
KEY ISSUES: WASTE *
 * Unusual conditions *
 CONFISCATION *
 * No evidence of recoverable reserves *
 * Drainage - economic viability *
 * First well *
 * *
 * **FINAL ORDER: R37 DENIED** *

RULE 37 CASE No. 0214472
DISTRICT 1

PROPOSAL FOR DECISION

APPLICATION OF TEXAS CRUDE ENERGY, INC., FOR AN EXCEPTION TO STATEWIDE RULE 37 TO DRILL ITS WELL NO. 1, O.S. PETTY LEASE, STUART CITY, WEST (EDWARDS) FIELD, LASALLE COUNTY, TEXAS.

APPEARANCES:

REPRESENTING:

APPLICANT -

Michael E. McElroy, Attorney
 Douglas O'Brien, Geologist
 Michael A. Huhnke, Petroleum Eng.

Texas Crude Energy, Inc.

PROTESTANT -

Willard Crisp
 William Herrera

Self
 Self

PROCEDURAL HISTORY

Application Filed:

December 4, 1996

Notice of Hearing:

January 24, 1997

Hearing Held:

February 21, 1997

PFD Circulated

April 14, 1997

Heard by:

Colin K. Lineberry,
 Hearings Examiner
 Thomas H. Richter, P.E.
 Technical Examiner

STATEMENT OF THE CASE

Texas Crude Energy, Inc. ("Texas Crude" or "applicant") seeks an exception to Statewide Rule 37 to drill its proposed Well No. 1 on the O.S. Petty Lease for the Stuart City, West (Edwards) Field. The application is protested by offset mineral interest owners Willard Crisp and William Herrera ("protestants"). The Stuart City, West (Edwards) field rules mandate spacing of 660 feet from lease lines and 2640 feet between wells, with 640 acre units.

The applied-for location is regular as to between-well spacing but is only 169 feet from the nearest lease line.¹ Accordingly, an exception to the Stuart City, West (Edwards) Field Rules pursuant to Statewide Rule 37 is necessary. The irregularly-shaped O.S. Petty Lease contains 649.91 contiguous acres and the proposed well will be the only well on the unit producing from the Stuart City, West (Edwards) Field so the proposed well complies with Statewide Rule 38.

Applicant Texas Crude presented testimony from two expert witnesses. The protestants appeared *pro se*, cross-examined Texas Crude's experts and offered lay testimony, but did not sponsor any expert witnesses.

TEXAS CRUDE'S EVIDENCE AND POSITION

Texas Crude presented 3-D seismic data showing areas of greater porosity within the subject field and used the 3-D data to select its proposed location. Texas Crude compared the porosity it determined for the proposed location to the measured porosities and ultimate recoveries of other wells in the subject field to estimate the ultimate recovery of a well at the proposed location (1.27 BCF) and of a well at a regular location (.9 BCF). Texas Crude did not present any evidence concerning the current recoverable reserves in the Stuart City, West (Edwards) Field under the O.S. Petty Lease.

Texas Crude's geologist testified that the applied-for location was unusual because it had higher porosity than other areas of the O.S. Petty Lease farther from the lease line. The geologist acknowledged that porosity varied throughout the reservoir and that numerous other areas of the reservoir have porosities similar to the applied-for location. The geologist testified that if Texas Crude was not allowed to drill a well at the applied-for location, the reserves at that location would be drained by a regularly located well on the adjoining lease.

Texas Crude's engineer testified that it would not be economical for Texas Crude to drill at a regular location on the O.S. Petty Lease.

¹ Texas Crude originally applied for a location only 69 feet from the nearest lease line. At the hearing, however, Texas Crude amended its application to move the well location back to 169 feet from the lease line because it had determined it could not build a sufficient drilling pad without encroaching over the lease line.

PROTESTANTS' EVIDENCE AND POSITION

Protestant Willard Crisp owns the minerals under the tract adjacent to the O.S. Petty Lease and closest to the proposed well location. Texas Crude is currently the operator of Mr. Crisp's mineral estate. Mr. Crisp testified that he felt Texas Crude had treated him unfairly in proposing a well location in close proximity to the lease line for his property and not including a significant portion of his acreage in the proposed drilling unit.

Protestant William Herrera's mineral interest adjoins the O.S. Petty Lease at least 660 feet south of the proposed well location. Mr. Herrera indicated he was concerned about drainage of oil and gas from under his property.

EXAMINERS' OPINION

Exceptions to Statewide Rule 37 may be granted to prevent waste or to protect correlative rights/prevent confiscation. Applicant Texas Crude indicated that it was seeking an exception based both on waste and on confiscation. An applicant seeking an exception to Rule 37 based on waste must establish three elements: 1) that unusual conditions, different from conditions in adjacent parts of the field, exist under the tract for which the exception is sought; 2) that, as a result of these conditions, hydrocarbons will be recovered by the well for which a permit is sought that would not be recovered by any existing well or by additional wells drilled at regular locations; and, 3) that the volume of otherwise unrecoverable hydrocarbons is substantial.

Applicant's own evidence established that it was not entitled to an exception based on waste. The only proffered unusual condition was the slightly higher porosity at the applied-for location as compared to the rest of the O.S. Petty Lease. Texas Crude acknowledged, however, that porosities vary throughout the field and its 3-D seismic demonstrated that there are numerous locations in the field that have porosity as high or higher than the applied-for location. Texas Crude failed to demonstrate the existence of any unusual condition that would justify an exception based on waste. In addition, Texas Crude failed to refute the possibility of recovering the same hydrocarbons from a regular location on the adjacent lease. In fact, Texas Crude's geologist specifically testified that a regularly located well on the adjacent lease **would** recover the hydrocarbons that a well at the applied-for location would recover. Texas Crude failed to establish its entitlement to an exception based on waste.

To obtain an exception to Statewide Rule 37 to protect correlative rights, the applicant must show that: 1) It is not possible for the applicant to recover its fair share of minerals under its tract from regular locations; and, 2) that the proposed irregular location is reasonable. A mineral interest owner's fair share is measured by the currently recoverable reserves under its property. Texas Crude presented no evidence of the volume of recoverable reserves under its O.S. Petty Lease in the Stuart City, West (Edwards) Field. As applicant failed to quantify its fair share and failed to establish that the applied-for location is necessary to recover its fair share, it failed to establish a right to an exception permit under the provisions of Statewide Rule 37. Applicant also failed to establish the reasonableness of the applied-for location. This well will be the first in the applied-for field on the lease and there are numerous locations at a regular distance from lease lines available to applicant.

Applicant's claim that a regular location would not be as economically feasible as the applied-for location does not support the reasonableness of the location. The applied-for location is only 169 feet from the protestant's lease line in a field requiring spacing of 660 feet from lease lines. Applicant's own evidence indicates that more than half of the drainage area of the applied-for well would be on the protestant's property. The applicant is not entitled to an exception location to allow it to make its well more economically viable by draining reserves from the protestant.

The examiners recommend adoption of the following proposed findings of fact and conclusions of law:

FINDINGS OF FACT

1. Notice of the hearing was given at least 10 days prior to the hearing to all designated operators, lessees of record for tracts that have no designated operator, and owners of record of unleased mineral interests for each adjacent tract and each tract nearer to the well than the prescribed minimum lease-line spacing distance.
2. Notice of the hearing was published in the *Frio-Nueces Current*, a newspaper of general circulation in LaSalle County, for four consecutive weeks beginning on January 23, 1997, a date at least 28 days prior to the hearing date.
3. Texas Crude Energy, Inc., ("applicant") has applied on Form W-1 for a permit to drill Well No. 1 on the O.S. Petty Lease. Applicant proposes to drill its well at a location 1002.7 feet from the north line and 169 feet from the west line of the lease, and 1002.7 feet from the north line and 169 feet from the west line of the Atascosa CSL Survey (A-705), LaSalle County, Texas. Applicant has applied to drill its proposed well for the Stuart City, West (Edwards) Field.
4. The Stuart City, West (Edwards) Field has field rules requiring spacing of 660 feet from unit lines and 2640 feet between wells. The field rules further specify a density pattern of 640 acres per well.
5. Applicant's O.S. Petty Lease is a tract containing 649.91 acres.
6. There are locations available on the O.S. Petty Lease that comply with the applicable spacing and density rules for the Stuart City, West (Edwards) Field.
7. Applicant failed to establish that the recoverable reserves under its O.S. Petty Lease in the Stuart City, West (Edwards) Field cannot be recovered by regularly located wells on the lease.
8. There is no unusual subsurface condition in the Stuart City, West (Edwards) Field affecting the applied-for location.
9. More than half of the drainage area of a well at the applied-for location would be outside the

boundaries of the O.S. Petty Lease.

CONCLUSIONS OF LAW

1. Proper notice of hearing was timely given to all persons legally entitled to notice.
2. All things have occurred or have been done that are necessary to give the Commission jurisdiction to decide this matter.
3. An exception pursuant to Statewide Rule 37 to the Stuart City, West (Edwards) Field rules regarding well spacing is necessary to permit drilling the applied-for well.
4. Approval of the requested permit to drill a well at the proposed location is not necessary to give the owners of the O.S. Petty Lease a reasonable opportunity to recover their fair share of hydrocarbons underlying the O.S. Petty Lease from the Stuart City, West (Edwards) Field.
5. Approval of the requested permit to drill a well at the proposed location is not necessary to prevent the waste of hydrocarbons in the Stuart City, West (Edwards) Field.
6. The applied-for location is not reasonable.

RECOMMENDATION

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

Respectfully submitted,

Colin K. Lineberry
Hearings Examiner

Thomas H. Richter, P.E.
Technical Examiner