

RAILROAD COMMISSION OF TEXAS

DOCKET NO. 08-0309997 § APPLICATIONS OF SINCLAIR OIL &
DOCKET NO. 08-0310001 § GAS COMPANY AND FOUR SEVENS
DOCKET NO. 08-0310003 § OPERATING COMPANY FOR FORCED
DOCKET NO. 08-0310004 § POOLING UNDER THE MINERAL
DOCKET NO. 08-0310005 § INTEREST POOLING ACT WITH
§ RESPECT TO THEIR PROPOSED:
§
§ WASHINGTON UNIT, MOSS UNIT,
§ STEERS NATION UNIT, GOLIAD UNIT,
§ AND BAUER UNIT, SPRABERRY
§ (TREND AREA) R 40 EXC FIELD,
§ HOWARD COUNTY, TEXAS

**SINCLAIR OIL & GAS COMPANY AND
FOUR SEVENS OPERATING COMPANY'S EXCEPTIONS**

TO THE HONORABLE HEARING EXAMINERS, KRISTI M. REEVE, ADMINISTRATIVE
LAW JUDGE AND ROBERT MUSICK, P.G., TECHNICAL EXAMINER:

Applicants Sinclair Oil & Gas Company and Four Sevens Operating Company ("Applicants") respectfully except to the Administrative Law Judge and Examiner's thorough and compelling Proposal for Decision, asking only that the result be changed. As the PFD notes in great detail, Applicants proved their entitlement to orders creating units under the MIPA. The only question is one of unit size.

For the very reasons set out in the PFD, Applicants respectfully ask that units of the sizes requested (all consistent with permissible proration units in this field) be ordered by the Commissioners. To that end, Applicants request that proposed Conclusion of Law No. 6 be replaced in its entirety with the following language, and that the additional Conclusions 7 and 8 be added:

EXCEPTIONS

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6. The Commission's primary statutory duty is the prevention of waste, which is defined at Section 85.046(a)(6) of the Texas Natural Resources Code to include "physical waste or loss incident to or resulting from drilling, equipping, locating, spacing or operating a well or wells in a manner that reduces or tends to reduce the ultimate recovery of oil or gas from any pool." The MIPA must be construed on a case-by-case basis, but always consistent with the mandate to prevent waste. In these five cases, given their unusual and specific facts, oil units larger than 160 acres are permissible.

7. In the absence of a Statewide Rule governing Commission application of the MIPA, the agency is left for guidance to its prior cases, the outcomes of which have varied widely to meet the exigencies of particular circumstances presented.

8. In order to accommodate new drilling technology inconceivable in 1965 when the MIPA statute was enacted, to meet the original intent of the Legislature to match the maximum possible unit sizes conforming with Commission rules and practice, to resolve ambiguity and conflict within the statutory wording, and to prevent waste, the Commission may broadly interpret the statute to allow the requested relief.

THEREFORE, Applicants respectfully request that the Proposal for Decision be modified, as set out above, and that its Applications be approved.

Respectfully submitted,

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