



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

OIL AND GAS DOCKET No. 01-0299602

APPLICATION OF KLAEGER OPERATING COMPANY, LLC TO CONSIDER AN EXCEPTION TO STATEWIDE RULE 21 PERTAINING TO FIRE PREVENTION AND SWABBING OF THE SCHAUTTEET, R. (06112) LEASE, WELL NOS. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, & 13, TAYLOR-INA FIELD, MEDINA COUNTY, TEXAS

APPEARANCES

FOR KLAEGER OPERATING COMPANY, LLC:

Robert Klaeger, Manager

PROCEDURAL HISTORY

Notice of Hearing:	March 7, 2016
Hearing on the Merits:	April 11, 2016
Report and Recommendation:	April 25, 2016
Heard by:	Ryan M. Lammert, Administrative Law Judge Richard Eyster, P.G., Technical Examiner

REPORT AND RECOMMENDATION

STATEMENT OF THE CASE

Klaeger Operating Company, LLC (Operator No. 469907), ("Klaeger"), seeks swabbing authority for its lease and wells in the Taylor-Ina Field, located in Medina County, Texas, to wit:

1. the Schautteet, R. (06112) Lease, Well Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, & 13, Taylor-Ina Field, Medina County, Texas.

APPLICABLE LAW

Statewide Rule 21 (generally, "SWR 21") provides that, "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 to this subsection."¹

¹ 16 TEX. ADMIN. CODE § 3.21(k) (emphasis added).

For notice purposes, SWR 21 requires that, “An operator seeking an exception to allow swabbing, bailing or air jetting of a well shall provide the Commission with the names and mailing addresses of 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 . . .”² Thereafter, “The Commission shall give notice of the hearing at least 10 days prior to the date of hearing.”³

At a hearing, it is incumbent upon an operator seeking an exception to present evidence demonstrating:

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.⁴

Additionally, the Commission may consider additional evidence in ruling on a request for an exception, namely:

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;

² 16 TEX. ADMIN. CODE § 3.21(k)(1).

³ 16 TEX. ADMIN. CODE § 3.21(k).

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

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.⁵

DISCUSSION OF THE EVIDENCE

At the hearing, Official Notice was taken of the following printouts of reports from the Commission's mainframe database: 1) Klaeger's initial and most recent Commission Form P-5 *Organization Report* (Form P-5) filings; 2) Commission Form P-4 *Producer's Transportation Authority and Certificate of Compliance* (Form P-4) filings for the subject lease; and 3) Oil Lease Ledger Status Inquiries for the subject lease showing the monthly oil allowable, reported monthly production and disposition of production from January 2010 through March 2016.⁶ Additionally, Hearings Division Docket File for the instant Dockets was admitted into evidence.⁷ No parties appeared at hearing in protest of the subject application.

On January 14, 2010, Klaeger Operating Company, LLC first filed a Form P-5 with the Commission and filed its most recent Form P-5 on March 18, 2015. At the time of its most recent filing, Klaeger submitted as its financial assurance a surety bond in the amount of \$50,000.00.

Klaeger currently operates 97 wells with a total aggregate depth of 68,206 feet. Effective March 1, 2016, Klaeger Operating Company, LLC became the Form P-4 operator of record for the Schautteet, R. (06112) Lease, Well Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, & 13, Taylor-Ina Field, located in Medina County, Texas. As evidence of its "good faith claim" to operate, Klaeger submitted a Contract Operating Agreement dated December 22, 2009, by and between Klaeger Services Company, LLC and Klaeger Operating Company, LLC.⁸ Klaeger also contends that the wells have been continuously producing.⁹ Commission records for the past two years confirm Klaeger's regular sales of the oil produced by swabbing. The evidence also indicated that a tank battery is on the lease.¹⁰

Also, at the hearing, Klaeger testified that it drilled and completed the subject wells in the Taylor-Ina Field specifically for the purpose of swabbing.¹¹ To that end, Klaeger testified that fine sands in the reservoir make pumping impracticable.¹² Moreover, Klaeger also testified that each well is cemented from its corresponding total depth to

⁵ 16 TEX. ADMIN. CODE § 3.21(k)(2).

⁶ Tr. at 13:36.

⁷ Tr. at 20:00.

⁸ Ex. E.

⁹ See Tr. at 7:26; Tr. at 11:17.

¹⁰ Tr. at 5:58.

¹¹ See Tr. at 5:31; Tr. at 7:26.

¹² *Id.*

the surface.¹³ Klaeger also provided a Form GW-2 *Groundwater Protection Determination* issued by the Commission's Groundwater Advisory Unit which determined that the interval from the land surface to a depth of 475 feet must be protected. Klaeger also submitted evidence demonstrating that each well is equipped with "screw-on 4 1/2 inch casing" which prevents releases of fluids to the surface.¹⁴

Klaeger also testified that an exception needed in order to prevent waste.¹⁵ To be sure, Klaeger testified that each well produces a 1/4 barrel of oil per day—without an exception, the wells would be uneconomical to produce and hydrocarbons would remain unrecovered.¹⁶

Lastly, Klaeger submitted a Proposal for Decision in Oil and Gas Docket No. 01-0234480, styled *Application of Klaeger Services, Inc., to Consider an Exception to Statewide Rule 21 to Allow Production by Swabbing, Bailing, or Jetting of a Well Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 13 on the R. Schauteet (06112) Lease, Taylor-Ina Field, Medina County, Texas*, wherein the Commission entered a Final Order on February 10, 2004, approving of the use of swabbing as a production method for the subject wells.

OPINION

To be granted an exception to produce a well by swabbing, bailing or air jetting, an operator must present evidence at hearing sufficient to meet the minimum requirements of the six elements outlined in SWR 21(k)(1)(B). An operator must demonstrate: 1) the method of production; 2) the production accounting method; 3) that the exception is necessary to prevent waste or protect correlative rights; 4) that wellhead control is sufficient prevent releases from the well; 5) that the production method for the well is safe and will not result in pollution; and 6) that it has a "good faith claim" to operate the lease and wells. The Administrative Law Judge and Technical Examiner believe that Klaeger has met the mandatory requirements of SWR 21, and that balancing these mandatory requirements with all of the applicable discretionary elements of Rule 21(k)(2) warrants an exception to SWR 21 be granted unto Klaeger to produce the subject wells on the Schauteet, R. Lease by swabbing.

Klaeger Meets the Requirements Necessary to Permit Production by Swabbing

The Administrative Law Judge and Technical Examiner believe that Klaeger's application satisfies the six mandatory requirements under Statewide Rule 21(k)(1)(B). Proper notice was provided to all necessary parties pursuant to Rule 21(k)(1)(A). The swabbing procedure was outlined as required by Rule 21(k)(1)(B)(i). Klaeger also showed that production would be properly accounted for under Commission rules as required under Rule 21(k)(1)(B)(ii). As to the requirement that swabbing will prevent waste or protect correlative rights, Commission records reflect that each well produces

¹³ Tr. at 9:45.

¹⁴ Tr. at 8:07.

¹⁵ Tr. at 6:37.

¹⁶ Tr. at 7:26.

approximately 1/4 barrel of oil per day—without an exception, the wells would be uneconomical to produce and hydrocarbons would remain unrecovered. Wellhead control is sufficient to prevent releases from the well as required by Rule 21(k)(1)(B)(iv). Further, the reported fluid levels in the wells and the fact that they are cemented from the total depth to the surface minimize any threat of pollution to usable quality water as required by Rule 21(k)(1)(B)(v). Finally, Klaeger has a good faith claim of the right to operate the Schautteet Lease as required by Rule 21(k)(1)(B)(vi) through the December 22, 2009, Contract Operating Agreement and the continuous production from the subject wells.

Klaeger Satisfies Several Discretionary Issues Related to Swabbing

The evidence also supports granting Klaeger authority to produce the Schautteet Lease by swabbing based on several discretionary issues which the Commission may consider under Statewide Rule 21(k)(2).¹ Under Rule 21(k)(2)(B), historical production records indicate that on average, each well produces 5-6 barrels of oil monthly, for a total of 65-70 barrels per year. This production level has been relatively stable over the past several years and there are no indications that there would be a rapid decline if swabbing production is granted. Additionally, the concern addressed by Rule 21(k)(2)(C) appears to be addressed as all oil is transferred to the on-lease tank battery after the wells have been swabbed. Further, consideration of both the presence of fine sands in the reservoir and the historical production volumes indicates that pumping the wells would be impracticable under Rule 21(k)(2)(E).

Based on the record in this docket, the examiner recommends adoption of the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Klaeger Operating Company, LLC has applied for an exception to Statewide Rule 21 permitting it to produce the 12 wells on the Schautteet, R. (06112) Lease by regularly swabbing the wells with a mobile swabbing unit.
2. Applicant and all other affected parties identified by the applicant, were given at least 10 days notice of this proceeding at the addresses provided by applicant. Klaeger Operating Company, LLC appeared at the hearing and presented evidence in support of the application.
3. Commission records show that Klaeger Operating Company, LLC first filed a Commission Form P-5 *Organization Report* in 2010 and filed its most recent *Organization Report* in March 2015.
4. Klaeger Operating Company, LLC is currently listed as the operator of currently operates 97 wells with a total aggregate depth of 68,206 feet.

¹ It appears that neither the provisions relating to mechanical integrity tests set in Rule 21(k)(2)(A) nor the provisions relating to hydrogen sulfide reservoirs set in Rule 21(k)(2)(F) are applicable in this case.

5. Klaeger Operating Company, LLC submitted a surety bond in the amount of \$50,000.00 as its financial assurance at the time of its most recent *Organization Report*.
4. Klaeger Operating Company, LLC was recognized as the operator of the Schautteet, R. Lease when the Commission approved a Form P-4 *Producer's Transportation Authority and Certificate of Compliance* dated effective March 1, 2016.
5. Klaeger Operating Company, LLC has a Contract Operating Agreement dated December 22, 2009, by and between Klaeger Services Company, LLC and Klaeger Operating Company, LLC, which demonstrates its "good faith claim" to operate the Schautteet, R. Lease.
6. All 12 wells on the Schautteet, R. Lease are completed in the Taylor-Ina Field.
7. Each well on the Schautteet, R. Lease has been cemented from the total depth of the well to the surface.
10. Each well on the Schautteet, R. Lease is equipped with wellhead control sufficient to prevent releases from the well.
11. For all swabbing operations, Klaeger Operating Company, LLC records the date, the well swabbed, the depth where fluid is encountered in the wellbore, the type of fluid swabbed, and the amount of fluid transferred to the storage tanks on the Schautteet, R. Lease.
12. An exception to produce the wells on the Schautteet, R. Lease by swabbing is necessary to prevent waste.
 - a. Production of the Schautteet, R. Lease by swabbing over the last 10 years has resulted in the recovery of over 9,000 barrels of oil.
 - b. Historical production records indicate that on average, each well produces 5-6 barrels of oil monthly, for a total of 65-70 per year. This production level has been stable over the past five years and there are no indications that there would be a rapid decline if swabbing production is continued.
13. All oil is transferred to the on-lease tank battery after the wells are swabbed.
14. Historical production volumes indicate that pumping the wells would be impracticable.
15. The presence of fine sands in the reservoir indicates that pumping the wells would be impracticable.

16. Klaeger Operating Company, LLC has no history of outstanding violations of Commission rules.

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. Klaeger Operating Company, LLC's application satisfies the mandatory requirements for an exception to Statewide Rule 21 to continue to produce the wells on the Schautteet, R. Lease by swabbing.
 - a. Klaeger Operating Company, LLC will produce the wells on the subject lease with a mobile swabbing truck.
 - b. For all swabbing operations, Klaeger Operating Company, LLC records the date, the well swabbed, the fluid depth, and the amount of fluid transferred to the storage tanks on the subject lease.
 - c. An exception to produce the wells on the Schautteet, R. Lease by swabbing is necessary to prevent waste of a significant volume of oil.
 - d. The wellhead control for each well is sufficient to prevent releases.
 - e. The proposed production method will not pollute usable quality water as the fluid levels in the wells are below the depth of usable quality water present in the area.
 - f. Klaeger Operating Company, LLC has a good faith claim of the right to operate the wells on the Schautteet, R. Lease.
4. Klaeger Operating Company, LLC has no history of outstanding violations of Commission rules.

RECOMMENDATION

The examiners recommend that Klaeger Operating Company, LLC's application be granted to allow for the production of the subject wells on the Schautteet, R. (06112) Lease by swabbing, in accordance with the attached final order.

Ryan M. Lammert
Administrative Law Judge

Richard Eyster, P.G.
Technical Examiner