Kellie Martinec

From: Caleb Troxclair <caleb@troxclairpc.com>
Sent: Monday, December 9, 2019 9:50 AM
To: Rules Coordinator; Jason Clark
Subject: SWR 40 Comments
Attachments: SW Rule 40 Comments final (1).pdf

Jason/Rule Coordinator -

Please find the Texas Alliance of Energy Producers' comments to the SWR 40 rule proposal attached to this email. We have also submitted them electronically on the website.

Thank you,

Caleb

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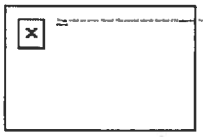

TEXAS Alliance of Energy Producers

December 9, 2019

Rules Coordinator
Office of General Counsel
Railroad Commission of Texas
PO Box 12967
Austin, TX 78711

RE: Proposed Amendments to 16 TAC §3.40, relating to Assignment of Acreage to Pooled Development and Proration Units.

Dear Rules Coordinator,

The Texas Alliance of Energy Producers (the Alliance) appreciates the opportunity to submit comments regarding the Railroad Commission of Texas (RRC) amendments to RRC Statewide Rule 40.

The Alliance strongly supports the RRC's attempt to encourage responsible development of oil and gas reserves that cannot currently be produced due to acreage assignment issues currently prohibited by Statewide 40. We believe this is a serious issue and applaud the RRC for making an effort to fix it. Safe and responsible development of the vast Texas natural resources is a primary commitment of the Alliance and the roughly 2,500 members we represent.

While we do applaud the effort, the Alliance does have several concerns with the current draft, found below. We appreciate your serious consideration of these issues.

APPLIES ONLY TO "UFT" FIELDS

First, we believe by only allowing operators in UFT Fields to avail themselves of the benefits of this rule change, the RRC is inadvertently creating waste and creating a situation whereby a statewide rule potentially has precedence over a field rule.

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In the preamble of the rule change, there is a discussion of reservoir rock parameters that says the severance contemplated is only to apply to "UFT" Fields. It is the opinion of The Alliance that reservoir rock parameters should not have any bearing on a lease severance. We feel that the lease severance provision pertains only to a "title issue" and not to a reservoir parameter production issue.

Currently, if an operator permits a well in the Spraberry (Trend Area) R40 EXC Field they must show the Commission that a depth severance has been established within the designated correlative interval for separation to the Upper Spraberry formation. We are not aware of any language in the proposed language that pertains to a vertical production interval separation requirement to this established severance depth datum. A well in the Spraberry (Trend Area) Field as well as the Spraberry (Trend Area) R40 EXC Field can each drill a horizontal lateral completion 1 foot above or below this vertical depth severance as long as they stay within their Oil & Gas Mineral Lease stipulated depth leased interval. Therefore, there is no difference regarding the vertical separation in a "UFT" Field versus a "Non-UFT" Field. Therefore, we believe only allowing this proposed rule change to benefit UFT fields is unnecessary and arbitrarily prevents valuable oil and gas reserves from being produced.

Oil & gas leased intervals have been around for a long time and have applied to all types of well completions such as vertical, horizontal and both conventional and unconventional reservoirs. There are both vertical conventional and unconventional fields that have had large consolidated intervals established due to the reservoirs being in the later stage of depletion. Operators can choose to produce these intervals separately or under a commingled basis to maximize production. If a well is producing only from the upper portion of the consolidated interval and the lease has expired, for example as to 100 feet below the lowest producing depth, an operator who leases the bottom portion of the designated consolidated interval has a problem with a double assignment of acreage under Statewide Rule 40. This is due to the acreage already being assigned to the upper interval within the same field.

Statewide Rule 40 is in fact a "Statewide Rule" so we see no reason why it should not apply to all types of fields due to it only being a "severance issue" and not a reservoir parameter production issue.

Statewide Rule vs. Special Field Rule – 3.40(e)(2)(F)

The way the current rule proposal is written, we are concerned that this statewide rule will be given precedence over field rules, which may provide for special exceptions, such as the current Spraberry (Trend Area) Field rules. 3.40(e)(2)(F) specifically provides for this statewide rule to supersede all previously adopted special field rules. To our knowledge,

this is the first time a statewide rule would be allowed to supersede field rules and we have some concerns about setting this precedent.

NOTICE REQUIREMENT – 3.40(e)(2)(B)

Clarification on "all available resources"

The notice requirement stipulates that all identified affected parties will need to be notified within 15 days of filing the Statewide Rule 40 Exception Permit. The Rule states that "all available resources" should be utilized in securing this affected party list and not just the GIS Map System on the Railroad Commission of Texas website. With all the drilling permits being required to be filed with the Railroad Commission of Texas, we are not sure what other websites would be more accurate or updated than the Commission's website. The website can currently also be used to identify existing wells within the required ½ mile radius or 2,640' notification area and addresses can also be obtained from the Form P-5 Organization Report Query. If there are other sources that should be utilized, other than the Railroad Commission of Texas Website, we would request that these sources be made available for these identified operators with existing wells and also operators having filed active Form W-1's.

½ mile radius too large

Under the current RRC rules, notification is required for Rule 37 and Rule 38 exceptions due to wells being too close to the lease lines or too close to existing wells on the "same lease and same reservoir." The notice requirements for these wells only apply to the applicable spacing rules governing the field in which the well is being permitted. For wells too close to lease lines, the notice requirement is the greater of the two: the minimum distance to the lease line or ½ the distance between the well spacing rule requirement. For wells too close to another producing well on the "same lease and same reservoir" notice is required to all adjacent parties to the permitted lease tract.

Under a lease severance provision, we believe that this is only a lessor lease issue and do not see how this effects any offset operators and/or permits within a ½ mile radius or 2,640'. Wells are drilled all of the time under existing Oil and Gas Mineral Lease severance provisions and again, as long as an exception to Statewide Rule 37 and/or 38 is not required, no notice is required.

The notice requirement in this rule proposal is ½ mile or 2,640' perpendicular to the horizontal lateral between the first and last take point (FTP /LTP). Notice is also required ½ mile or 2,640' off of the end points (FTP / LTP). Under the current rules, many fields have end point provisions off of the first and last take points (FTP / LTP). Common end point provisions are 100', 200' or can also be the prescribed distance to the closest lease line. We believe that these end points that are less than the distance to the closest lease line have been adopted by the RRC due to the assumption that drainage is perpendicular and

not parallel to the producing horizontal lateral. This end point ½ mile or 2,640' proposed notice requirement seems unnecessary due to those required notified parties not being affected by the producing wellbore lateral.

With this large notice area requirement of ½ mile or 2,640', we see possible problems for wells being drilled under the exception to Statewide Rule 40. It is a common occurrence that when operators are drilling wells, sub-surface formation data is secured that requires a change in the next permitted well location. Currently, all that is required in the Spraberry (Trend Area) R40 EXC Field is to file an amended location-drilling permit with no notification required on a regular location. Under the proposed Statewide Rule 40, a new 15-day notification period will come into effect, which is going to delay securing an amended permit location. With the same rigs sometimes being used to drill multiple horizontal wells off of the same surface pad, we believe it is easy to see how delays in permitting amended wells is going to be very expensive with the daily rig charges under a delayed spud date drilling operation.

Administrative approval needed

Additionally, we do not believe the proposed Statewide Rule 40 provides administrative approval for an exception to Statewide Rule 40 if all required affected waivers have been secured. We suggest that this provision be added to the language in the rule.

Clarification needed on type of notice

During the stakeholder discussions regarding this rule change, the Alliance and its members were under the impression that the notice provided for under this rule change would be a "good neighbor notice." In other words, it would only be a courtesy notice, and not one which if received, could then lead to a protest by someone who had received it. We believe this is an important distinction given that the most likely grounds for a protest would be the right to produce that interval, which is a title question reserved for the courthouse in Texas and not the RRC. We believe this provision of the rule should be clarified to ensure frivolous protests made due to a notice, which was only intended to be a courtesy notice in the first place. It may also be helpful for further clarification if the RRC were to provide a proposed notification form.

15 days prior?

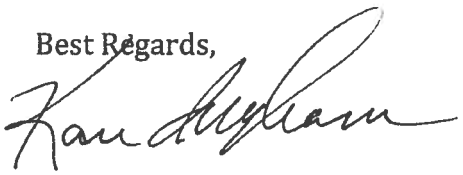
Under (e)(2)(B) of the rule proposal, the notice provision begins with "Within 15 days prior to filing its drilling application, the applicant shall...(provide notice)". We believe this phrasing is confusing and needs clarification. We believe "*within* 15 days prior to" means that the notice could go out the day before the drilling application is filed. However, to ensure all parties understand this phrasing, it should be clarified in the rule proposal.

Amended well locations

If an operator is required to amend a well location and affected parties under the rule proposal have already received notice, can notice for the amended well location be waived? We suggest that this provision be added to the language in the rule.

The Texas Alliance of Energy Producers would like to thank the Railroad Commission for all of its hard work on this rule proposal. We greatly appreciate the opportunity to comment on this important issue for our industry and thank you for your serious consideration of our comments.

Best Regards,



Karr Ingham
Executive Vice President