas. There are no common officers on Commission Organization Report records between Mid Texas Natural Gas and Sabinal.

Sabinal provided copies of assignments of interest to support a claim of the right to operate the well through Mid Texas' interest in the September 1975 lease. These records show that 640 acres were split from the main lease by an assignment in September 1977. Seven wells were drilled on this acreage, the last in 1990. Four of the wells have been plugged and abandoned, Well Nos. 1, 3, 5, and 6. Sabinal asserts disposal operations in its Lena Buerger Well No. 2 will allow for the economic production of Well No. 7 on Mid Texas' Lena Buerger (05667) Lease. Sabinal therefore claims that since both wells involve the production of hydrocarbons under the September 1975 base lease, that it does not require the consent of the surface owner to use Well No. 2 for disposal of produced water from Well No. 7, even though the wells are carried on two different Commission leases for regulatory purposes.

### **PROTESTANTS' EVIDENCE**

Protestants urge that Sabinal's application should be denied for two reasons: 1) Protestants claim Mid Texas relinquished any right to operate Well No. 2 in March 2005 to Consolidated Oil & Gas, Inc.; and 2) Protestants assert that Mid Texas illegally used Well No. 2 for injection without a permit in March and April 2005, including breaking Commission seals placed on the well in April 2005.

With respect to its first argument, Protestants rely on correspondence dated March 14, 2005 between Mid Texas and Consolidated, in which Consolidated grants permission to Mid Texas to dispose of produced water in Well No. 2 and Mid Texas agrees that it releases any claim of any right to produce hydrocarbons on the 320 acres of Section 22. Curtis Boyles, as Mid Texas agent, signed the correspondence. Protestants claim this repudiates Mid Texas right to operate.

With respect to the second argument, Protestants provided copies of correspondence from the Commission's District Office dated May 12, 2005 to both Sabinal and Mid Texas advising that Well No. 2 on the Lena Buerger (13860) Lease was disposing of produced water from Well No. 7 Lena Buerger (05567) Lease without a permit. The correspondence specifically noted that Commission seals placed on Well No. 7 on March 2, 2005 had been removed, and Well No. 2 was sealed again on April 27, 2005. Protestants argue that these reported violations show that the Well No. 2 will not be operated in compliance with Commission rules.

**EXAMINERS' OPINION**

The examiners recommend that this application be approved, with a requirement to set a cast iron bridge plug and 20 feet of cement in the wellbore at approximately 6,100 feet, which is above the top of the Austin Chalk formation. With this plug, the well will be completed in such a manner as to prevent the migration of injected fluids to zones other than the intended zone. The examiners also recommend that the permitted injection interval be amended from 4,490 feet-5,350 feet to 4,600 feet-5,350 feet, with the packer set no higher than 4,500 feet. This recommended interval is based on the top of the Olmos reported on Form W-2 for the well. The examiners also recommend that an annual annulus pressure test be performed on the well because the surface casing is not set and cemented through the base of useable quality water.

The use of the proposed injection well is in the public interest as it will provide for the proper and safe disposal of produced water and the potential recovery of additional oil reserves as a result of a lower economic limit for the producing wells.

Both of the issues raised by protestants provide a reason for concern with respect to the proposed operation of this well. First, there appears to be some question as to whether Mid Texas would be able to establish its right to operate the 320 acres of the Lena Buerger (13860) Lease in light of another lease obtained by Consolidated which includes the same acreage. However, the question of which party possesses the valid right to operate would involve a factual determination regarding the affect of the March 14, 2005 correspondence.

The examiners note the new lease discussed by Consolidated in the letter is not in the record. Additionally, there is no evidence in the record that Mid Texas released any right in the disputed acreage directly to the mineral interest owners. The question of whether the letter agreement between Consolidated and Mid Texas serves the purpose of a release of acreage back to the original mineral interest owners would require the determination of factual and legal issues that lie beyond the purview of the Commission. Additionally, it is not currently disputed that Mid Texas maintains a right to produce the 320 acres of the Lena Buerger (05567) Lease and Well No. 7. The question of whether the letter agreement between Consolidated and Mid Texas would sever the original 640 acres created by the September 1977 assignment into two separate 320 acre units, and whether that would then defeat Mid Texas claim of a right to use Well No. 2 for disposal of produced water from Well No. 7 again would require the examiners to resolve disputed factual and legal issues regarding contractual rights and property ownership which are not within the Commission's jurisdiction. While protestants may indeed be correct in their claim that Mid Texas' rights to use Well No. 2 have been trumped by Consolidated's new lease, the appropriate venue for that determination would be the District Court of Frio County.

The examiners have even more substantial concerns with respect to the allegations of unpermitted disposal in Well No. 2 in March and April 2005. Commission records confirm these allegations, however, there is no pending Enforcement docket against either Sabinal or Mid Texas for the alleged unpermitted disposal and the removal of Commission

seals. The examiners are also concerned that a separate Enforcement docket is pending against Sabinal for violations of Statewide Rule 14(b)(2). Accordingly, the examiners believe additional provisions should be included in the permit which require witnessing by Commission personnel of all mechanical integrity tests performed on the well and the setting of the required bridge plug.

### FINDINGS OF FACT

1. Notice of this application and hearing was provided to all persons entitled to notice at least ten (10) days prior to the date of the hearing.
2. Notice of this application was published in the Frio-Nueces Current, a newspaper of general circulation in Frio County, on February 9, 2006.
3. Sabinal Resources, Inc. ("Sabinal") is an active operator which last filed a Commission Form P-5 (Organization Report) on December 13, 2005. The most recently filed P-5 identifies James Carl Yeatman as President, Douglas A. Newman as Chief Financial Officer, and Dean Philpot, as Vice President. Sabinal currently is recognized as the operator of 41 well bores with a total depth of 187,133 feet. Sabinal has posted a \$50,000 bond with the Commission as its financial security for its operations subject to Commission jurisdiction.
4. Mid Texas Natural Gas ("Mid Texas") is an active operator which last filed an Organization Report on March 20, 2006. The most recently filed P-5 identifies William B. Ogletree as President, and Sharon K. Ogletree, as Director. Mid Texas currently is recognized as the operator of 3 well bores with a total depth of 16,838 feet. Mid Texas has posted a \$25,000 bond with the Commission as its financial security for its operations subject to Commission jurisdiction.
5. Commission Oil & Gas Docket Inquiry Records from the Commission's Mainframe Computer System which identify Sabinal as a respondent in an active Enforcement action filed for violations of Statewide Rule 14(b)(2). In Oil & Gas Docket 03-0246035, Enforcement alleges that Sabinal is in violation of Statewide Rule 14(b)(2) for four wells on its Stockdick (02410) Lease, Harris County, Texas. The matter is not currently set for hearing.
6. Sabinal will operate the proposed disposal well as Mid Texas' contract operator.
7. An oil, gas and mineral lease agreement for 1931 acres covering the Lena Buerger (13860) Lease was made in September 1975. Other Commission Leases covered by the original lease agreement include: the Buerger (05629) Lease, which contains three wells currently operated by Square One Corporation; the Buerger (05555) Lease, which contains one well currently operated by McDay Energy Corp.; and Lena Buerger (05567) Lease, which

contains one well currently operated by Mid Texas Natural Gas.

8. An assignment of the 640 acres including the Lena Buerger (13860) Lease and Lena Buerger (05567) Lease was entered into in September 1977 which Mid Texas ultimately obtained by a subsequent assignment on November 1, 2003.
9. There has been continuous reported production from other wells located on the 1931 acres included in the September 1975 oil, gas and mineral lease agreement.
10. The subject Lena Buerger No. 2 was drilled in 1977 to a total depth of 6,996 feet. The well was completed in the Austin Chalk and produced from perforations between 6,337-6,681 feet.
11. The proposed disposal operations into the Lena Buerger No. 2 will not endanger any oil, gas or other mineral formation and will not endanger usable quality water.
  - a. The Texas Commission on Environmental Quality recommends protection of usable quality water resources to a depth of 3,050 feet in the area of the subject well.
  - b. The No. 2 well has 479 feet of 12 ¼ " surface casing with cement circulated from the casing shoe to the ground surface.
  - c. The well has 4 ½" casing set at 6,996 feet, with calculated top of cement at 3,914 feet. A multi-stage cementing tool was placed at 3,669 feet, with cement circulated to surface.
  - d. Performing a mechanical integrity test on the well on an annual basis is necessary to insure the protection of fresh water resources.
12. Disposal fluids will be confined to the proposed disposal interval between 4,600 feet and 5,350 feet.
  - a. The top of the Olmos is at 4,595 feet according to Form W-2 for the subject well.
  - b. Disposal will be through tubing set on a packer no higher than 4,500 feet.
  - c. Prior to disposal into the well, a cast iron bridge plug and 20 feet of cement is required to be set at approximately 6,100 feet, which is above the top of the Austin Chalk formation.

13. There are no wellbores within a ¼ mile radius of the Lena Buerger No. 2.
14. The proposed disposal well is necessary to economically dispose of produced water from other wells covered by the original Lena Buerger mineral lease.

### **CONCLUSIONS OF LAW**

1. Proper notice was issued in accordance with the applicable statutory and regulatory requirements.
2. All things have occurred to give the Railroad Commission jurisdiction to consider this matter.
3. Sabinal Resources, Inc. has met its burden of proof and satisfied the requirements of Chapter 27 of the Texas Water Code and the Railroad Commission's Statewide Rule 9.
4. Mid Texas possesses a good faith claim of a right to operate the Lena Buerger (13860) Lease, and the Lena Buerger (05567) Lease.
  - a. An assignment of the 640 acres including the Lena Buerger (13860) Lease and Lena Buerger (05567) Lease was entered into in September 1977 which Mid Texas ultimately obtained by a subsequent assignment on November 1, 2003.
  - b. There has been continuous reported production from other wells included in the 1931 acres identified in the September 1975 oil, gas and mineral lease agreement.
5. Correspondence dated March 14, 2005 between Mid Texas and Consolidated Oil & Gas Inc., discussing a new lease agreement obtained by Consolidated Oil & Gas, Inc., granting permission to Mid Texas to dispose of produced water in Well No. 2, and verifying Mid Texas release of any claim of any right to produce hydrocarbons on the Lena Buerger (13860) Lease, is not sufficient to invalidate Mid Texas' good faith claim of a right to use Well No. 2 on the Lena Buerger (13860) Lease.
6. Approval of this application will prevent waste of hydrocarbons that otherwise would remain unrecovered.
7. Approval of the application will not harm usable quality water resources and will not present a hazard to other mineral bearing formations.



**EXAMINERS' RECOMMENDATION**

Based on the above findings and conclusions, the examiners recommend that the application be approved as set out in the attached Final Order.

Respectfully submitted,

Donna K. Chandler  
Technical Examiner

Mark J. Helmueller  
Hearings Examiner