

OIL AND GAS DOCKET NO. 03-0267195

THE APPLICATION OF FAMCOR OIL, INC. TO CONSIDER SEVERANCE TAX INCENTIVE CERTIFICATIONS IN THE COLD SPRINGS (WILCOX, CONS.) FIELD, SAN JACINTO COUNTY, TEXAS

HEARD BY: Richard D. Atkins, P.E. - Technical Examiner
James M. Doherty - Legal Examiner

DATE OF HEARING: September 29, 2010

APPEARANCES:

REPRESENTING:

APPLICANT:

Doug Dashiell
James M. Clark

Famcor Oil, Inc.

COMMISSION STAFF:

Judy Fabela

Engineering Section

EXAMINERS' REPORT AND PROPOSAL FOR DECISION

STATEMENT OF THE CASE

Famcor Oil, Inc. ("Famcor") requests that Severance Tax Incentive Certifications be approved for the following wells in the Cold Springs (Wilcox, Cons.) Field, San Jacinto County, Texas:

LEASE NAME AND WELL NO.

LEASE ID NO.

Foster Lumber Co. "A" Lease, Well No. 12
Foster Lumber Co. "D" Lease, Well No. 15

235148
197382

The Commission has previously administratively approved severance tax certifications for earlier completions in these two wells. The wells have now been plugged back to another zone within the consolidated interval for the same Commission designated field. The zone in which the wells now have been recompleted has been designated by the Commission as a high cost/tight gas formation. However, Commission staff have issued administrative denials of severance tax incentive certifications for the subject wells as presently recompleted based on the fact that the two wells continue to carry the same Railroad Commission identification number as they did when previous severance tax

certifications were approved for the earlier completions. The Commission's policy is not to issue new identification numbers for recompletions unless the recompletion is in a different Commission designated field from the previous completion. Commission staff has the understanding that the State Comptroller has a policy against approving a severance tax exemption for a recompletion where the well is still assigned the same identification number as a well for which the Comptroller has approved a previous exemption.

Famcor believes that the two wells qualify for Severance Tax Incentive Certification and the new Lease ID No. issue is not cause for denial. This application was unopposed and the examiners recommend approval of the requested Severance Tax Incentive Certifications.

DISCUSSION OF THE EVIDENCE

The Cold Springs (Wilcox, Cons.) Field was created by the consolidation of various Cold Springs fields in the Final Order in Oil and Gas Docket No. 03-0206685, effective December 5, 1994. The correlative interval for the field spans 3,200 feet and contains many separate Wilcox Sand reservoirs. Three of the sands have been designated as high cost/tight gas formations and are shown below:

<u>WILCOX SAND</u>	<u>FINAL ORDER NO.</u>	<u>EFFECTIVE DATE</u>
9400	03-0267158	September 14, 2010
9800	03-0266109	June 22, 2010
10830	03-0237358	February 10, 2004

On July 12, 2004, the Commission administratively approved Severance Tax Incentive Certification for the Foster Lumber Co. "D" Lease, Well No. 15, in the 10830 Wilcox Sand formation. On April 24, 2008, the well was re-completed into the 9800 Wilcox Sand formation and potentialized for 1,700 MCFGPD. An application for Severance Tax Incentive Certification was received by RRC staff on June 29, 2010.

On May 24, 2010, the Commission administratively approved Severance Tax Incentive Certification for the Foster Lumber Co. "A" Lease, Well No. 12, in the 10830 Wilcox Sand formation. On November 22, 2008, the well was re-completed into the 9800 Wilcox Sand formation and potentialized for less than 100 MCFGPD. An application for Severance Tax Incentive Certification was received by RRC staff on June 29, 2010.

Statewide Rule 101 (c) (3) of the Texas Administrative Code states that when a plug back or deepening occurs after August 31, 1996, the gas produced will qualify for a tax exemption if "(A) it is the initial completion in a commission-designated or newly discovered field that has not been previously produced from that wellbore; or (B) the operator can demonstrate that the strata between the former completion and the new completion contain

a minimum of 20 vertical feet of impermeable strata”.

Famcor submitted a west to east cross-section for the Cold Springs (Wilcox, Cons.) Field depicting the various Wilcox Sands contained in the consolidated interval, including the three Wilcox Sands that have been designated as high cost/tight gas formations. Famcor also submitted a structure map of the 9800 Wilcox Sand formation and a type log for each of the subject wells. The structure map and type log demonstrate that both wells are within the 9800 Wilcox Sand formation field area and all of the perforations in the two subject wells are within the 9800 Wilcox Sand formation which has been designated as a high cost/tight gas formation. In addition, there are approximately 200 vertical feet of impermeable strata between the former completion and the new completion in the subject wells.

EXAMINERS' OPINION

Tax exemptions and reductions are provided for certain high-cost gas in §201.057 of the Tax Code. It seems clear that the Legislature intended that tax reductions are applicable to high-cost gas produced from recompletions because §201.057(f) provides that drilling and completion costs for a recompletion shall only include current and contemporaneous costs associated with the recompletion. An application to the State Comptroller for a tax exemption or reduction pursuant to §201.057 must be accompanied by a certification from the Railroad Commission that the well produces high-cost gas. Statewide Rule 101 pertains to Railroad Commission certification for severance tax exemption or reduction for gas produced from high-cost gas wells. Rule 101(c) provides that the plug back or deepening of an existing wellbore qualifies as a completion under Rule 101, and when the plug back or deepening is completed after August 31, 1996, the gas produced may qualify for a tax reduction.

Rule 101(c)(3) further provides that a plug back or deepening qualifies as a completion for the purposes of Commission certification if, among other things:

"(A) it is the initial completion in a commission-designated or newly discovered field that has not been previously produced from that wellbore;
or

"(B) the operator can demonstrate that the strata between the former completion and the new completion contain a minimum of 20 vertical feet of impermeable strata . . ."

It thus appears clear to the examiners that Rule 101(c)(3)(B) applies to a recompletion from one interval within a Commission-designated field to a different high-cost gas interval within the same field. If it were the intent that only those recompletions from one Commission-designated field to a different field should qualify for purposes of certification, Rule 101(c)(3)(A) would apply and no meaning would be

accorded to Rule 101(c)(3)(B). In other words, a recompletion from one Commission designated field to another field that is designated as a high-cost/tight gas formation qualifies for certification under Rule 101(c)(3)(A). A recompletion from one field interval designated as a high-cost/tight gas formation to a different interval in the same field separately designated as a high-cost/tight gas formation qualifies for certification under Rule 101(c)(3)(B) if the operator can demonstrate that the strata between the former completion and the new completion contain a minimum of 20 vertical feet of impermeable strata.

In this case, Famcor has demonstrated that there are about 200 vertical feet of impermeable strata between the former completions and the new completions of the subject wells. The examiners see no basis in Rule 101 for denying certification to the subject wells based simply on the fact that the Commission has a policy against assigning new identification numbers to the subject wells because they are recompleted in the same consolidated field. Famcor is entitled to certification under Commission rules. Whether Famcor will prevail in its application to the Comptroller for approval of a tax reduction is a matter to be decided by the Comptroller.

FINDINGS OF FACT

1. Proper notice of this hearing was issued at least ten days prior to the date of hearing.
2. The Cold Springs (Wilcox, Cons.) Field was created by the consolidation of various Cold Springs fields in the Final Order in Oil and Gas Docket No. 03-0206685, effective December 5, 1994. The correlative interval for the field spans 3,200 feet and contains many separate Wilcox Sand reservoirs.
3. The 9400, 9800 and 10830 Wilcox Sands have been separately designated by the Commission as high cost/tight gas formations.
4. On July 12, 2004, the Commission administratively approved Severance Tax Incentive Certification for the Foster Lumber Co. "D" Lease, Well No. 15, in the 10830 Wilcox Sand formation. On April 24, 2008, the well was re-completed into the 9800 Wilcox Sand formation and an application for Severance Tax Incentive Certification for the recompletion was received by RRC staff on June 29, 2010.
5. On May 24, 2010, the Commission administratively approved Severance Tax Incentive Certification for the Foster Lumber Co. "A" Lease, Well No. 12, in the 10830 Wilcox Sand formation. On November 22, 2008, the well was re-completed into the 9800 Wilcox Sand formation and an application for

Severance Tax Incentive Certification for the recompletion was received by RRC staff on June 29, 2010.

6. The Commission staff has administratively denied the Severance Tax Incentive Certifications, since the plug backs are in the same consolidated interval and a new Lease ID No. cannot be assigned. It is staff's belief that the Texas Comptroller has a policy against approving a well for tax exemption or reduction having the same Lease ID No. that the Comptroller has previously approved.
7. Statewide Rule 101(c)(3) [16 Texas Administrative Code §3.101(c)(3)] of the Texas Administrative Code states that when a plug back or deepening occurs after August 31, 1996, the gas produced will qualify for a tax exemption if "(A) it is the initial completion in a commission-designated or newly discovered field that has not been previously produced from that wellbore; or (B) the operator can demonstrate that the strata between the former completion and the new completion contain a minimum of 20 vertical feet of impermeable strata".
8. As shown by a structure map and type logs, both wells are recompleted in the 9800 Wilcox Sand formation field area and all of the perforations in the two subject wells are within the 9800 Wilcox Sand formation which has been designated as a high cost/tight gas formation. In addition, there are approximately 200 vertical feet of impermeable strata between the former completion and the new completion.
9. The two wells are within the geographic area approved for a high cost/tight gas formation in the 9800 Wilcox Sand in Oil and Gas Docket No. 03-0266109, effective June 22, 2010.
10. The two wells that are the subject of this application qualify for severance tax certification.

CONCLUSIONS OF LAW

1. Proper notice was issued as required by all applicable codes and regulatory statutes.
2. All things have occurred and been accomplished to give the Commission jurisdiction in this matter.
3. The Foster Lumber Co. "A" Lease, Well No. 12 (Lease ID No. 235148) and the Foster Lumber Co. "D" Lease, Well No. 15 (Lease ID No. 197382) as

presently recompleted in the 9800 Wilcox Sand, Cold Springs (Wilcox Cons.) Field, San Jacinto County, Texas, qualify for Commission certification as wells producing high cost/tight gas pursuant to Statewide Rule 101(c)(3)(B) [16 Texas Administrative Code §3.101(c)(3)(B)].

EXAMINER'S RECOMMENDATION

Based on the above findings of fact and conclusions of law, the examiners recommend that the severance tax certification be approved for all production from the 9800 Wilcox Sand formation for the two subject wells, as set out in the attached Final Order.

Respectfully submitted,

Richard D. Atkins, P.E.
Technical Examiner

James M. Doherty
Legal Examiner