

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. OG-19-00001946

APPLICATION OF RIO OIL AND GAS (PERMIAN) II, LLC (712803) FOR AN EXCEPTION TO STATEWIDE RULE 32 FOR BERGMAN STATE 38 CFP, FLARE PERMIT NO. 42034, PHANTOM (WOLFCAMP) FIELD, REEVES COUNTY TEXAS; DISTRICT 08

FINAL ORDER

The Railroad Commission of Texas (“Commission”) finds that after notice in the above-docketed case was provided to all parties entitled to notice, a hearing was heard on February 24, 2020, by a Commission Technical Examiner and Administrative Law Judge. This proceeding was duly submitted to the Commission at a conference held in its offices in Austin, Texas. After considering this matter, the Commission adopts the following findings of fact and conclusions of law.

Findings of Fact

1. Rio Oil and Gas (Permian) II, LLC (“Applicant” or “Rio”) requests a two-year exception to 16 Tex. Admin. Code § 3.32 (“Statewide Rule 32”) for authority to flare a maximum daily volume of gas well gas of 7,400 thousand cubic feet per day (“Mcf/d”), limited to 44,400 thousand cubic feet per month (“Mcfm”), from a flare point on the Bergman State 38 Central Flare Point Facility (“Bergman 38 Facility” or “Facility”) in the Phantom (Wolfcamp) Field, in Reeves County, Texas. The recommended flare point volumes and proposed expiration dates are listed in Attachment A.
2. Rio submitted a request for hearing on the Statewide Rule 32 flaring exception on November 26, 2019, at least 21 days prior to the expiration date of the previous exception.
3. The Commission previously granted Rio an administrative exception to Statewide Rule to flare 8,000 Mcfd of gas well gas for each of the calendar days of the month from the Bergman 38 Facility. The previous administrative exception expiration date for the Bergman 38 Facility is January 23, 2020.
4. On February 11, 2020, the Hearings Division of the Commission sent a Notice of Hearing (“Notice”) to Applicant and all offsetting operators in the field setting a hearing date of February 24, 2020. Consequently, the parties received more than 10 days’ notice. The Notice contains (1) a statement of the time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and rules involved; and (4) a short and plain statement of the matters asserted.

The hearing was held on February 24, 2020, as noticed. The Applicant appeared and presented evidence. No one appeared in protest.

5. The Bergman 38 Facility is connected to a gas sales line. The gas is gathered and purchased by Delaware Basin Midstream, LLC under a dedicated contract.
6. Applicant seeks the Statewide Rule 32 flaring exceptions at the Facility due to high gas-line pressures and routine operational upsets, during which gas is flared. These events are generally limited to a few hours per event.
7. The requested Statewide Rule 32 exceptions to flare gas well gas is necessary for Rio to produce the recoverable hydrocarbons during periods of temporary system upsets.
8. Within a four-month period immediately prior to the hearing from October 2019 to January 2020, the following gas well gas production was provided for the Facility:
 - A. Average monthly gas well gas production: 133,218 Mcf
 - B. Average daily gas well gas production: 4,367 Mcfd
 - C. Average monthly flaring: 26 Mcf
 - D. Flared gas accounts for 0.6% of total gas production
9. The Bergman State 38 Facility had only been producing for 4 months prior to the hearing, with very low levels of flaring. Applicant provided evidence from its nearby Brown State 44-2 Facility for July and August 2019 which has demonstrated needing to flare for up to seven days in certain circumstances.
10. The Examiners find justification for limiting the monthly flared volumes to six (6) days of average gas well gas flaring per month. An exception to flare a volume of six days of peak daily production is sufficient for Applicants to remain in compliance during periods of system upsets at the Facility.
11. Occasional routine system upsets and equipment failures with temporary spikes in flaring volumes have occurred within a 4-month period, but the pattern illustrates a low level of flaring and efficient gas well gas production.
12. The Examiners recommend that the monthly volume (i.e., Mcf/month) for the Facility be limited to the volumes listed in Attachment A.
13. At the hearing, Applicant agreed on the record that the final order in this docketed case is to be final and effective when a master order relating to this final order is signed.

Conclusions of Law

1. Proper notice was issued to persons entitled to notice. *See, e.g.*, Tex. Gov't Code § 2001.051; 16 Tex. Admin. Code §§ 1.42, 1.45.
2. The Commission has jurisdiction in this case. *See, e.g.*, Tex. Nat. Res. Code § 81.051.
3. Statewide Rule 32 requires gas to be utilized for purposes and uses authorized by law. 16 Tex. Admin. Code § 3.32(b).
4. Statewide Rule 32 provides exceptions allowing the flaring of gas if certain requirements are met and the flaring is necessary. *See, e.g.*, 16 Tex. Admin. Code § 3.32(f), (h).
5. Applicant meets the requirements in Statewide Rule 32 to flare gas well gas for the maximum amount listed in Attachment A, and the flaring of such gas is necessary.
6. Pursuant to the provisions of Texas Government Code § 2001.144(a)(4)(A), this Final Order can be final and effective on the date a Master Order relating to this Final Order is signed.

Ordering Provisions

It is **ORDERED** that Rio Oil and Gas (Permian) II, LLC is **GRANTED** two-year exception to Statewide Rule 32 for the Bergman State 38 Central Flare Point Facility. Its request for authority to flare from the Bergman State 38 Central Flare Point Facility for the dates specified, in the Phantom (Wolfcamp) Field, identified in Attachment A, is **APPROVED**.

This authority is granted, provided all production is reported on the appropriate Commission forms. Within 30 days of the effective date of this order, Applicants shall file the Statewide Rule 32 Exception Data Sheet and the required fee for a Statewide Rule 32 exception for each flare point. *See* 16 Tex. Admin. Code § 3.32(h)(1). This order, and the authority to flare granted herein, is VOID if the required fee is not paid by Applicants within 30 days of the effective date of this order.

Pursuant to § 2001.144(a)(4)(A) of the Texas Government Code and the agreement of the parties in writing or on the record, **the parties have waived the right to file a motion for rehearing and this Final Order is final and effective on the date the Master Order relating to this Final Order is signed.**

Signed on June 16, 2020

RAILROAD COMMISSION OF TEXAS

**(Order approved and signatures affixed by
Hearings Division's Unprotected Master
Order dated June 16, 2020)**

ATTACHMENT A – FLARE EXCEPTION AUTHORITY

Exception No.	Lease ID	Lease Name, Individual Flare Stacks	Exception Start Date	Exception End Date	Maximum Flare Volume (Mcf) (Mcfm)	Casinghead Gas or Gas Well Gas
42034		Bergman State 38 CFP	Jan 24, 2020	Jan 23, 2022	7,400 Mcfd 44,400 Mcfm	Gas Well Gas

Note: Mcfd = Thousand Cubic Feet Per Day

Mcfm = Thousand Cubic Feet Per Month

Latitude / Longitude:

Bergman State 38 CFP: Lat. 31.7821 / Long. -103.9328

WGS 84