

**RULE 37 CASE NO. 98172**  
**District 01**

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**APPLICATION OF BELMAR OIL & GAS, INC., FOR AN EXCEPTION TO STATEWIDE  
RULE 37 FOR THE W. A. BELT, III # 1 LEASE, WELL NO. 1, CHEROKEE (AUSTIN  
CHALK LO.) AND MILANO EAST (BUDA) FIELDS, MILAM COUNTY, TEXAS**

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**APPEARANCES:**

**FOR APPLICANT:**

W. A. Belt, III  
President

**APPLICANT:**

Belmar Oil & Gas, Inc.

**FOR PROTESTANT:**

David M. Cole  
Consulting Geologist

**PROTESTANT:**

Shoreham Oil & Gas Company, Inc.

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

**APPLICATION FILED:**

December 15, 2003

**NOTICE OF HEARING:**

January 27, 2004

**HEARING DATE:**

February 18, 2004

**HEARD BY:**

James M. Doherty, Hearings Examiner  
Thomas H. Richter, Technical Examiner

**PFD CIRCULATION DATE:**

March 29, 2004

**STATEMENT OF THE CASE**

Belmar Oil & Gas, Inc. ("Belmar"), seeks an exception to Statewide Rule 37 to recompletable Well No. 1 on the W. A. Belt, III #1 Lease ("Belt No. 1") in the Cherokee (Austin Chalk Lo.) and Milano East (Buda) Fields, Milam County, Texas. The Belt No. 1 is presently completed in the Pecan Gap (5050) Field, and is located 330 feet from the northeast line and 330 feet from the southeast line of the Belt lease.

Field rules for the Cherokee (Austin Chalk Lo.) and Milano East (Buda) Fields provide for spacing of 467 feet from lease lines and 1,200 feet between wells.

The application is protested by Shoreham Oil & Gas Company, Inc. ("Shoreham"), which is the operator of a tract offsetting the Belt Lease to the southeast.

### **DISCUSSION OF THE EVIDENCE**

#### **Belmar's Evidence and Position**

The Belt No. 1 was drilled in 1984 by Houston Petroleum Co. to a total depth of 5,967 feet pursuant to a Rule 37 permit, and was completed in the Pecan Gap (5050) Field. Belmar acquired the well in 1997.

The Belt No. 1 is located in a graben<sup>1</sup> in the Mexia fault zone. Bureau of Economic Geology mapping, log data, and dipmeter data confirm that there is a major fault associated with the Belt No. 1. The Belt No. 1 is located approximately 6,500 feet to the northwest of the fault outcrop, and dipmeter data shows that the fault penetrated the Belt No. 1 borehole at 5,586 feet with significant drag on both sides of the fault. The fault trends from the southwest to the northeast, with dip to the northwest.

Shoreham is the operator of a tract offsetting the Belt Lease to the southeast, where the Shoreham Blackburn Huff No. 1 well is located. The Shoreham Blackburn Huff No. 1 is 797 feet southeast of the Belt No. 1, and is the only area well producing from the Buda formation.

The Belt No. 1 penetrates the Austin Chalk formation on the down-thrown side of the fault, and contains only the top 156 feet of the Austin Chalk. The Shoreham Blackburn Huff No. 1 penetrates the Austin Chalk on the up-thrown side of the fault, and contains 445 feet of the bottom portion of the Austin Chalk. The Austin Chalk on the up-thrown side of the fault is totally separate and isolated from the Austin Chalk on the down-thrown side of the fault. For this reason, Belmar believes that the Shoreham Blackburn Huff No. 1 will be unaffected by production from the Belt No. 1 from the Cherokee (Austin Chalk Lo.) Field.

The up-thrown Buda formation in the Belt No. 1 is very close to the fault plane. The relative vertical distance between the up-thrown Buda in the Belt No. 1 and the down-thrown Buda in the Belt No. 3 (located 1,250 feet to the northwest of the Belt No. 1) is 940 feet. The down-thrown Buda is not productive beneath the Belt Lease. Moving the present location of the Belt No. 1 to a regular location on the Belt Lease would require movement to the northwest by 166 feet. This location would be across the fault plane into the down-thrown Austin Chalk and would not encounter the up-thrown Buda formation at

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<sup>1</sup> A depressed segment of the earth's crust bounded on at least two sides by faults.

all. Even an irregular location as close as 43 feet to the northwest of the Belt No. 1 would miss the up-thrown Buda formation.

Under the applicable spacing rules, there is no regular location on the Belt Lease from which Belmar would have an opportunity to recover reserves in the Buda formation under the lease. There are regular locations on the Belt Lease from which the Austin Chalk could be encountered, but these locations would be further away from the fault than the present location of the Belt No. 1 and would not afford Belmar an opportunity to recover its fair share of reserves in the Austin Chalk. The Belt No. 3 to the northwest of the Belt No. 1 encounters the Austin Chalk, but there is no permeability in the formation at that location.

Recompletion of the Belt No. 1 to the Cherokee (Austin Chalk Lo.) and the Milano East (Buda) Fields can be accomplished at a cost of approximately \$15,000-\$20,000. Drilling a new well on the Belt Lease to these fields, even were there a regular location from which the Buda formation could be accessed, would cost at least \$250,000.

Belmar believes that the Shoreham Blackburn Huff No. 1 is capable of draining the up-thrown Buda formation under the Belt Lease, particularly when the well is fracture stimulated as planned by Shoreham. On the other hand, Belmar believes that the Belt No. 1, when recompleted to the Milano East (Buda) Field, will recover hydrocarbons primarily from fractures that run parallel to the fault and will not drain Shoreham's adjacent tract without a major fracture stimulation which Belmar does not contemplate. Belmar has made no volumetric calculation of reserves in the Cherokee (Austin Chalk Lo.) or Milano East (Buda) Fields beneath the Belt Lease.

#### **Shoreham's Evidence and Position**

Shoreham takes no issue with Belmar's technical presentation, and agrees with Belmar's fault interpretation. Shoreham agrees also that the Austin Chalk formation beneath the Belt Lease is fault separated from the Austin Chalk beneath Shoreham's offset tract, and Shoreham does not object to the granting of a Rule 37 exception permit to recomplete the Belt No. 1 in the Cherokee (Austin Chalk Lo.) Field.

Shoreham is concerned, however, with Belmar's proposal to recomplete the Belt No. 1 in the Milano East (Buda) Field from which Shoreham's Blackburn Huff No. 1 produces. Shoreham believes that the Belt No. 1 would be able to drain 5-10 acres in the Buda formation and that a majority of the reserves produced from the Buda would come from Shoreham's lease, particularly if the Belt No. 1 were fracture stimulated. Shoreham agrees that if fracture stimulated, the Shoreham Blackburn Huff No. 1 will drain the Buda beneath the Belt Lease.

**EXAMINERS' OPINION**

An applicant seeking an exception to Statewide Rule 37 has the burden to show that the exception is necessary to prevent waste or to prevent the confiscation of property. Belmar does not appear to contend that it is entitled to an exception based on prevention of waste, in that Belmar concedes that Shoreham's Blackburn Huff No. 1 will drain reserves in the Milano East (Buda) Field

beneath the Belt Lease. This case turns, therefore, on the issue of whether the granting of the requested exception is necessary to prevent the confiscation of property.

An owner of oil and gas is entitled to an opportunity to recover the reserves underlying his tract, and any denial of that opportunity amounts to confiscation. *Atlantic Refining Co. v. Railroad Commission*, 346 S.W.2d 801 (Tex. 1961); *Imperial American Resources Fund, Inc. v. Railroad Commission*, 557 S.W.2d 280 (Tex. 1977). When the subject tract is capable of supporting a regular location, the applicant for a Rule 37 exception based on confiscation must prove that the proposed irregular location is necessary because of surface or subsurface conditions and that the proposed location is reasonable. To do this, the applicant must show that it is not feasible to recover his fair share of the oil and gas under his tract from regular locations. The examiners conclude that Belmar has met its burden of proof, and the granting of the requested Rule 37 exception is necessary to prevent confiscation.

Shoreham does not oppose Belmar's request for a Rule 37 exception to recomplete the Belt No. 1 in the Cherokee (Austin Chalk) Field. Shoreham will be unaffected by recompletion of the well in this field because the Austin Chalk beneath the Belt Lease is fault separated from the Austin Chalk beneath Shoreham's lease.

There is no regular location on the Belt Lease from which the productive up-thrown Buda formation can be encountered. Although Belmar lacked data from which to make a volumetric calculation of reserves in the Buda formation, it reasonably may be inferred that the up-thrown Buda contains hydrocarbons beneath the Belt Lease because the Shoreham Blackburn Huff No. 1 is producing from this formation 797 feet to the southeast of the Belt No. 1. Whatever the amount of reserves in the Buda formation beneath the Belt Lease, Belmar has no opportunity to recover them from any regular location. Belmar has no wells on any surrounding tract which will enable Belmar to recover its fair share of reserves beneath the Belt Lease in the Milano East (Buda) Field.

The location of the Belt No. 1 is reasonable, given all the circumstances of this case. The well is 330 feet from the nearest lease lines. Moving to a less irregular location even as little as 43 feet to the northwest, away from Shoreham's lease line, would miss the Buda formation. Granting of a Rule 37 exception to recomplete the Belt No. 1 in the Milano East (Buda) Field, will prevent drainage of the Belt Lease by Shoreham's Blackburn Huff No. 1, and give Belmar the opportunity to recover its fair share of reserves in the Buda beneath the lease.

The examiners recommend that the application of Belmar for a Rule 37 exception to recomplete the Belt No. 1 in the Cherokee (Austin Chalk Lo. ) and Milano East (Buda) Fields be approved and that the following Findings of Fact and Conclusions of Law be adopted.

**FINDINGS OF FACT**

1. At least ten (10) days notice was sent to all affected persons, who, for tracts closer to the proposed well than the greater of one-half ( $\frac{1}{2}$ ) of the prescribed minimum between well spacing distance or the minimum lease line spacing distance, included the designated operator, all lessees of record for tracts that have no designated operator, and all owners of record of unleased mineral interests.
2. Belmar Oil & Gas, Inc. ("Belmar") seeks an exception to Statewide Rule 37 to recomplete its W. A. Belt, III #1 Lease, Well No. 1 ("Belt No. 1") in the Cherokee (Austin Chalk Lo.) and Milano East (Buda) Fields, Milam County, Texas.
3. Field rules for the Cherokee (Austin Chalk Lo.) and Milano East (Buda) Fields provide for spacing of 467 feet to lease lines and 1,200 feet between wells.
4. The location of Belmar's Belt No. 1 is 330 feet from the northeast line and 330 feet from the southeast line of the Belt Lease.
5. Shoreham Oil & Gas Company, Inc., is the operator of a tract offsetting the Belt Lease to the southeast. On this offset tract, Shoreham is the operator of the Blackburn Huff No. 1 well, which is located 797 feet to the southeast of the Belt No. 1. The Shoreham Blackburn Huff No. 1 is producing from the Milano East (Buda) Field and is capable of draining the Buda formation under the Belt Lease, particularly if fracture stimulated.
6. The Belt No. 1 was drilled in 1984 by Houston Petroleum Co. to a total depth of 5,967 feet pursuant to a Rule 37 permit, and was completed in the Pecan Gap (5050) Field. Belmar acquired the Belt No. 1 in 1997.
7. The Belt No. 1 is located in the Mexia fault zone, and there is a major fault associated with the well. The Belt No. 1 is located approximately 6,500 feet to the northwest of the fault outcrop, and the fault penetrated the Belt No. 1 borehole at 5,586 feet. The fault trends from the southwest to the northeast, with dip to the northwest.

8. The Belt No. 1 penetrates the Austin Chalk formation on the down-thrown side of the fault. The Shoreham Blackburn Huff No. 1 penetrates the Austin Chalk on the up-thrown side of the fault. The Belt No. 1 and the Shoreham Blackburn Huff No. 1 are fault separated in the Austin Chalk. Shoreham's offset tract to the southeast of the Belt Lease will be unaffected by production of the Belt No. 1 from the Cherokee (Austin Chalk Lo.) Field.
9. The up-thrown Buda formation in the Belt No. 1 is very close to the fault plane. The down-thrown Buda formation is not productive beneath the Belt Lease. Moving the present location of the Belt No. 1 to a regular location on the Belt Lease would require movement to the northwest by 166 feet. This location would be across the fault plane into the down-thrown Austin Chalk and would not encounter the Buda formation.
10. There is no regular location on the Belt Lease from which Belmar can recover reserves in the Buda formation under the lease. Even an irregular location as close as 43 feet to the northwest of the Belt No. 1 would miss the up-thrown Buda formation.
11. There are regular locations on the Belt Lease from which the Austin Chalk could be encountered, but a well at these locations would not afford Belmar an opportunity to recover its fair share of reserves in the Austin Chalk.
12. Belmar has no wells on surrounding tracts that will recover reserves in the Cherokee (Austin Chalk Lo.) or Milano East (Buda) Fields beneath the Belt Lease.
13. Granting of the requested Rule 37 exception will afford Belmar an opportunity to recover its fair share of reserves in the Cherokee (Austin Chalk Lo.) and Milano East (Buda) Fields underlying the Belt Lease.

**CONCLUSIONS OF LAW**

1. Proper notice of hearing was timely issued by the Railroad Commission to appropriate persons legally entitled to notice.
2. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties in this hearing have

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3. The granting of an exception to Statewide Rule 37 to Belmar Oil & Gas, Inc., to recomplete the W. A. Belt, III #1 Lease, Well No. 1 in the Cherokee (Austin Chalk Lo.) and Milano East (Buda) Fields is necessary to prevent confiscation.
4. The location of the W. A. Belt, III #1 Lease, Well No. 1 is reasonable.

**RECOMMENDATION**

The examiners recommend that the application be granted in accordance with the attached final order.

Respectfully submitted,

James M. Doherty  
Hearings Examiner

Thomas H. Richter  
Technical Examiner