

Key Issues:

R37 Granted/Denied

RULE 37 CASE NO. 0223231

APPLICATION OF M.E. OPERATING AND SERVICE, INC. TO CONSIDER APPLICATION PURSUANT TO STATEWIDE RULE 38(d)(3) AND AN EXCEPTION TO STATEWIDE RULE 37 FOR THE TAYLOR LEASE, WELL NO. 1, PINEHILL, S.E. (TRAVIS PEAK), VARIOUS CARTHAGE, VARIOUS J.G.S. AND WILDCAT FIELDS, PANOLA COUNTY, TEXAS.

APPEARANCES:

FOR APPLICANT:

Mark E. Smith

APPLICANT:

M.E. Operating and Services. Inc.

FOR PROTESTANTS:

Sarah Jean Buncom
Sherwin W. W. Goynes

PROTESTANTS:

Offset Mineral Owners
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PROPOSAL FOR DECISION

PROCEDURAL HISTORY

APPLICATION FILED:

November 3, 1999

NOTICE OF HEARING:

December 10, 1999

DATE CASE HEARD:

January 7, 2000

HEARD BY:

Marshall Enquist, Hearings Examiner
Thomas Richter, Technical Examiner

TRANSCRIPT DATE:

March 6, 2000

PFD CIRCULATION DATE:

May 16, 2000

STATEMENT OF THE CASE

M.E. Operating and Services, Inc. ("M.E. Operating" or "applicant") seeks the dissolution of the 640-acre Continental Oil Company (Conoco) Sam Wallace Gas Unit No. 1 pursuant to Statewide Rule 38(d)(3). Concurrently, applicant also seeks an exception to Statewide Rule 37 to drill its proposed Well No. 1 on the 34.41 acre Taylor Lease in the Wildcat Field and several Carthage, J.G.S. and Pinehill Fields in Panola County. The application is protested by Sarah Jean Buncom and Sherwin W. W. Goynes ("Buncom" and "Goynes"), who jointly represent numerous mineral interest owners, both leased and unleased, in offsets to the north and northeast of the proposed location. The applicant has applied for an exception in each of the following fields, which are here ranked according to leaseline spacing distance and listed with applicable spacing rules, field number and discovery date:

J.G.S. (Pettit, Lower)	467/1200/40	45034 200	04/04/65
J.G.S. (Rodessa -C-)	467/1200/40	45034 412	05/28/82
J.G.S. (Rodessa Gloyd)	467/1200/40	45034 425	09/13/84
J.G.S. (Travis Peak -A-)	467/1200/40	45034 600	04/28/62
J.G.S. (Travis Peak -A- S.)	467/1200/40	45034 601	11/01/99
J.G.S. (Travis Peak -B-)	467/1200/40	45034 625	09/18/82
J.G.S. (Travis Peak 7140)	467/1200/40	45034 850	05/06/82
Pinehill, S.E. (Travis Peak)	467/1200/40	71599 600	09/16/88
Wildcat	467/1200/40	12001	-----
Carthage (Travis Peak)	660/1,000/640	16032 812	06/10/43
Pinehill, S.E. (Travis Peak)	660/1320/640(320)	71599 600	10/10/79
J.G.S. (Travis Peak -C-)	990/2640/640(320)	45034 800	02/15/62
Carthage (Blossom)	1320/3960/640	16032 058	01/16/63

The applied-for well has a surface location centered between the south and north lines on the west side of the Taylor Tract (268 feet south of the north line) and 467 feet east of the west line of the subject lease (see Attachment I).

DISCUSSION OF THE EVIDENCE

APPLICANT'S EVIDENCE

M.E. Operating was represented by Mark Smith, who presented 27 exhibits. M.E. Operating requests that the 640-acre Sam Wallace Unit be dissolved pursuant to Statewide Rule 38(d)(3), so that the constituent tracts in the unit can regain their former subdivision status. In addition, M.E. Operating requests that it be granted a Statewide Rule 37 exception in the fields most likely to be encountered beneath the 34.41-acre Taylor Lease so that it might recover its fair share of hydrocarbons. The Taylor Lease took its present size and shape on January 5, 1933. Of the applied-

for fields, the earliest discovery date is June 10, 1943, so, as to the applied-for fields, if the Rule 38(d)(3) application is granted, the Taylor Lease will be a legal subdivision.

The Taylor Lease was included in a 640 acre gas unit, the Sam Wallace Gas Unit, formed in 1961. Continental Oil Company drilled the Sam Wallace Well No. 1 on the unit in 1965, at a location about 550 feet east of the present Taylor Lease, encountering 4 feet of sand in the J.G.S. (Travis Peak -A-) Field (for well location, see Attachment II). The well produced 16,000 MCF of gas and 1,423 barrels of oil from the J.G.S. (Pettit, Lower) and 12,000 MCF of gas and 185 barrels of oil from the J.G.S. (Travis Peak -A-). Because there was no gas line nearby, the gas was flared. The last reported production for the well was in March, 1966. Conoco plugged the well on August 2, 1966. According to M.E. Operating, the Sam Wallace No. 1 Unit has been dissolved at the courthouse, but has never been dissolved at the Commission. Tracts that were originally included in the Sam Wallace Unit have more recently been included in new units such as the Box Unit and the Shaw Unit. On an acreage basis, only 5.38% of the reserves produced by the 640-acre Sam Wallace Unit Well No. 1 can be attributed to the 34.41-acre Taylor Lease. Thus, the recovery attributable to the Taylor Lease is only 9.95 BO and 635 MCF of gas from the J.G.S (Travis Peak -A-). Smith estimates there were originally 89,309 barrels of recoverable oil and 99,000 MCF of gas beneath the Taylor Lease in the J.G.S. (Travis Peak -A-) which is stratigraphically equivalent to the J.G.S. (Travis Peak -A- S.). Likewise, in the J.G.S. (Pettit, Lower), recovery attributable to the Taylor Lease is only 76.51 BO. Smith estimates there were originally 15,000 barrels of oil beneath the Taylor Lease in the J.G.S. (Pettit, Lower). This suggests that only a very small fraction of the reserves in the J.G.S. (Travis Peak -A-) and the J.G.S. (Pettit, Lower) under the Taylor Lease have been recovered thus far. The applicant also believes that there may be significant reserves in several other fields under the lease. M.E. Operating estimates that the Travis Peak zones beneath its lease may hold as much as 500,000 MCF and that the Carthage (Blossom) interval may hold 3,000 BO and 346,000 MCF of gas.

M.E. Operating believes two nearby wells are draining and one currently plugged well has drained the subject tract in some fashion, "... through pressure depletion or possible water encroachment at a later date as the oil zone is produced". (Testimony of Mark Smith, Transcript p.44) About 2500 feet to the northwest of the applied-for location, the KCS Medallion Shaw Heirs No. 1 is currently producing 150 BOPD in the J.G.S. (Travis Peak -A- S.) zone and has cumulatively produced 5,000 MCF of gas and 7,390 BO. To the northeast, the Deep Rock Walls Well No. 1 produced 1,678 BO from the J.G.S. (Pettit, Lower) from April 1999 to November 1999, averaging 7 BOPD (see Attachment II for location of wells).

Applicant presented an isopach map for the J.G.S. (Travis Peak -A-) Field which shows increasing sand thickness in the field from east to west across the subject tract. At the site of the Conoco Sam Wallace Well No. 1, the isopach shows four feet of pay. At the site of the KCS Medallion Shaw Heirs No. 1, which is on the north flank of the structure, the isopach shows 10 feet of pay. The applied-for location of the M.E. Operating well, although farther east than the KCS Medallion well, is near the centerline of the structural high and is likely to encounter about 15 feet of pay.

The unusual number of applied-for fields is due to the limited extent of the fields in this area.

“Travis Peak in this area comes and goes at the drop of a hat. It’s almost impossible to map every single Travis Peak zone because of its lenticular nature. It develops in one well, disappears in another, redevelops in another.” (Testimony of Mark Smith, Transcript p. 34) Any of the applied-for fields might be encountered by the proposed well, so, applicant is seeking permits for all possible fields.

PROTESTANT'S EVIDENCE

The protestants, leased and unleased mineral interest owners to the north and east of the Taylor Lease, were represented by Sarah Jean Buncomb and Sherwin W.W. Goynes. They fear that the grant of a permit for the Taylor Well No. 1 will cause drainage of the surrounding lands. Additionally, the protestants note that the applicant has only 34 acres of land for its well, instead of the 40 acres required under Statewide Rule 37. The protestants anticipate environmental damage if the applied-for well is permitted, but were not specific.

EXAMINERS' OPINION

The evidence in the record indicates the Sam Wallace Gas Unit was formed in 1961, with a single well drilled in 1965 and plugged in 1966. M.E. Operating asserts that the unit has been dissolved at the courthouse (but not at the Commission) and that some tracts that were included in the Sam Wallace Unit are now included in new units. This is supported by evidence in the record showing that leases included in the Sam Wallace Gas Unit in the mid-1960s were included in the Sklar & Phillips Oil Company Box Gas Unit in the late 1970s, indicating the leases included in the Sam Wallace Unit had expired and that some of the properties had later been leased to Sklar & Phillips. Dissolution of the old unit pursuant to Statewide Rule 38(d)(3) is necessary to allow the constituent tracts to resume their prior subdivision status. M.E. Operating argues that the small volume of hydrocarbons produced by the Sam Wallace Well No. 1 has not afforded the mineral interest owners of the Taylor Lease a reasonable opportunity to recover their fair share of hydrocarbons beneath their property. All but one of the applied-for fields were discovered after the formation of the 640 acre unit and most of the applied-for fields require only 40 acre density. The only producing well on the 640 acre unit was plugged in 1966. Allowing the formal dissolution of the defunct Sam Wallace Gas Unit will not result in circumvention of Statewide rules. The examiners recommend that the defunct Sam Wallace Unit be dissolved on Commission records so that the owners of its constituent tracts may have an opportunity to recover their fair share of hydrocarbons.

In the instant case, the effect of dissolving the Sam Wallace Unit is to allow the Taylor Tract to regain its subdivision date of 1933. Because the 34.41 acre Taylor Tract obtained its present size and shape in 1933, ten years prior to the discovery of any of the applied-for fields and at a time when the Statewide density rule was two acres, it is a legal subdivision as to those fields. The owner of a legal subdivision is generally entitled to a Rule 37 exception location for a first well on its tract at a reasonable location. A location at the geometric center of the tract is presumed to be reasonable absent contrary evidence regarding the ability of the applicant to recover his or her fair share of the minerals in place beneath the tract. If the owner does not place the well at the geometric center of the tract, then the owner must present evidence establishing the reasonableness of the proposed

location.

“It is the law that every owner or lessee of land is entitled to a fair chance to recover the oil and gas in or under his land, or their equivalents in kind. Any denial of such fair chance would be “confiscation” within the meaning of Rule 37 and the Rule of May 29th.” Gulf Land Co. v. Atlantic Refining Co., 131 S.W.2d 73 (Tex. 1939) following Empire Gas & Fuel Co. v. Railroad Commission, 94 S.W.2d 1240 (Tex. Civ. App. - Austin 1936, rehearing denied). There are no producing wells on the Taylor Lease nor are the mineral owners of the lease sharing in the production of any other well near the Taylor Lease. Based on this showing, M.E. Operating is entitled to a Rule 37 exception in the requested fields for a well on its lease, if it can show the applied-for location is necessary to prevent waste or confiscation. M.E. Operating has not presented a case based on waste.

To obtain an exception to Statewide Rule 37 to prevent confiscation/protect correlative rights, the applicant must show: 1.) that it is not possible for the applicant to recover its fair share by placing the well at any regular location; and 2.) that the proposed irregular location is reasonable.

M.E. Operating cannot obtain its fair share of hydrocarbons by placing its well at a regular location because no regular location exists on the lease. The applied-for location is geometrically centered as to the north and south lease lines and is thus at the least irregular location possible as to those leaselines. The applied-for well location is 467 feet east of the west line of the lease and is regular to the west line as to those applied-for fields that have 467 foot leaseline spacing. The requested location is reasonable as to all applied-for fields that have 467 foot leaseline spacing and the examiners recommend that M.E Operating be granted an exception permit for those fields.

The applied-for location is not “regular” to the west line of the lease as to the four applied-for fields [Carthage (Travis Peak), Pinehill, S.E. (Travis Peak), J.G.S. (Travis Peak -C-) and Carthage Blossom)] that have leaseline spacing greater than 467 feet. M.E. Operating failed to present any evidence why a less irregular location nearer to the geometric center will not afford it a reasonable opportunity to recover its fair share of hydrocarbons. As to these four fields, the applied-for location will likely drain the offsetting tract to the west significantly more than a less irregular location at the geometric center of the Taylor Lease. The examiners recommend that M.E. Operating be denied an exception permit for those four fields.

Based on the record in this docket, the examiners recommend adoption of the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Notice of hearing was given on December 10, 1999 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. M.E. Operating has made application pursuant to Statewide Rule 38(d)(3) for dissolution of the Continental Oil Company Sam Wallace Gas Unit No. 1 in the J.G.S. (Travis Peak -A-) and J.G.S. (Pettit, Lower) Fields, Panola County, Texas. One of the leases pooled to create the Sam Wallace Gas Unit No. 1 was the 34.41 acre Taylor Lease.
4. Division of the 640 acre Sam Wallace Gas Unit will result in substandard acreage at the time of division.
5. Production from the Sam Wallace Gas Unit ceased in March, 1966. The only well ever drilled on the Unit, the Continental Oil Company Sam Wallace Well No. 1, was plugged in August, 1966.
6. The leases comprising the Sam Wallace Gas Unit have expired.
7. Some tracts originally included in the Sam Wallace Gas Unit have now been placed in newer units, such as the Box Unit.
8. The mineral owners of the Taylor Lease did not recover their fair share of the reserves beneath their property through production from the Sam Wallace Unit Well No. 1.
9. Dissolution of the Sam Wallace Unit is necessary to permit production from a new well on the Taylor Lease.
10. The applicant, M.E. Operating and Services, Inc., seeks an exception to Statewide Rule 37 to drill Well No. 1 on the 34.41-acre Taylor Lease. Applicant proposes to drill its well at a location 268 feet FNL and 467 feet FWL of the unit, and 842 feet FSL and 3297 feet FEL of the survey. Applicant has applied for completion of its proposed well in the following fields, with the following spacing rules, field numbers and discovery dates:

J.G.S. (Pettit, Lower)	467/1200/40	45034 200	04/04/65
J.G.S. (Rodessa -C-)	467/1200/40	45034 412	05/28/82
J.G.S. (Rodessa Gloyd)	467/1200/40	45034 425	09/13/84
J.G.S. (Travis Peak -A-)	467/1200/40	45034 600	04/28/62
J.G.S. (Travis Peak -A- S.)	467/1200/40	45034 601	11/01/99
J.G.S. (Travis Peak -B-)	467/1200/40	45034 625	09/18/82
J.G.S. (Travis Peak 7140)	467/1200/40	45034 850	05/06/82
Pinehill, S.E. (Travis Peak)	467/1200/40	71599 600	09/16/88
Wildcat	467/1200/40	12001	-----
Carthage(Travis Peak)	660/1,000/640	16032 812	06/10/43
Pinehill, S.E. (Travis Peak)	660/1320/640(320)	71599 600	10/10/79

J.G.S. (Travis Peak -C-)	990/2640/640(320)	45034 800	02/15/62
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Carthage (Blossom)	1320/3960/640	16032 058	01/16/63
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11. The 34.41 acre Taylor Lease took its present size and shape on January 5, 1933. The earliest discovery date of any of the applied-for fields is June 10, 1943. The Taylor Tract is a legal subdivision as to all of the applied-for fields.
12. At the time it took its current size and shape, the Taylor Lease was off sufficient size and shape to meet the then-existing statewide density requirement of 2 acres per well.
13. Applicant's primary objective is the J.G.S. (Travis Peak -A- S.) Field. Applicant would not drill the well with the Wildcat Field as the sole objective.
14. Applicant has no interest in any tract with a well offsetting the subject tract.
15. There is no regular location on the 34.41-acre Taylor Lease.
16. The proposed well is centered between the north and south leaselines of the Taylor Lease and is 467 feet east of the west line. The proposed location is reasonable as to the following fields which have 467 foot leaseline spacing requirements:

J.G.S. (Pettit, Lower)	467/1200/40	45034 200
J.G.S. (Rodessa -C-)	467/1200/40	45034 412
J.G.S. (Rodessa Gloyd)	467/1200/40	45034 425
J.G.S. (Travis Peak -A-)	467/1200/40	45034 600
J.G.S. (Travis Peak -A- S.)	467/1200/40	45034 601
J.G.S. (Travis Peak -B-)	467/1200/40	45034 625
J.G.S. (Travis Peak 7140)	467/1200/40	45034 850
Pinehill, S.E. (Travis Peak)	467/1200/40	71599 600
Wildcat	467/1200/40	12001

17. M.E. Operating failed to rebut the presumption that available less irregular locations are more reasonable locations for applied-for fields with leaseline spacing requirements greater than 467 feet. M.E. Operating did not present any evidence differentiating recoveries or field characteristics between the applied-for location and less irregular locations for the fields with leaseline spacing requirements greater than 467 feet. The proposed location is not reasonable as to the following four fields with leaseline spacing requirements greater than 467 feet:

Carthage(Travis Peak)	660/1,000/640	16032 812
Pinehill, S.E. (Travis Peak)	660/1320/640(320)	71599 600
J.G.S. (Travis Peak -C-)	990/2640/640(320)	45034 800
Carthage (Blossom)	1320/3960/640	16032 058

18. An exception to the lease-line spacing rules for the applied-for fields which require leaseline

spacing of 467 feet is necessary to give the mineral interest owners of the 34.41-acre Taylor Lease a reasonable opportunity to recover their fair share of hydrocarbons in each of these fields underlying the unit.

CONCLUSIONS OF LAW

1. Proper notice was timely given to all parties legally entitled to notice.
2. All things have occurred and have been done to give the Commission jurisdiction to decide this matter.
3. Dissolution of the 640 acre Sam Wallace Unit will not result in circumvention of Commission rules.
4. Dissolution of the 640-acre Sam Wallace Unit will protect the correlative rights of the mineral owners of the Taylor Lease and prevent confiscation.
5. The mineral interest owners of the Taylor Lease are entitled to a first well on their legal subdivision to protect their correlative rights.
6. An exception to the lease-line spacing requirements of the applied-for fields with 467 foot leaseline spacing is necessary to permit drilling the applied-for well.
7. Approval of a permit to drill a well at the proposed location is necessary to give owners of the Taylor Lease a reasonable opportunity to recover their fair share of hydrocarbons in the applied-for fields with 467 foot leaseline spacing underlying the tract or the equivalent in kind, thereby preventing confiscation.
8. 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 with 467 foot leaseline spacing underlying the unit, or the equivalent in kind, thereby preventing confiscation.

RECOMMENDATION

The examiners recommend that Applicant's request for dissolution of the Sam Wallace Unit pursuant to Statewide Rule 38(d)(3) be granted and that an exception to Statewide Rule 37 for its Taylor Lease, Well No. 1, as to the J.G.S. (Pettit. Lower), J.G.S. (Rodessa -C-), J.G.S. (Rodessa Gloyd), J.G.S. (Travis Peak -A-), J.G.S. (Travis Peak -A- S.), J.G.S. (Travis Peak -B-), J.G.S. (Travis Peak 7140), Pinehill, S.E. (Travis Peak)[oil] and Wildcat Fields, Panola County, Texas, be granted. The examiners also recommend that applicant's request for an exception to Statewide Rule 37 for its Taylor Lease, Well No. 1, as to the Carthage (Travis Peak), Pinehill, S.E. (Travis Peak)[gas], J.G.S. (Travis Peak -C-) and Carthage (Blossom) Fields be denied.

Respectfully submitted,

Marshall F. Enquist
Hearings Examiner

Thomas H. Richter, P.E.
Technical Examiner

MFE