



# RAILROAD COMMISSION OF TEXAS

## OFFICE OF GENERAL COUNSEL

June 22, 2009

**OIL AND GAS DOCKET NO. 01-0261978**

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**COMMISSION CALLED HEARING TO SUPERCEDE THE FINAL ORDER ISSUED MARCH 25, 2003 IN OIL AND GAS DOCKET NO. 01-0232366 REQUIRING PLUGGING OF WELL NOS. 2, 3, 4 & 10 ON THE MCEVER, C.D. -B- (07193) LEASE, KENS (SERPENTINE) FIELD, GUADALUPE COUNTY, AND TO RECOGNIZE R & S OIL PRODUCTION CO. AS THE OPERATOR OF RECORD**

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**APPEARANCES FOR APPLICANT:**

Robert Cheatham

**PROPOSAL FOR DECISION**  
**PROCEDURAL HISTORY**

<b>DATE OF REQUEST FOR ACTION:</b>	May 27, 2009
<b>NOTICE OF HEARING:</b>	June 4, 2009
<b>DATE CASE HEARD:</b>	June 19, 2009
<b>HEARD BY:</b>	Mark Helmueller, Hearings Examiner
<b>PFD CIRCULATION DATE:</b>	June 22, 2009

**STATEMENT OF THE CASE**

R & S Oil Production Co. (hereinafter "R & S") requests that the Commission supercede the provisions in the Final Order entered in Oil and Gas Docket No. 01-0232366 requiring plugging of Well Nos. 2, 3, 4 & 10 on the McEver, C.D. -B- (07193) Lease, Kens (Serpentine) Field, Guadalupe County, (hereinafter "McEver wells"). R & S also requests recognition as the operator of the wells.

**SUMMARY OF EVIDENCE**

The examiner took official notice of records related to R & S most recent Commission Form P-5 (Organization Report), and records identifying the wells it currently operates. The Organization Report is currently active. R & S has posted financial assurance with the Commission in the form of a \$50,000 bond. R & S is the operator of 65 wells with a total depth of 195,601 feet.

The prior operator of the McEver wells, Thrall Operating Company, Inc. ("Thrall") designated itself to the Commission as the operator by filing Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission, effective February 1, 2000.

Thrall is a corporation, whose officers are Rodney F. Hughes, President, and Harry E. Whittsit, Vice President. Thrall last filed an Organization Report with the Commission on June 2, 2000.

The last reported production from the McEver wells was in November 1994. The Commission ordered Thrall to plug the wells due to violations of Statewide Rules 3, 8 and 14 on March 25, 2003 in Oil & Gas Docket No. 01-0232366. Thrall was further ordered to pay an administrative penalty of \$27,750.00.

R & S obtained a new lease from the mineral interest owner on February 20, 2009. The lease has a primary term of one year.

R & S represented that Thrall and its principals possess no current interest in the McEver wells and are not affiliated with R & S. The McEver wells are currently included on the Commission's Orphan Well List.

R & S believes the McEver wells can be restored to active production. R & S operates two other wells completed in the field which are actively producing. Well logs identified potentially productive sands in the formation in addition to the currently perforated interval in the McEver wells. R & S has cleaned up the lease, installed a new tank battery and has equipped the wells for pumping production.

#### **AUTHORITY**

Texas Natural Resources Code §85.049(a) provides:

On a verified complaint of any person interested in the subject matter that waste of oil or gas is taking place in this state or is reasonably imminent, or on its own initiative, the commission after proper notice, may hold a hearing to determine whether or not waste is taking place or is reasonably imminent and if any rule or order should be adopted or if any other action should be taken to correct, prevent or lessen the waste.

Texas Natural Resources Code §91.107 requires that an operator file financial assurance in the form of a bond, letter of credit or cash deposit in the amount necessary for both existing wells operated and any wells being transferred, prior to Commission approval of the transfer.

Under Statewide Rules 14 and 58, the Commission may require an operator of a well to provide evidence of a good faith claim of a continuing right to operate.

### EXAMINER'S OPINION

R & S claims it can meet the requirements to be recognized as the operator of the McEver wells. However, this claim is complicated by the Final Order requiring that Thrall plug the well. An order superceding a plug only requirement in a Commission Final Order may be warranted if the operator shows: 1) that it has a good faith claim of a continuing right to operate the well or lease; 2) that it has met the financial assurance requirements of Texas Natural Resources Code §91.107; and 3) that a superceding order is necessary to prevent waste. R & S satisfied these requirements.

R & S has met all requirements necessary for the entry of a Final Order superceding the provisions requiring plugging of the McEver wells. R & S has established a good faith claim to operate the McEver wells, and verified that Thrall does not possess any interest. R & S has sufficient financial security in place and demonstrated that the McEver wells may be restored to productive use. Accordingly the examiner concludes that an order superceding the plug only provision should be entered, and R & S should be recognized as the operator of the McEver wells. All other provisions in the Final Order shall remain in full force and effect.

### FINDINGS OF FACT

1. R & S Oil Production Co. (hereinafter "R & S"), was given at least 10 days notice of this proceeding. R & S appeared at the hearing and presented evidence. R & S waived its opportunity to file exceptions to this Proposal for Decision.
2. R & S has an active and current Organization Report on file with the Commission. R & S has posted financial assurance with the Commission in the form of a \$50,000 bond. R & S is the operator of 65 wells with a total depth of 195,601 feet.
3. The prior operator of Well Nos. 2, 3, 4 & 10 on the McEver, C.D. -B- (07193) Lease, Kens (Serpentine) Field, Guadalupe County, (hereinafter "McEver wells"), Thrall Operating Company, Inc. ("Thrall") designated itself to the Commission as the operator by filing Form P-4 (Producer's Transportation Authority and Certificate of Compliance) with the Commission, effective February 1, 2000.
4. Thrall is a corporation, whose officers are Rodney F. Hughes, President, and Harry E. Whittsit, Vice President. Thrall last filed an Organization Report with the Commission on June 2, 2000.
5. The last reported production from the McEver wells was in November 1994.
6. The Commission ordered Thrall to plug the wells due to violations of Statewide Rules 3, 8 and 14 on March 25, 2003 in Oil & Gas Docket No. 01-0232366. Thrall was further ordered to pay an administrative penalty of \$27,750.00.

7. R & S has secured a currently effective oil and gas lease covering the subject property from the mineral interest owners. R & S represented that Thrall and its principals possess no current interest in the well and are not affiliated with R & S. The McEver wells are currently included on the Commission's Orphan Well List
8. R & S believes the McEver wells can be restored to active production.
  - a. R & S operates two other wells completed in the field which are actively producing. Well logs identified potentially productive sands in the formation in addition to the currently perforated interval in the McEver wells.
  - b. R & S has cleaned up the lease, installed a new tank battery and has equipped the wells for pumping production.
9. Superceding the requirement in the Final Order entered in Oil and Gas Docket No. 01-0232366 requiring plugging of Well Nos. 2, 3, 4 & 10 on the McEver, C.D. -B- (07193) Lease, Kens (Serpentine) Field, Guadalupe County, will prevent waste of oil and gas resources that would not be produced if the well is plugged.

#### CONCLUSIONS OF LAW

1. Proper notice of hearing was timely issued to the appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. R & S has a good faith claim of a continuing right to operate the McEver wells.
4. R & S has filed financial assurance in the type and amount required under Texas Natural Resources Code §91.107 to be approved as the operator of the McEver wells.
5. A Final Order superceding the provision in the Final Order entered in Oil and Gas Docket No. Docket No. 01-0232366 requiring plugging of Well Nos. 2, 3, 4 & 10 on the McEver, C.D. -B- (07193) Lease, Kens (Serpentine) Field, Guadalupe County, and recognizing R & S as the operator, will prevent waste of oil and gas resources.

### RECOMMENDATION

The examiner recommends that the Commission grant the request to supercede the provisions in the Final Order entered in Oil and Gas Docket No. 01-0232366 Requiring Plugging of Well Nos. 2, 3, 4 & 10 on the McEver, C.D. -B- (07193) Lease, Kens (Serpentine) Field, Guadalupe County. Additionally, the examiner recommends that R & S be recognized as the operator of Well Nos. 2, 3, 4 & 10 on the McEver, C.D. -B- (07193) Lease. All other provisions of the Final Order in Oil & Gas Docket No. 01-0232366 shall remain in force and effect.

Respectfully submitted,

Mark J. Helmueller  
Hearings Examiner