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RAILROAD COMMISSION OF TEXAS HEARINGS DIVISION

OIL AND GAS DOCKET NO. 01-0311261

THE APPLICATION OF STAR OIL, LLC (815102) TO CONSIDER AN EXCEPTION TO STATEWIDE RULE 21 FOR THE BUFKIN, JAMES T. (06109) LEASE, WELL NOS. 1, 2,3,4, AND 5D, TENNEY CREEK FIELD, CALDWELL COUNTY, TEXAS

OIL AND GAS DOCKET NO. 01-0311259

THE APPLICATION OF STAR OIL, LLC (815102) TO CONSIDER AN EXCEPTION TO STATEWIDE RULE 21 FOR THE TILLER, FLOYD (02968) LEASE, WELL NOS. 1,2, AND 3, SALT FLAT FIELD, CALDWELL COUNTY, TEXAS

OIL AND GAS DOCKET NO. 01-0311264

THE APPLICATION OF STAR OIL, LLC (815102) TO CONSIDER AN EXCEPTION TO STATEWIDE RULE 21 FOR THE REED -AA- (10183) LEASE, WELL NOS. 2 AND 3, SALT FLAT, WEST FIELD, CALDWELL AND GUADALUPE COUNTIES, TEXAS

EXAMINERS' REPORT AND RECOMMENDATION

EXAMINERS: Kristi M. Reeve - Administrative Law Judge
Richard Eyster, P.G. – Technical Examiner – Heard By
Austin Gaskamp – Technical Examiner – Reviewed By

HEARING DATE: November 16, 2018

CONFERENCE DATE: April 9, 2019

APPEARANCES: **REPRESENTING:**

APPLICANT: Star Oil, LLC

Don Rhodes, Consultant
Silverio Sierras, Member

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I. Statement of the Case

Star Oil, LLC (Operator No. 815102) ("Star Oil" or "Applicant"), seeks swabbing authority Statewide Rule 21¹ for 3 leases ("Leases") and 10 wells ("Wells") in the Tenney Creek, Salt Flat, and Slat Flat West Fields, located in Caldwell and Guadalupe Counties. Those leases and wells are:

1. Bufkin, James T. (06109) Lease, Caldwell County, Well Nos 1,2,3,4 and 5D;
2. Tiller, Floyd (02968) Lease, Caldwell County, Well Nos. 1,2, and 3;
3. Reed -AA- (10183) Lease, Caldwell and Guadalupe Counties, Well Nos. 2 and 3.

The applied-for wells were previously granted swabbing authority under the prior operator. Swabbing authority is not transferrable, hence the need for the present hearing. The Administrative Law Judge and Technical Examiner (collectively "Examiners") respectfully submit this Report and recommend the Commission grant the subject applications ("Applications").

II. Jurisdiction and Notice

The Commission has jurisdiction to adopt and implement the provisions regarding swabbing in Statewide 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

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 See Notice of Hearing for each docket number and certificate of publication.

III. Applicable Legal Authority

Statewide 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

Statewide 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;
2. that any production is properly accounted for pursuant to 16 Tex. Admin. Code § 3.26;
3. that the proposed exception is necessary to prevent waste or protect correlative rights;
4. that wellhead control is sufficient to prevent releases from the well;
5. that 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. that the operator possesses a good faith claim to the right to operate the well.⁶

Additionally, Statewide Rule 21 provides seven factors the Commission has the discretion to consider when determining whether to allow 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;

⁵ 16 Tex. Admin. Code § 3.21(k).

⁶ 16 Tex. Admin. Code § 3.21(k)(1)(B).

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

Each of the 3 above-referenced docketed cases was initiated by Star Oil filing an application for an exception to Statewide Rule 21 to produce the associated wells by swabbing. Star Oil provided the Commission with the addresses of the surface owners and mineral owners of the affected tracts to whom notice was to be mailed. Notice of Hearing was first mailed on July 23, 2018. A number of mailings were returned due to bad addresses. The noticed hearing was continued to November 16, 2018, to allow for notice by publication. Notice was published on October 18, 2018; October 25, 2018; November 1, 2018; and November 8, 2018, in The Luling Newsboys & Signal, a newspaper of general circulation for the subject area.

Star Oil appeared and presented evidence at the hearing through its Consultant Don Rhodes and its Member Silverio Sierra. No protests were received and no one appeared in protest of these applications ("Applications") at the hearing.⁸

The perforated intervals for all 10 Wells are in the Tenney Creek, Salt Flat, and Slat Flat West Fields. The Wells are located in Caldwell and Guadalupe Counties.

V. Examiners' Analysis

The Examiners' conclude that Applicant has met the burden of proof and the Applications should be granted.

A. There is sufficient evidence of each of the six requirements in Rule 21.

To be granted an exception to produce a well by swabbing, an operator must present evidence at hearing sufficient to meet the minimum requirements of the six elements outlined in Rule 21(k)(1)(B). An operator must demonstrate:

⁷ 16 Tex. Admin. Code § 3.21(k)(2).

⁸ Star Oil filed 15 applications, which were individually docketed.

- 1) the method of production;
- 2) production will be properly accounted for;
- 3) the exception is necessary to prevent waste or protect correlative rights;
- 4) wellhead control is sufficient prevent releases;
- 5) production method and the well condition will not cause pollution or a safety hazard; and
- 6) the operator has a good faith claim to operate the lease and wells.

The Examiners conclude that Star Oil has provided sufficient evidence as to each of these required elements.

1. Star Oil provided the method of production proposed.

Star Oil provided sufficient evidence of the method of production proposed as required.⁹ Star Oil will utilize one newly designed swabbing unit which contains a monitor to aid in efficient and safe swabbing. The swabbed oil will be transferred from the swabbing truck to an onsite tank battery. After inspection of the Wells and reviewing Star Oil's planned swabbing methodology, Commission Field Operations has no objection to Star Oil producing by swabbing.

2. Any production will be properly accounted for.

Star Oil provided sufficient evidence that any production will be properly accounted for because any swabbed oil will be transferred to the onsite tank battery, the oil will properly be allocated to the appropriate lease.¹⁰

3. The proposed exception is necessary to prevent waste and protect correlative rights.

Star Oil provided sufficient evidence that the Wells are necessary to prevent waste and protect correlative rights.¹¹ The Wells were drilled in the late 1970's to early 1980's. As the production curve for all of the leases has already flattened, it is likely that the leases will produce at their average monthly rate with only a gradual decline for the next decade. It is not economical to produce the Wells by pumping at their current low production volumes. Production by swabbing is economical and will enable recovery of additional reserves. The Wells currently produce between 5 and 10 bbls of oil per month per well, reserves that would not otherwise be recoverable by pumping.

⁹ 16 Tex. Admin. Code § 3.21(k)(1)(B)(i).

¹⁰ 16 Tex. Admin. Code § 3.21(k)(1)(B)(ii).

¹¹ 16 Tex. Admin. Code § 3.21(k)(1)(B)(iii).

4. Wellhead control is sufficient to prevent releases from each of the Wells.

Star Oil provided sufficient evidence that wellhead control is adequate to prevent releases from the Wells.¹² In the Applications, Star Oil provided information as to the type of wellhead control valve that will be used for each of the Wells. The Applications were reviewed and the wellheads for the Wells were inspected by Field Operations. Field Operations found the Wells to be equipped for swabbing.

5. No pollution of usable quality water or safety hazard will result from either the proposed production method or the condition of the Wells.

Star Oil provided sufficient evidence that no pollution of usable quality water or safety hazard will result from either the proposed production method or the condition of the Wells.¹³ The Wells were inspected, all are cemented to surface and the swabbed oil is transferred by hose from the swabbing truck to an onsite tank battery.

6. Star Oil possesses a good faith claim to the right to operate the Wells.

Star Oil provided sufficient evidence that it possesses a good faith claim to the right to operate the Wells.¹⁴ Star Oil's P-5 Status with the Commission is "active". Star Oil has active leases covering all the Wells and is the current Commission operator of record for the Wells.

B. In addition to meeting all the requirements in Rule 21, Star Oil provided evidence that the discretionary considerations weigh in its favor.

Statewide Rule 21 also identifies factors the Commission has the discretion to consider in addition to the requirements for swabbing in Rule 21. Regarding the discretionary factors the Commission can consider, Star Oil provided evidence of the estimated monthly and cumulative production from the Wells if the requested exception is granted; that production will be into an on-lease tank battery; that there is financial assurance; that low production volumes render pumping of the Wells uneconomical; the reservoir from which the Wells produce does not contain hydrogen sulfide; and that Star Oil has no prior enforcement proceedings and there are no lease holds where the Wells are located.¹⁵

¹² 16 Tex. Admin. Code § 3.21(k)(1)(B)(iv).

¹³ 16 Tex. Admin. Code § 3.21(k)(1)(B)(v).

¹⁴ 16 Tex. Admin. Code § 3.21(k)(1)(B)(vi).

¹⁵ 16 Tex. Admin. Code § 3.21(k)(2).

VI. Conclusion

Based on all of the factors that the Commission must, or in its discretion may, consider, the Examiners have concluded that the Applications for exceptions to Statewide Rule 21 should be approved for so long as Star Oil remains the operator of the Wells.

The Examiners recommend that the Commission grant the Applications and adopt the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Star Oil, LLC (Operator No. 815102), ("Star Oil"), seeks swabbing authority for 10 (ten) wells ("Wells") in the Tenney Creek, Salt Flat, and Slat Flat West Fields, Caldwell and Guadalupe Counties.
2. For each docket number, at least ten (10) days' notice of the hearing was provided to all persons required. In addition to mailing notice, notice was also published for four consecutive weeks in a periodical of general circulation for Caldwell and Guadalupe Counties. Star Oil appeared at the hearing and presented evidence in support of the applications. No one appeared in protest.
3. Star Oil's Organization status with the Commission is active. Star Oil filed its most recent organization report with the Commission on May 17, 2018. Star Oil's first filed P-5 Organization Report with the Commission was effective June 2, 2017. Silverio Sierra is identified as a Member of Star Oil.
4. The Commission's "On Schedule Leases, Wells, Wellbores by Operator" record indicate that as of November 16, 2018, Star Oil was the operator of 10 wells, with a combined total depth of 26,916 feet.
5. Star Oil has on file with the Commission blanket financial assurance pursuant to Texas Natural Resources Code §91.1042 and Statewide Rule 78(g)(1)(B) in the form of a \$50,000 bond.
6. Star Oil is currently the operator of record for all the subject Wells, as the Commission has approved Star Oil's Form P-4 *Producer's Transportation Authority and Certificate of Compliance* filings for the Wells, effective June 1, 2017.
7. Star Oil has a good faith claim right to operate the Wells.
8. The granting of the requested exceptions to Statewide Rule 21 will enable Star Oil to produce hydrocarbons that otherwise would not likely be recovered.

9. An exception to produce the Wells by swabbing is necessary to prevent waste.
10. All of the applied-for Wells are cemented to surface.
11. Granting of the requested exceptions to Statewide Rule 21 will not result in pollution of usable quality water or a safety hazard.
12. Star Oil has no history of outstanding violations of Commission rules and there are no Commission holds on the leases where the Wells are located.

CONCLUSIONS OF LAW

1. Proper notice of hearing was timely given to all persons entitled to notice. 16 Tex. Admin. Code §§ 1.42, 1.43, and 3.21.
2. All things have occurred to give the Commission jurisdiction to decide this matter. Tex. Nat. Res. Code § 81.051.
3. Star Oil's applications satisfy the mandatory requirements for an exception to Statewide Rule 21 to produce the Wells by swabbing. 16 Tex. Admin. Code § 3.21.
4. In addition to meeting all the requirements for Statewide Rule 21, consideration of discretionary factors in Statewide Rule 21 favors Star Oil obtaining authorization to produce by swabbing. 16 Tex. Admin. Code § 3.21.
5. Pursuant to §2001.144(a)(4) of the Texas Government Code, and the consent of the applicant on the record, this Final Order is effective when a Master Order relating to this Final Order is signed on April 9, 2019.

Therefore, it is **ORDERED** by the Railroad Commission of Texas that the applications of Star Oil, LLC for an exception to Statewide Rule 21 to allow production by swabbing of the wells on the Bufkin, James T. (06109) Lease; Tiller, Floyd (02968) Lease, and Reed -AA- Lease 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. 16 Tex. Admin. Code § 3.13.
2. Production Reporting. All hydrocarbons produced must be reported consistent with the requirements of Statewide Rule 58. 16 Tex. Admin. Code § 3.58.

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. 16 Tex. Admin. Code § 3.14.
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. 16 Tex. Admin. Code § 3.14.
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 **Star Oil, LLC** remains the operator of the applied-for wells on the applied-for leases. **This permit is not transferable.**

Examiners' Recommendation

The Administrative Law Judge and Technical Examiner recommend that Star Oil, LLC's 18 Applications be granted to allow for the production of the Wells by swabbing, in accordance with the attached final order.

Respectfully submitted,



Kristi M. Reeve
Administrative Law Judge



Austin Gaskamp
Technical Examiner

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 01-0311261

APPLICATION OF STAR OIL, LLC (815102) TO CONSIDER AN EXCEPTION TO STATEWIDE RULE 21 FOR THE BUFKIN, JAMES T. (06109) LEASE, WELL NOS. 1, 2,3,4, AND 5D, TENNEY CREEK FIELD, CALDWELL COUNTY, TEXAS

OIL AND GAS DOCKET NO. 01-0311259

APPLICATION OF STAR OIL, LLC (815102) TO CONSIDER AN EXCEPTION TO STATEWIDE RULE 21 FOR THE TILLER, FLOYD (02968) LEASE, WELL NOS. 1,2, AND 3, SALT FLAT FIELD, CALDWELL COUNTY, TEXAS

OIL AND GAS DOCKET NO. 01-0311264

APPLICATION OF STAR OIL, LLC (815102) TO CONSIDER AN EXCEPTION TO STATEWIDE RULE 21 FOR THE REED -AA- (10183) LEASE, WELL NOS. 2 AND 3, SALT FLAT, WEST FIELD, CALDWELL AND GUADALUPE COUNTIES, TEXAS

FINAL ORDER

The Commission finds that proper statutory notice was given in the above-numbered dockets heard on November 16, 2018; that the proposed applications are in compliance with Statewide Rule 21; that this proceeding was duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas; and the Commission hereby makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. Star Oil, LLC (Operator No. 815102), ("Star Oil"), seeks swabbing authority for 10 (ten) wells ("Wells") in the Tenney Creek, Salt Flat, and Slat Flat West Fields, Caldwell and Guadalupe Counties.
2. For each docket number, at least ten (10) days' notice of the hearing was provided to all persons required. In addition to mailing notice, notice was also published for four consecutive weeks in a periodical of general circulation for Caldwell and Guadalupe Counties. Star Oil appeared at the hearing and presented evidence in support of the applications. No one appeared in protest.
3. Star Oil's Organization status with the Commission is active. Star Oil filed its most recent organization report with the Commission on May 17, 2018. Star Oil's first filed P-5 Organization Report with the Commission was effective June 2, 2017. Silverio Sierra is identified as a Member of Star Oil.

4. The Commission's "On Schedule Leases, Wells, Wellbores by Operator" record indicate that as of November 16, 2018, Star Oil was the operator of 10 wells, with a combined total depth of 26,916 feet.
5. Star Oil has on file with the Commission blanket financial assurance pursuant to Texas Natural Resources Code §91.1042 and Statewide Rule 78(g)(1)(B) in the form of a \$50,000 bond.
6. Star Oil is currently the operator of record for all the subject Wells, as the Commission has approved Star Oil's Form P-4 *Producer's Transportation Authority and Certificate of Compliance* filings for the Wells, effective June 1, 2017.
7. Star Oil has a good faith claim right to operate the Wells.
8. The granting of the requested exceptions to Statewide Rule 21 will enable Star Oil to produce hydrocarbons that otherwise would not likely be recovered.
9. An exception to produce the Wells by swabbing is necessary to prevent waste.
10. All of the applied-for Wells are cemented to surface.
11. Granting of the requested exceptions to Statewide Rule 21 will not result in pollution of usable quality water or a safety hazard.
12. Star Oil has no history of outstanding violations of Commission rules and there are no Commission holds on the leases where the Wells are located.

Conclusions of Law

1. Proper notice of hearing was timely given to all persons entitled to notice. 16 Tex. Admin. Code §§ 1.42, 1.43, and 3.21.
2. All things have occurred to give the Commission jurisdiction to decide this matter. Tex. Nat. Res. Code § 81.051.
3. Star Oil's applications satisfy the mandatory requirements for an exception to Statewide Rule 21 to produce the Wells by swabbing. 16 Tex. Admin. Code § 3.21.
4. In addition to meeting all the requirements for Statewide Rule 21, consideration of discretionary factors in Statewide Rule 21 favors Star Oil obtaining authorization to produce by swabbing. 16 Tex. Admin. Code § 3.21.
5. Pursuant to §2001.144(a)(4) of the Texas Government Code, and the consent of the applicant on the record, this Final Order is effective when a Master Order relating to this Final Order is signed on April 9, 2019.

Therefore, it is **ORDERED** by the Railroad Commission of Texas that the applications of Star Oil, LLC for an exception to Statewide Rule 21 to allow production by swabbing of the wells on the Bufkin, James T. (06109) Lease; Tiller, Floyd (02968) Lease, and Reed -AA- Lease 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. 16 Tex. Admin. Code § 3.13.
2. **Production Reporting.** All hydrocarbons produced must be reported consistent with the requirements of Statewide Rule 58. 16 Tex. Admin. Code § 3.58.
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. 16 Tex. Admin. Code § 3.14.
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. 16 Tex. Admin. Code § 3.14.
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 **Star Oil, LLC** remains the operator of the applied-for wells on the applied-for leases. **This permit is not transferable.**

RAILROAD COMMISSION OF TEXAS

(Order entered, and signatures affixed by Hearings Divisions' Unprotested Master Order dated April 9, 2019)