
* **KEY ISSUES: Confiscation** *
* **Existing Wellbore** *
* **Substandard Acreage/** *
* **Legal Subdivision** *
* *
* **FINAL ORDER: SEE L:\LGARCH\OG\ORD** *

RULE 37 CASE NO. 107,137

THE APPLICATION OF JAY-DEE OPERATING COMPANY FOR AN EXCEPTION TO STATEWIDE RULE 37 AND A DENSITY EXCEPTION TO STATEWIDE RULE 38 AND APPROVAL OF A STATEWIDE RULE 38(d)(3) UNIT DISSOLUTION TO PLUG BACK WELL NO. 1, BLOCK 71 LEASE, 20 ACRES, R. W. FANT SURVEY #18, A-620, WILDCAT, CLAYTON, NE. (1100), CLAYTON, NE. (QUEEN CITY -A-), CLAYTON, NE. (QUEEN CITY -B-), CLAYTON (SLICK 6450), CLAYTON (SLICK 6500), CLAYTON (LULING), CLAYTON (MACKHANK 1), CLAYTON (MASSIVE), CLAYTON (BLOCK 72 SAND), CLAYTON (BLOCK 75 SAND), AND CLAYTON (BLOCK 85 SAND) FIELDS, LIVE OAK COUNTY, TEXAS

APPEARANCES:

FOR APPLICANT:

Michael R. Mulvey (Agent)
Mark Nibbelink
Lloyd Muennink (Attorney)

APPLICANT:

Jay-Dee Operating Company

FOR RESPONDENT:

Mark Norville
James Harris
David Horne
George Neale (Attorney)

RESPONDENT:

Stallion Oil Company

AMENDED PROPOSAL FOR DECISION

PROCEDURAL HISTORY

DATE OF APPLICATION:	September 26, 1991
DATE CASE HEARD:	November 15, 1991
HEARD BY:	Jim McDougal, Hearings Examiner Ramon Fernandez, Jr., P.E. Technical Examiner
TRANSCRIPT DATE:	December 13, 1991
PFD CIRCULATION DATE:	April 13, 1992
AMENDED PFD CIRCULATED:	June 9, 1992

STATEMENT OF THE CASE

This is an application by Jay-Dee Operating Company (Applicant) for an exception to Railroad Commission of Texas Statewide Rule 37 and a Statewide Rule 38(d)(3) Unit Dissolution to plug back the Block 71, Well No. 1 in various Clayton Fields, Live Oak County, Texas. The application was protested by Stallion Oil Company (Protestant) who operates wells to the northwest of Applicant's proposed well. Applicant based its application on confiscation, i.e. the Applicant's right to recover the hydrocarbons underneath its tract. Protestant opposed the application on the grounds that the proposed well is not necessary to protect correlative rights or to prevent waste. The examiners agree with the Applicant and recommend that the application for a Rule 37 exception and the application for the Rule 38(d)(3) unit dissolution be granted.

APPLICANT'S EVIDENCE

Applicant presented two witnesses - Mr. Michael Mulvey, Agent for Applicant and Mr. Mark Nibbelink, a geologist and geophysicist.

Mr. Mulvey explained the history of the lease and sponsored exhibits to establish when the tract took its original size and shape. Mr. Mulvey sponsored a deed on the subject tract from the Trustees of the Chas. F. Simmon's Nueces River Farm, Grantors to Est. Mrs. Lillie Humbaugh, Grantees dated September 12, 1907. There was no oil or gas production in the area of the subject tract in 1907. Railroad Commission of Texas records show that oil and gas were discovered in the area by the drilling of the Clayton Field (Slick 6500) well in October, 1944.

Western Natural Gas Company pooled into a gas unit all of Block 71 on August 24, 1951. This unit expired with the cessation of production from the only unit well in 1972. No action pursuant to Railroad Commission of Texas Statewide Rule 38 was ever taken to approve the dissolution of the unit. The only unit well was plugged and abandoned.

On or about September 5, 1991, Jay-Dee Operating Company filed a Form W-1 and a Form W-1-A requesting permission to plug back the (Above 7905') Block 71, Well No. 1 to the Wildcat, Clayton, NE. (1100), Clayton, NE. (Queen City -A-), Clayton, NE. (Queen City -B-), Clayton (Slick 6450), Clayton (Slick 6500), Clayton (Luling), Clayton (Mackhank 1), Clayton (Massive), Clayton (Block 72 Sand), Clayton (Block 75 Sand) and Clayton (Block 85 Sand) Fields, Live Oak County, Texas. Field spacing rules for all of these applied-for fields are 467'/1200' with the exception of the Clayton (Block 75 Sand) with field spacing rules of 933'/2640'. Said field spacing rules attached to the Clayton Field in 1944. The location of the applied-for re-entry is 165' from the south lease line and 1370' from the east lease line.

It would not be economical to drill a new well to recover the gas in the applied-for fields. The only economical way to recover the gas in the applied-for fields is by plugging back the Block 71, Well No. 1. In fact, Applicant stated it would not drill another well to encounter the applied-for zones because it would not be economical to do so.

The geological structure of the Clayton Field is a four-way closure anticline. The field is 6.5 miles long with a range of a mile to a mile and a half in width. It is associated with a down to the coast fault. Jay-Dee Operating Company's "fair share" estimated minimum recovery is 250,000 mcf total from all applied-for fields. The geological evidence shows the applied-for fields to be fairly uniform and thus moving the well will not affect ultimate recovery. Applicant's proposed location is the centermost location to encounter all of the applied-for zones and therefore is the most reasonable location available. All of Jay-Dee Operating Company's applied-for sands are present in the two offset wells - the Terra No. 1 Nicholson Well and the Pecos Development Block 71-1 Well. Although not currently being produced by the offsets, all of the applied-for sands in the Block 71, Well No. 1 are correlative to the two aforementioned offset wells and would be drained by them.

Applicant owns a 50% working interest in the subject tract and Protestant owns the other 50%.

PROTESTANT'S EVIDENCE

Protestant basically argued that its well was better positioned to drain the reserves underneath Applicant's tract and that Applicant should pool with Protestant since the proposed plug back would not be an economic venture for Applicant. Protestant also argued that Applicant would drain Protestant's reserves.

Protestant also argued that Applicant is a participant in the Nicholson Unit Well No. 1 for the Clayton (Block 85 Sand) Field and the Clayton (Wilcox 7360' Sand) Field by virtue of that agreement between Michael Mulvey and Terra Resources, Inc. dated January 16, 1989.

EXAMINERS' OPINION

Applicant has a right under Texas law to a reasonable opportunity to recover the hydrocarbons underneath its lease. In the instant case, the lease took its present size and shape in 1907. Oil and gas were not discovered until 1944. Although the well was unitized from 1951 until at least 1972, that unitization did not affect a cross conveyance of interests. Accordingly, the subject twenty acre tract for which Jay-Dee Operating Company filed its Form W-1 and Form W-1-A is a substandard acreage tract which cannot support a regular location. Therefore, an irregular location is necessary to provide Jay-Dee Operating Company a reasonable opportunity to recover the hydrocarbons underneath its twenty acre tract. The grant of this application will prevent confiscation

of the applicant's hydrocarbons by allowing applicant access to the hydrocarbons underneath its tract which are otherwise unrecoverable or subject to drainage by offset wells.

The examiners are also of the opinion that Michael Mulvey is a participant individually in the Nicholson Unit Well No. 1 for the Clayton (Block 85 Sand) Field. Applicant's agent's participation in the Nicholson Unit No. 1 Well does not negate Applicant's right to a well in the Clayton (Block 85 Sand) Field.

FINDINGS OF FACT

1. Proper notice of this hearing was served upon all persons legally entitled to notice.
2. The twenty acre tract which is the subject matter of this hearing also known as Farm Tract 3359 Farm Block 71 took its present size and shape by that certain deed dated September 12, 1907 from the Trustees of the Dr. Chas. F. Simmon's Nueces River Farm, Grantors to Est. Mrs. Lillie Humbaugh, Grantees.
3. There was no oil or gas production in the area of the subject twenty acre tract in 1907.
4. Oil and gas were discovered in the subject area by the discovery of the Clayton Field (Slick 6500) Field in October, 1944.
5. The geological structure of the Clayton Field is a four-way closure anticline. The field is 6.5 miles long with a range of a mile to a mile and a half in width. It is associated with a down to the coast fault.
6. Western Natural Gas Company pooled into a gas unit all of Block 71 on August 24, 1951.
7. The Western Natural Gas Company Unit expired with the cessation of production from the only unit well in 1972. No Railroad Commission of Texas action pursuant to Statewide Rule 38 was ever taken to approve the dissolution of said unit. There was only one well in the unit and it was plugged and abandoned. Said well was identified as the Western Natural Gas Company Block 71 Unit, Well No. 1 hereinafter referred to as Block 71, Well No. 1.
8. In June of 1990, RIO-TEX, INC. attempted to re-enter Block 71, Well No. 1 but abandoned it later that year. The Form W-1 and Form W-1-A, for this re-entry were filed with the Railroad Commission of Texas on April 25, 1990.

9. On or about September 5, 1991, Jay-Dee Operating Company filed a Form W-1 and a Form W-1-A requesting permission to plug back the (Above 7905') Block 71, Well No. 1 to the Wildcat, Clayton, NE. (1100), Clayton, NE. (Queen City -A-), Clayton, NE. (Queen City -B-), Clayton (Slick 6450), Clayton (Slick 6500), Clayton (Luling), Clayton (Mackhank 1), Clayton (Massive), Clayton (Block 72 Sand), Clayton (Block 75 Sand), and Clayton (Block 85 Sand) Fields, Live Oak County, Texas. All of the fields have a density rule of 40 acres with the exception of the Clayton (Block 75 Sand) which has a density rule of 320 acres per well.
10. Field spacing rules for all of these applied-for fields are 467'/1200' with the exception of the Clayton (Block 75 Sand) with field spacing rules of 933'/2640'. Said field spacing rules attached to the Clayton Field in 1944.
11. The location of the applied-for re-entry is 165' from the south lease line and 1370' from the east lease line.
12. The Block 71, Well No. 1 is bounded on the northwest by the Terra #1 Nicholson which is completed in the Clayton (Wilcox 7360) zone and on the west by the Pecos Development Block 70-3 Well which is completed in the Clayton (Wilcox 7360) zone. Jay-Dee Operating Company is not applying for the Clayton (Wilcox 7360) zone.
13. Jay-Dee Operating Company's "fair share" estimated minimum recovery is 250,000 mcf which is the volume of recoverable gas under its twenty acre tract from all applied-for fields.
14. It would not be economical to drill a new well to recover the gas in the applied-for fields. The only economical way to recover the gas in the applied-for fields is by plugging back the Block 71, Well No. 1. In fact, applicant stated it would not drill another well to encounter the applied-for zones because it would not be economical to do so.
15. The geological evidence shows the applied-for fields to be fairly uniform and thus moving the well will not affect ultimate recovery. Applicant's proposed location is the centermost location to encounter all of the applied-for zones and therefore is the most reasonable location available.
16. Applicant has no interest in any well or wells that are completed in the applied-for zones.
17. Protestant, Stallion Oil Company, is the operator of the Nicholson Well No. 1 which is completed in the Clayton Wilcox 7360 zone.

18. All of Jay-Dee Operating Company's applied-for sands are present in the two offset wells - the Terra No. 1 Nicholson Well and the Pecos Development Block 71-1 Well. Although not currently being produced by the offsets, all of the applied-for sands in the Block 71, Well No. 1 are correlative to the two aforementioned offset wells and could be drained by them.
19. Applicant owns a 50% working interest in the subject tract and Protestant owns the other 50% working interest.
20. Michael R. Mulvey is an Agent for Jay-Dee Operating Company.
21. The subject twenty acre tract for which Jay-Dee Operating Company filed its Form W-1 and Form W-1-A is a substandard acreage tract which cannot support a regular location. Therefore, an irregular location is necessary to provide Jay-Dee Operating Company a reasonable opportunity to recover the hydrocarbons underneath its twenty acre tract. The grant of this application will prevent confiscation of the applicant's hydrocarbons by allowing applicant access to the hydrocarbons underneath its tract which are otherwise unrecoverable or subject to drainage by offset wells.
22. The unit dissolution will not prevent mineral interests from having a reasonable opportunity to produce the hydrocarbons under their property.
23. There is no evidence that the Western Natural Gas Unit dissolution is intended to subvert the density provisions of Statewide Rule 38.

CONCLUSIONS OF LAW

1. Proper notice of this hearing was served upon all persons legally entitled to notice.
2. The Railroad Commission of Texas has jurisdiction to decide this matter pursuant to the Texas Natural Resources Code and the Railroad Commission of Texas Statewide Rules for Oil, Gas and Geothermal Operations.
3. The unitization of Farm Block 71, in 1951, which includes the subject twenty acre tract did not effect a cross conveyance of interests in the twenty acre tract. Accordingly, the subject twenty acre tract legally took its current size and shape by that certain deed dated September 7, 1907 from the Trustees of the Dr. Chas. F. Simmon's Nueces River Farm, Grantors to Est. of Mrs. Lillie Humbaugh, Grantees. Therefore, the twenty acre tract is a legal subdivision entitled to a well to prevent confiscation.

4. The subject twenty acre tract for which Jay-Dee Operating Company filed its Form W-1 and Form W-1-A is a substandard acreage tract which cannot support a regular location. Therefore, an irregular location is necessary to provide Jay-Dee Operating Company a reasonable opportunity to recover the hydrocarbons underneath its twenty acre tract. The grant of this application will prevent confiscation of the applicant's hydrocarbons by allowing applicant access to the hydrocarbons underneath its tract which are otherwise unrecoverable or subject to drainage by offset wells.
5. The applicant is entitled to permission pursuant to Rule 38(d)(3) to dissolve the Western National Gas Unit with the rules of the commission applicable to each tract.
6. Applicant is entitled to an exception to Rule 37 for the proposed well for all the applied-for fields.

EXAMINERS' RECOMMENDATION

The examiners recommend that the application for an exception to Rule 37 be granted for all applied-for fields and that the Commission approve dissolution of the Western Natural Gas Company Unit pursuant to Statewide Rule 38(d)(3).

Respectfully submitted,

Jim McDougal
Hearings Examiner

Ramon Fernandez, P.E.
Technical Examiner

JFM:RF:ds