



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

REPORT & RECOMMENDATION

Oil and Gas Docket Nos. 03-0313121, 03-0313122, 03-0313124, 03-0313127, 03-0313130, 03-0313132, 03-0313134, 03-0313140, 03-0313142, 03-0313144, 03-0313145, 03-0313146, 03-0313147, 03-0313157, 03-0313173, 03-0313174, 03-0313175, 03-0313176, 03-0313177, 03-0313178, 03-0313207, 03-0313208, 03-0313214, 03-0313215, 03-0313218, 03-0313220, 03-0313222, 03-0313224, 03-0313226, 03-0313227, 03-0313237, 03-0313239, 03-0313240, 03-0313241, 03-0313272, 03-0313273, 03-0313274, 03-0313275, 03-0313276, 03-0313278, 03-0313285, 03-0313286, 03-0313289, 03-0313295, 03-0313296, 03-0313297, 03-0313298, 03-0313320, 03-0313324, 03-0313328, 03-0313336, 03-0313339, 03-0313341, 03-0313342, 03-0313344, 03-0313345, 03-0313347, 03-0313349, 03-0313350, & 03-0313351

Applications of Trivista Operating LLC to Consider an Exception to Statewide Rule 21 Pertaining to Fire Prevention and Swabbing of Various Wells, Serbin (Taylor Sand) Field, Bastrop and Lee Counties, Texas

Heard by: Lynn Latombe — Administrative Law Judge
Robert Musick — Technical Examiner

Appearances:

For Applicant -
Kayla Opperman Trivista Operating LLC

Procedural History:

Notice of Hearing	October 15, 2018
Hearing on the Merits	October 26, 2018
Considered at Conference	January 23, 2019

I. Statement of the Case

Trivista Operating LLC (Operator No. 871169), (“Trivista” or “Applicant”), seeks swabbing authority under Statewide Rule 21¹ for 60 wells (“Wells”) in the Serbin (Taylor Sand) Field (“Field”), located in Bastrop and Lee Counties, Texas. Appendix A of this Proposal for Decision (“PFD”) is a chart providing identifier information for each well including the name of the well, API number, Commission lease number and the corresponding Commission docket number. No one protested the applications for swabbing authority. The Administrative Law Judge and Technical Examiner (collectively “Examiners”) respectfully submit this PFD and recommend the Commission grant the subject applications.

II. Jurisdiction and Notice

The Commission has jurisdiction to adopt and implement the provisions regarding swabbing in Rule 21 under sections 81.051 and 81.052 of the Texas Natural Resources Code, which 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.²

At least ten days’ notice of the hearing is required to be given to “the mineral interest owners of record and surface owners of record of the lease on which a well for which an exception is sought is located”³ For each docket number, at least ten days’ notice of hearing was provided to all mineral interest owners of record and surface owners of record of the lease on which a well for which an exception is sought.⁴

III. Applicable Legal Authority

Statewide Rule 21 (or “Rule 21”) states:

Swabbing, bailing, or air jetting of wells is prohibited as a production method for wells unless the Commission has, after notice and hearing, granted an exception. . . .⁵

Rule 21 contains six requirements that must be met in order for an operator to obtain an exception to the prohibition on swabbing. The six requirements are:

1. the method of production proposed;

¹ Statewide Rule 21 refers to 16 TEX. ADMIN. CODE § 3.21.

² TEX. NAT. RES. CODE §§ 81.051 and 81.052; *see, e.g.*, 27 Tex. Reg. 9149 (September 27, 2002).

³ 16 TEX. ADMIN. CODE § 3.21(k)(1).

⁴ Notice of Hearing for each docket number.

⁵ 16 TEX. ADMIN. CODE § 3.21(k).

2. any production is properly accounted for pursuant to 16 TEX. ADMIN. CODE § 3.26;
3. the proposed exception is necessary to prevent waste or protect correlative rights;
4. wellhead control is sufficient to prevent releases from the well;
5. no pollution of usable quality water or safety hazard will result from either the proposed production method or the condition of the well; and
6. the operator possesses a good faith claim to the right to operate the well.⁶

Additionally, Rule 21 provides seven factors the Commission has the discretion to consider when determining whether to authorize production by swabbing. They are:

1. whether the well has passed a mechanical integrity test within the preceding 12 months;
2. the estimated monthly and cumulative production from the well if the requested exception is granted;
3. whether production will be into an on-lease tank battery or a mobile tank;
4. the adequacy of the financial assurance provided by the operator to assure that the well will be timely and properly plugged;
5. whether production volume, fine sands in the reservoir, or other factors render pumping of the well impracticable;
6. whether the reservoir from which the well produces contains hydrogen sulfide; and
7. the operator's history of compliance with Commission rules.⁷

IV. Discussion of the Evidence

In January 2018, Trivista Operating LLC acquired the Wells by dual signature P-4 transfer from Riley Exploration OPG. Co, LLC ("Riley".) Riley was granted SWR 21 exceptions to allow production by swabbing the Wells in 2016 and 2017. Since SWR 21 exception are not transferable, Trivista submitted new applications for swabbing authority

⁶ 16 TEX. ADMIN. CODE § 3.21(k)(1)(B).

⁷ 16 TEX. ADMIN. CODE § 3.21(k)(2).

on the same wells. Each of the 60 above-referenced docketed cases was initiated by Trivista filing an application for an exception to Statewide Rule 21, to produce a well by swabbing. No one protested these applications (“Applications”).⁸

V. Examiners’ Analysis

The Examiners’ conclude that Applicant has met the burden of proof and the Applications should be granted. The Examiners conclude that Trivista has provided sufficient evidence to merit the granting of exceptions to SWR 21. Testimony reflects that no material conditions have changed since earlier, recent exceptions were granted on these Wells to another operator. Trivista filed Applications because the early exceptions were not transferrable to Trivista. Commission Staff have inspected facilities and reviewed all Applications and finds no objection to Trivista producing the Wells by swabbing.

Based on the record, the Examiners recommend that the Commission grant the Applications and adopt the following findings of fact and conclusions of law.

Findings of Fact

1. Trivista Operating, LLC (Operator No. 871169), (“Trivista”), seeks swabbing authority for sixty (60) wells (“Wells”) in the Serbin (Taylor Sand) Field, each specifically identified in Appendix A, Bastrop and Lee Counties, Texas.
2. For each docket number, at least ten days’ notice of hearing was provided to all persons required. Trivista appeared at the hearing and presented evidence in support of the application. No one appeared in protest.
3. Trivista’s Organization Status with the Commission is active. Trivista initially filed a Commission Form P-5 *Organization Report* on October 7, 2013 and filed its most recent *Organization Report* on October 5, 2018.
4. Trivista is currently the operator of record for all the Wells, as the Commission has approved Trivista’s Form P-4, *Producer’s Transportation Authority and Certificate of Compliance*, filings for the Wells.
5. Trivista submitted a \$250,000 bond as its current financial assurance at the Commission.
6. Trivista has leases for each of the Wells allowing it the right to operate.
7. All sixty (60) wells are completed in the Serbin (Taylor Sand) Field.
8. Each Well is cemented from total depth to the surface.
9. Each Well is equipped with wellhead control sufficient to prevent releases.
10. An exception to produce the Wells by swabbing is necessary to prevent waste.

⁸ Trivista filed 60 applications, which were docketed.

11. Trivista has no history of outstanding violations of Commission rules and there are no Commission holds on leases where the Wells are located.

Conclusions of Law

1. Proper notice of hearing was timely given to all persons legally entitled to notice.
2. All things have occurred to give the Commission jurisdiction to decide this matter.
3. Trivista's applications satisfy the mandatory requirements for an exception to SWR 21 to produce the Wells by swabbing.
4. In addition to meeting all the requirements in SWR 21, consideration of discretionary factors in SWR 21 favors Trivista obtaining authorization to produce by swabbing.

Therefore, it is **ORDERED** by the Railroad Commission of Texas that the applications of Trivista Operating, LLC for an exception to SWR 21 to allow production by swabbing of the wells identified in Appendix A attached to this order are hereby **APPROVED** subject to the following conditions:

CONDITIONS

1. Wellhead Control. All wells must remain equipped with wellhead control consistent with the requirements of Statewide Rule 13.
2. Production Reporting. All hydrocarbons produced must be reported consistent with the requirements of Statewide Rule 58.
3. Intention to Plug. The operator must file a Form W-3A (Notice of Intention to Plug and Abandon with the District Office at least five (5) days prior to beginning plugging operations. If, however, a drilling rig is already at work on location and ready to begin plugging operations, the district director or the director's delegate may waive this requirement upon request, and verbally approve the proposed plugging procedures.
4. Notification of plugging. The operator must call to notify the appropriate district office a minimum of four (4) hours prior to beginning plugging operations. The individual giving notification must be able to advise the district office of the docket number and all water protection depths for that location as stated in the Texas Commission on Environmental Quality letter.
5. Plugged Wells. Should any wells on this lease ever be plugged and abandoned, the Commission will consider such plugging and abandonment as prima facie evidence that production from said well is no longer necessary to prevent confiscation of applicant's property or to prevent waste; and upon such plugging and abandonment, the authority for such well as granted under this permit shall cease.

6. Permit Expiration. This permit shall not expire so long as **TRIVISTA OPERATING, LLC** remains the operator of the applied-for wells on the applied-for lease. **This permit is not transferable.**

Recommendation

The Administrative Law Judge and Technical Examiner recommend that Trivista's 60 Applications be granted to allow for the production of the Wells by swabbing, in accordance with the attached final order.

Respectfully,



Lynn Latombe
Administrative Law Judge



Robert Musick
Technical Examiner

Appendix A

Docket No.	API No.	Lease Name & Well No.	Lease No.
03-0313121	021-31378	Louise No. 1	20841
03-0313122	021-31295	Steglich, J.C. "D" No. 4	20485
03-0313124	021-31227	Steglich, J.C. No. 3-C	20281
03-0313127	021-30956	Steglich "E" No. 3	22673
03-0313130	021-31034	Weatherston, George No. 2	19633
03-0313132	021-31092	National Pete "A" No. 2	20195
03-0313134	021-31111	Winton/Barker No. 1	19950
03-0313140	021-31440	Steglich No. 3	19876
03-0313142	021-31190	Behrens, C. No. 1	130571
03-0313144	021-31297	Amber, Amy No. 2	20478
03-0313145	021-31514	Act Ranch "B" No. 1B	22872
03-0313146	021-31193	Behrens, M. No. 1	20115
03-0313147	021-31204	Horn No. 2	20176
03-0313157	021-31235	Friebe, Eugene No. 2	20309
03-0313173	021-30976	Droemer "A" No. 1 A	19743
03-0313174	021-31013	Snider, Bert No. 1	19884
03-0313175	021-31214	Mueth, Leonard No. 1	20229
03-0313176	021-31091	National Pete No. 1	19863
03-0313177	287-32329	Luecke B No. 3	21315
03-0313178	287-32366	Gersch-Karnstaot No. 1	21937
03-0313207	287-32109	Mersiovsky No. 2	19780
03-0313208	287-31934	Mutscher No. 1	19259
03-0313214	287-32432	Marquis No. 7 No. 7	22463
03-0313215	287-32237	Steinbach No. 2	20405
03-0313218	021-31069	Lindner No. 1	19804
03-0313220	287-32172	Weise "B" No. B 2	19980
03-0313222	287-32242	Arltd, Erwin E. No. 5	19346
03-0313224	287-32279	Arltd, Erwin E. "B" No. 6	20956
03-0313226	287-32115	Arltd, Erwin E. No. 4	19346
03-0313227	021-31513	Meuth, Leonard 'B' No. 1	22864
03-0313237	287-32005	Calvin, Jr. No. 1	19519
03-0313239	287-32075	S & M Energy-Marquis No. 6	19663
03-0313240	287-32311	Lorenze No. 5	21165
03-0313241	287-32220	Behrens Family No. 1	20258
03-0313272	287-31994	Roitsch No. 1	19577
03-0313273	287-31932	Schulze, Alfred V. No. 1	19258
03-0313274	287-32296	Roitsch -A- No. 1	20864
03-0313275	287-32097	Hern No. 1	19744
03-0313276	287-32053	Holmes No. 2	19533
03-0313278	287-32002	Schurmeier No. 1	19593
03-0313285	287-32036	Schurmeier No. 3	19593
03-0313286	287-31945	Stewart No. 1	19352
03-0313289	287-31973	Lorenz, Rudolf "A" No. 6	19459
03-0313295	287 32033	Moore, Randell Well No. 1	19613
03-0313296	021 31290	Peters Well No. 8	20537

Docket No.	API No.	Lease Name & Well No.	Lease No.
03-0313297	021 31026	Steinbach Well No. 1	19648
03-0313298	287 32190	Arltd "B" Well No. B 2	20047
03-0313320	287 32219	Arltd "C" Well No. C 3	20187
03-0313324	287 32486	Bell, Carol Well No. 2	19324
03-0313328	021 31063	Carter, Gertrude (Trudy) Well No. 1	140439
03-0313336	287 31938	Durrenberger, Clarence Well No. 1	19333
03-0313339	287 32231	Kasper Well No. 1	20314
03-0313341	287 32047	Oltmann, W.C. Well No. 3	19645
03-0313342	021 31262	Nitsche, R.J. #2 Well No. 2	20417
03-0313344	287 31997	S & M Energy-Moerbe Well No. 2	19521
03-0313345	287 32263	S&M Energy-Spretz "A" Well No. 2	20588
03-0313347	021 31228	Summers Trust Well No. 1	20250
03-0313349	021 31040	Urban Well No. 1	19723
03-0313350	287 32240	Weise "C" Well No. 3	20400
03-0313351	287 32247	Weise "D" Well No. 4	20442