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\* KEY ISSUES: Waste \*

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\* FINAL ORDER: GRANTED \*

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**RULE 37 CASE NUMBER 0216013**

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**APPLICATION OF COSTILLA ENERGY, INC. FOR AN EXCEPTION TO  
STATEWIDE RULE 37 TO DRILL WELL NO. 1-R, C.W. RZEPPA ET AL LEASE,  
PANNA MARIA (EDWARDS) FIELD, KARNES COUNTY, TEXAS.**

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**APPEARANCES:**

**FOR APPLICANT:**

David McCall, Atty.  
Kerry Pollard  
Leslie W. Giddens, Jr.

**APPLICANT:**

Costilla Energy, Inc.  
"  
"

**FOR PROTESTANTS:**

Rose Urbanczyk  
Elaine Mika

**PROTESTANTS:**

Leon Urbanczyk et al  
"

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

**APPLICATION FILED:**

May 2, 1997

**NOTICE OF HEARING:**

June 12, 1997

**DATE CASE HEARD:**

July 3, 1997

**HEARD BY:**

Marshall Enquist, Hearings Examiner  
Margaret Allen, Technical Examiner

**PFD CIRCULATION DATE:**

October 24, 1997

### **STATEMENT OF THE CASE**

Costilla Energy, Inc. ("Costilla") seeks an exception to Statewide Rule 37 to drill its proposed Well No. 1-R on the C.W. Rzeppa et al ("Rzeppa) Lease for the Panna Maria (Edwards) Field and Wildcat Field. The application is protested by Leon Urbanczyk et al ("Urbanczyk"), an unleased mineral interest owner on a tract offsetting the Rzeppa Lease. The Panna Maria (Edwards) Field rules require spacing of 330 from lease lines and 1320 feet between wells, with 80 acre units.

The applied-for location is 300 feet from the northwest lease line and 3200 feet from the southwest lease line. The Rzeppa Lease is a legal subdivision of 75 acres that is shaped such that there is no regular location. The applied-for location is near the center of the tract as it is 299 feet from the southeast lease line and 2496.66 feet from the northeast lease line. The Rzeppa Well No. 1-R will be a replacement well for the Rzeppa Well No. 1 which has not produced since 1993.

### **DISCUSSION OF THE EVIDENCE**

#### **APPLICANT'S EVIDENCE**

The proposed location is 300 feet from the northwest line and 299 feet from the southeast line of a long, narrow 75-acre tract (see Attachment I). This tract took its size and shape during the 1920's and was first leased for oil and gas on January 3, 1955. The Panna Maria (Edwards) Field was formed by the consolidation of several fields in 1961, at which time field rules were adopted specifying 330-1320 foot well spacing and 80 acre proration units. Prior to 1961, field rules in the area were based on Statewide Rules.

The protestant's property is directly to the northwest of the Rzeppa lease and, like the Rzeppa lease, is too long and narrow for a regular location. At one time there was a well in the Panna Maria (Edwards) Field (the Bridge No. 1) located on the Urbanczyk tract but it is plugged and abandoned. The applicant indicated there is a fault between the Bridge No. 1 and the proposed location.

The proposed well would replace the existing Rzeppa No. 1, which is 500 feet southwest of the proposed location. The Rzeppa No. 1 began producing in 1961, but in 1993 there were mechanical problems with the casing. The operator attempted remedial operations on the Rzeppa No. 1 but has been unable to return the well to production, and the well has been shut-in since 1993. The Rzeppa No. 1 was drilled under a Rule 37 exception and it was also 300 feet from the northwest line.

The structural strike is in approximately the same direction as the long dimension of the leases in the area. There are numerous faults which trend roughly along strike and the applicant interprets an up-to-the-coast sealing fault along the common lease line with the protestants' tract on the southwestern two thirds of the Rzeppa tract; the fault trace then swings more easterly to cut off the eastern end of the Rzeppa tract. South of this fault, the Edwards slopes to the southeast. The applicant maps the proposed location as the structurally highest well in this area.

The producing Hunter Petroleum Moczygemba Well No. 1 is to the southwest of the Rzeppa lease and about 10 feet structurally downdip of the proposed location. The replacement well will also be a few feet structurally updip of the Rzeppa no. 1. The Panna Maria (Edwards) Field is a water drive reservoir, with the water contact originally at -10,640 feet. The most updip well will recover oil that cannot be recovered by wells farther downdip. A cross section from two Costilla wells to the southeast up to the Rzeppa No. 1 confirms that the porosity and permeability in the Edwards improves toward the fault.

The Rzeppa Well No. 1 was producing 20 MMCF and 600 BO per month, at the time the well was shut-in in 1993. The applicant did not present evidence on the original recoverable reserves or the estimated current reserves under the Rzeppa Tract. However, the water drive has pushed oil onto the updip portions of the Rzeppa tract and if the replacement well lasts for five years it will produce an estimated 30,500 BO and 806 MMCF.

#### PROTESTANT'S EVIDENCE

The representatives of the protestant testified that the Urbanczyk tract was unleased and no offer had been made recently to lease the tract. They also testified that they believed that the Urbanczyk tract would be drained and that they believed that the tract should be compensated for the loss of any reserves from this tract to the proposed location. The applicant's structure map indicates that only a small sliver (three to five acres) of the Urbanczyk lease is on the same side of the fault as the proposed well. This sliver is structurally updip from the proposed location and the water drive will eventually push oil from the Rzeppa lease to this sliver of the Urbanczyk lease.

#### **EXAMINERS' OPINION**

Exceptions to Statewide Rule 37 may be granted to prevent waste or to protect correlative rights/prevent confiscation. The applicant presented its case based on both waste and confiscation.

An applicant seeking an exception based on waste must establish three elements: 1.) unusual conditions, different from conditions in adjacent parts of the field, exist under the tract for which the exception is sought; 2.) as a result of the unusual conditions, hydrocarbons will be recovered by the well for which the 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 reserves is substantial.

The structural high and sealing fault on the northwestern side of the Rzeppa lease, in combination with the water drive, present unusual geological conditions. A well at a regular location on the Josie B. Swientek Property to the SW would not have the structural advantage necessary to recover hydrocarbons on the Rzeppa Lease, and the downdip well, the Hunter Petroleum Moczygemba No. 1 (3,000 feet WSW of the existing Rzeppa No. 1) is a poor producer that is unlikely to recover substantial reserves, if any, from the Rzeppa lease. Most of the 30,500 BO and 806 MMCF of gas projected to be recovered from the proposed location cannot be recovered by any existing or future well at a regular location. The examiners believe Costilla is entitled to a SWR 37 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.

The applicant did not quantify the fair share belonging to the Rzeppa Lease but it is entitled, under the Rule of Capture, to recover any hydrocarbons presently existing beneath the Rzeppa Lease [see Brown v. Humble Oil and Refining Co., 83 S.W.2d 935 (Tex. 1935) and Halbouty v. Railroad Comm'n, 357 S.W.2d 364, 375 (Tex. 1962)]. There is no regular location on the Rzeppa Lease and no existing well on the Rzeppa Lease capable of producing the lease's reserves. The examiners believe the proposed location near the center of the tract is reasonable and that Costilla cannot recover the reserves under its tract without the applied-for exception. The examiners believe that Costilla is entitled to a SWR 37 exception based on confiscation.

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

### **FINDINGS OF FACT**

1. Notice of hearing was given on June 12, 1997 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. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties in this hearing have been performed or have occurred.
3. The applicant, Costilla Energy, Inc., seeks an exception to Statewide Rule 37 to drill Well No. 1-R on the C.W. Rzeppa et al Lease. Applicant proposes to drill its well at a location 300 feet FNWL and 3200 feet FSWL of the lease, and 9800 feet FN'lySWL and 17,500 feet FSE(River)L of the survey. Applicant has applied for completion of its proposed well in the Panna Maria (Edwards) Field, which has field rules requiring spacing 467 from lease or unit lines and 1320 between well spacing on 80 acre units.
4. Applicant's pooled unit is a legal subdivision of irregular shape, containing 75 acres. There is no regular location on the tract.
5. The structural high and sealing fault on the NW edge of the Rzeppa Lease, in combination with the reservoir water drive, create geological conditions that are unusual and distinguishable from conditions under the remainder of the field and offsetting tracts.
6. As a result of the unusual geological conditions, the Rzeppa Well No. 1-R will recover oil and gas that cannot be recovered by any existing well or by a future well

in a regular location.

7. The amount of otherwise unrecoverable oil that will be recovered from the Panna Maria (Edwards) Field by the Rzeppa Well No. 1-R is a substantial amount, projected at 30,500 BO and 806 MMCF of gas over a five year period. Without the applied-for exception, these reserves cannot be recovered.
8. The mineral interest owners of the C.W. Rzeppa lease do not have an interest in, and cannot receive their fair share of hydrocarbons from, wells on offset tracts in the same drainage area as the proposed well.
9. An exception to the lease-line spacing rules for the applied-for fields is necessary to give the mineral interest owners a reasonable opportunity to recover their fair share of hydrocarbons in the subject fields underlying the unit.
  - a. There are currently recoverable reserves underneath the C.W. Rzeppa et al Lease.
  - b. No regular/less irregular well can recover these reserves.
  - c. There is no producing well on the tract.
  - d. Without the applied-for exception, these reserves cannot be recovered by the mineral interest owners of the C.W. Rzeppa et al Lease.
  - e. The proposed location is near the center of the Lease and is reasonable.

#### **CONCLUSIONS OF LAW**

1. Proper notice was timely given to all parties legally entitled to notice.
2. The application on Form W-1 was properly filed.
3. All things have occurred and have been done to give the Commission jurisdiction to decide this matter.
4. The mineral interest owners of the C.W. Rzeppa et al Lease are entitled to protection from confiscation of the reserves currently under the lease.
5. An exception to the lease-line spacing requirements is necessary to permit drilling the applied-for well.
6. Approval of a permit to drill a well at the proposed location is necessary to give owners of the subject tract a reasonable opportunity to recover their fair share of hydrocarbons in the applied-for fields underlying the tract or the equivalent in kind, thereby preventing confiscation.

7. The proposed location is a reasonable location that will give the mineral interest owners of the unit a reasonable opportunity to recover their fair share of hydrocarbons in the applied-for fields underlying the unit, or the equivalent in kind, thereby preventing confiscation.
8. Approval of the applied-for permit is necessary to prevent the waste of a substantial amount of hydrocarbons within the Panna Maria (Edwards) Field.

**RECOMMENDATION**

The examiners recommend that Applicant's request for an exception to Statewide Rule 37 for its C.W. Rzeppa et al Lease, Well No. 1-R, as to the Panna Maria (Edwards) Field, Karnes County, Texas, be granted.

Respectfully submitted,

Marshall F. Enquist  
Hearings Examiner

Margaret Allen  
Technical Examiner