

**March 30, 2004**

**RULE 37 CASE NO. 0236943**

**DISTRICT 9**

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**APPLICATION OF RIFE ENERGY OPERATING, INC. FOR AN EXCEPTION TO STATEWIDE RULE 37 TO DRILL WELL NO. 1A ON THE WILSON LEASE, GREENWOOD (LOWER MARBLE FALLS) AND WILDCAT FIELDS, WISE COUNTY, TEXAS.**

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**APPEARANCES:**

**FOR APPLICANT:**

George Neale, Attorney  
Lee Roy Billington, Petroleum Engineer  
Joe Bill Bennett, President

**APPLICANT:**

Rife Energy Operating, Inc.  
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**FOR PROTESTANTS:**

Mickey Olmstead, Attorney  
Katie Howard, Attorney

**PROTESTANT:**

Pioneer Exploration, Ltd.  
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**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

**APPLICATION FILED:**

November 6, 2003

**NOTICE OF HEARING:**

January 26, 2004

**HEARING DATE:**

February 13, 2004

**HEARD BY:**

Mark Helmueller - Hearings Examiner  
Margaret Allen - Technical Examiner

**TRANSCRIPT RECEIVED:**

February 25, 2004

**PFD CIRCULATION DATE:**

March 30, 2004

## **STATEMENT OF THE CASE**

Rife Energy Operating, Inc. (Applicant or ARife) seeks an exception to Statewide Rule 37 to drill Well No. 1A on the Wilson Lease in the Greenwood (Lower Marble Falls) Field and the wildcat field. The Wilson Lease is a narrow rectangular 64 acre tract which does not have any locations regular to all of the lease lines in the fields identified in the application. The proposed well will be located 335 feet from the northwestern lease line and 419 feet from the southeastern lease line. The proposed location is regular to the northeastern and southwestern lease line boundaries. A copy of the plat filed with Applicant's Form W-1 (Application for Permit to Drill, Deepen, Plug Back or Re-Enter) is attached. The applied-for fields are subject to spacing requirements of 467 feet minimum distance to the nearest lease line and 1200 feet minimum distance between wells.

The application is protested by the offsetting operator Pioneer Exploration, Ltd. (Aprotestant and APioneer). Pioneer claims that Rife has not perfected its right to develop the mineral interest underlying the southwesterly 32 acres of the proposed 64 acre drilling unit, asserting by implication that Pioneer may possess those mineral interests.

### **APPLICANT's Position and Evidence**

Rife claims that the applied-for well is necessary to protect its correlative rights and to prevent waste of a significant volume of hydrocarbons. With respect to its ownership interests, Rife claims it is the mineral interest lessee for any formations below the total subsurface depth of 7000 feet. In support of its claim, Rife provided copies of a Warranty Deed for the property dated April 14, 1971, which conveyed the 64 acre parcel to Darrell Wilson. Rife also submitted a Ratification of Declaration of Pooled Unit and Partial Release of Oil and Gas Lease dated August 19, 1982 in which C. L. Gage, Jr. released to Darrell Wilson and Mary Beth Wilson all right, title and interest in the mineral lease with the exception of the southwesterly 32 acres above the total subsurface depth of 7,000 feet. Rife claims that this documentation, in conjunction with its current lease with Ms. Wilson, establishes a current good faith claim of the right to develop the mineral interest below the total subsurface depth of 7,000 feet. Rife further notes that the fields at issue in this application are at the depths of 7,000 feet or greater.

Rife contends that the 64 acre tract has no regular locations due to its unusual configuration. Rife urges that because there are no wells completed in the applied-for fields, it is entitled to a first well on the tract in order to protect its correlative rights.

Rife also argues that its proposed location is reasonable because it will minimize the impact of drilling operations on the surface use of the property. Rife notes that the proposed location would allow it to use the same access roads and drilling pad as the Wilson No. 1 Well. Rife contends that locating the well at the geographic center of the tract would unnecessarily impact surface use.

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To support its claim that the proposed well is necessary to prevent waste, Rife presented evidence that, in October 2003, it drilled the Wilson No. 1 Well to the Newark, East (Barnett Shale) Field only 30 feet from the proposed location for the Wilson 1A Well. An openhole spectral density compensated neutron microresistivity log (microlog) and the mud log for the Wilson No. 1 Well show that between -7175 and -7368 feet, 16 feet of permeability were encountered in the Marble Falls Formation. Rife expects the proposed well to encounter virgin reservoir conditions. Rife only includes the Greenwood (Lower Marble Falls) Field in its application as the nearest Commission recognized field with production from the target interval, even though the nearest well in that field is over 8 miles from the proposed location.

Rife claims that a study of the wells in the area with respect to potential production from the Marble Falls Formation shows that the presence of permeability is an unusual reservoir condition. The study focused on a cluster of four wells located within a mile of the proposed location. One of the wells, the C. F. Montgomery No. 1, encountered 12 feet of pay in the Marble Falls Formation. This well was assigned to the Greenwood (Atoka 6650) Field but actually produced from a slightly shallower part of the Marble Falls Formation than the target interval in the Wilson No. 1. The well produced 32,000 barrels before it was plugged and abandoned in 1987. Rife notes that the Marble Falls Formation is present in all four wells, but that only two wells encountered productive or potentially productive reservoir. Rife notes that one dry hole is located only 1250 feet from the productive well. Rife therefore contends that permeability is a sporadic and unusual condition.

By combining the log data from the Wilson No. 1 Well with the conclusions from the study of nearby wells, Rife contends that the presence of permeability in the Marble Falls Formation 30 feet from the proposed location is an unusual geologic condition. Rife argues that it must therefore drill a well as close to its existing Wilson No. 1 Well as possible. Rife also notes that relocating the well to the geographic center of the tract would move the well over 1000 feet from the proposed location, making it less likely that a productive Marble Falls interval would be present.

Additionally, Rife claims that no existing wells or offsetting wells at regular locations 467' from the lease lines would drain all of the reserves identified by the log data from the Wilson No. 1 Well in the wildcat field. The estimated drainage area of the C.F. Montgomery No. 1 Well is less than 12 acres. Rife first notes that there are no regular locations for the wildcat field on its lease due to the configuration of the tract. Rife then notes that it would not be able to dually complete the Wilson No. 1 Well in both the Marble Falls and the Newark, East (Barnett Shale) Field because a dual completion requires a packer be set between the two formations. Barnett Shale wells must be pumped after fracture stimulation and this is difficult to do below a packer. Additionally, Rife's drainage calculations show that no well at a regular location would produce the reserves in the wildcat field underlying its Wilson Lease.

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Rife estimates that 44,000 barrels of oil would be recovered if the exception to lease line spacing is granted. Rife bases its estimate on the 32,000 barrels of cumulative production from the C. F. Montgomery No. 1, from 12 feet of pay. Rife calculates that the thicker pay in the Wilson No. 1 Well results in an estimated total recovery of 44,000 barrels from a well at the proposed location.

**Protestant's POSITION AND EVIDENCE**

Pioneer did not present a direct case, but cross-examined Rife's witnesses and entered cross-examination exhibits concerning the record title of the mineral interests for the Wilson Lease. Pioneer questions Rife's right to develop the mineral interests underlying the southwestern 32 acres of the Wilson Lease, arguing that the acreage was properly pooled into Pioneer's 349.84 Sibyl Enis Gas Unit effective September 1, 1979. Pioneer notes that the pooling of the southwestern 32 acres occurred prior to the Ratification of Declaration of Pooled Unit and Partial Release of Oil and Gas Lease dated August 19, 1982. Pioneer contends that because this acreage is pooled into the Sibyl Enis Unit, which Pioneer now operates, that Rife may not have a good faith claim to all of the acreage identified as the Wilson Lease.

Pioneer also contends that the Wilson Lease is not a legal subdivision because it took its current size and shape in 1970. Pioneer urges that oil and gas development in the general area, including production from the Marble Falls Formation, dates back to at least 1959. Pioneer therefore argues that Rife is not entitled to a first well in the Greenwood (Lower Marble Falls) Field or in any wildcat field in order to protect confiscation because Rife did not establish that the tract took its current size and shape prior to the oil and gas development in the area.

Finally, Pioneer argues that Rife failed to establish that an unusual subsurface condition different from conditions in adjacent parts of the field, exists underlying the Wilson Lease in either the Greenwood (Lower Marble Falls) or wildcat field. Pioneer claims that because Rife's expert admitted that he did not know if the subsurface reservoir conditions encountered by the Wilson No. 1 Well are different at other locations, that Rife has not established that the reported conditions are an unusual subsurface condition.

**EXAMINERS' OPINION**

The examiners believe Rife has established that it possesses a good faith claim of the right to develop the mineral interests underlying the entire 64 acre tract at subsurface depths below 7000 feet. Rife also established that an exception is necessary to prevent waste in the wildcat field, and the examiners recommend that Rife's application for an exception to Rule 37 to prevent waste be granted in the wildcat field.<sup>1</sup> However, because Rife's mineral interests are limited to subsurface depths below 7000 feet, the

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<sup>1</sup>Because Rife established that the exception is necessary to prevent waste, it is not necessary to address its claim that the exception is also necessary to prevent confiscation.

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examiners recommend that the wildcat exception permit be limited to subsurface depths below 7000 feet. Finally, the examiners do not believe that Rife has established that an exception is necessary to prevent waste in the Greenwood (Lower Marble Falls) Field as Rife expects to encounter virgin reservoir conditions, and the nearest well completed in the Greenwood (Lower Marble Falls) Field is over 8 miles from the proposed location.

### **Rife Has a Good Faith Claim to Develop the Mineral Interest**

An applicant for a permit is only required to show that it has a good faith claim to a right to operate the lease for which it seeks a permit. When an applicant for a permit makes a reasonably satisfactory showing of a good faith claim of ownership in property, the fact that another disputes his title is not alone sufficient to defeat his right to a permit. *Magnolia Petroleum Co. v. Railroad Commission*, 170 S.W.2d 189, 191 (Tex. 1943).

In this instance, Rife has established that it possesses a good faith claim to the right to operate the 64 acre Wilson Lease at subsurface depths of 7000 feet or greater. Rife currently has a lease agreement with Mary Beth Wilson. The Ratification of Declaration of Pooled Unit and Partial Release of Oil and Gas Lease, dated August 19, 1982, in which C. L. Gage, Jr. released to Darrell Wilson and Mary Beth Wilson all right, title and interest in the mineral lease with the exception of the southwesterly 32 acres above the total subsurface depth of 7,000 feet is sufficient evidence that Mary Beth Wilson owned the complete mineral interests in all 64 acres below the total subsurface depth of 7,000 feet at the time Rife entered into a lease with Ms. Wilson. Accordingly, Rife has shown a current good faith claim to the right to operate the Wilson Lease at subsurface depths of 7000 feet or greater.

Rife has not shown that it has a good faith claim to a right to operate the Wilson Lease over the entire 64 acres at all depths. The same Ratification of Declaration of Pooled Unit and Partial Release of Oil and Gas Lease specifically excepts the southwesterly 32 acres above the total subsurface depth of 7,000 feet from the released acreage. Accordingly, the examiners recommend a depth restriction for the wildcat permit consistent with the severance of the mineral interest discussed in the ratification.

### **An Exception is Necessary to Prevent Waste**

An applicant seeking an exception 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.

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The examiners recommend denying Rife's application for an exception permit in the Greenwood (Lower Marble Falls) Field because Rife admitted that the nearest well completed in that field is 8 miles away, and that the proposed well is expected to encounter virgin reservoir conditions. Based on applicant's own admissions, it appears to the examiners that any completion in the target Marble Falls interval will be treated as a new field, for which a wildcat permit is appropriate. Accordingly, an exception permit in the Greenwood (Lower Marble Falls) Field should be denied.

Rife satisfies the first requirement for an exception to prevent waste in the wildcat field based on the uncontradicted log data from the Wilson No. 1 Well. Reservoir characteristics such as the presence of permeability at a specific location may be unusual conditions which support an exception permit to prevent waste. See *Hawkins v. Texas Co.*, 209 S.W.2d 338, 344 (Tex. 1948, *reh'g denied*) citing, *Thomas v. Stanolind Oil & Gas Co.*, 198 S.W.2d 420, 422 (Tex. 1946, *reh'g denied*)).

The log data from a well drilled only 30 feet away from the proposed location establishes the high likelihood that permeability will be encountered in the Marble Falls Formation in the Wilson 1A Well. Additionally, it was uncontradicted that the presence of permeability in the Marble Falls Formation is a sporadic and unusual reservoir condition. Accordingly, the uncontradicted log data from the Wilson No. 1 Well showing the presence of permeability in the Marble Falls Formation meets the unusual condition requirement for an exception to prevent waste.

Rife satisfies the second requirement for an exception to prevent waste. As shown by Rife's uncontradicted drainage calculations, no offsetting well at a regular location would be able to recover all of the hydrocarbons present underlying the Wilson Lease identified by the log data for the Wilson No. 1 Well. Additionally, Rife cannot use its existing Wilson No. 1 well to recover these reserves without abandoning the production of natural gas from the deeper Newark, East (Barnett Shale) Field. Even if Rife could overcome the obstacles to a dual completion of its Wilson No. 1 Well, it would still be required to obtain an exception to Rule 37 for the additional wildcat completion.

Finally, Rife satisfies the third requirement for an exception to prevent waste based on the estimated additional 44,000 barrels of oil which would not otherwise be recovered. Reserves of 44,000 barrels constitute a substantial volume of additional hydrocarbons (See *Buckley v. Atlantic Refining Co.*, 146 S.W. 2d 1082, 1085 (Tex. Civ. App. - Beaumont 1940, *writ dismissed judgment corrected*)).

Rife has satisfied all the elements necessary to warrant an exception based on the prevention of waste in the wildcat field below the subsurface depth of 7000 feet. The proposed well will recover an additional 44,000 barrels of oil that would not be otherwise recovered. Accordingly, the examiners recommend granting the application in the wildcat field restricted to the subsurface depth of 7000 feet or greater.

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### **CONCLUSION**

Rife is entitled to an exception to Rule 37 to prevent waste of hydrocarbons underlying its Wilson Lease in the wildcat field. Accordingly, the application for an exception to Rule 37 to prevent waste should be granted in the wildcat field but that due to the limitations of its mineral interest, the permit should be limited to subsurface depths below 7000 feet. Additionally, because Rife admits that a well at the proposed location should encounter virgin pressure, and is located 8 miles from the nearest well completed in the Greenwood (Lower Marble Falls) Field, the examiners recommend that the application for an exception to Rule 37 in the Greenwood (Lower Marble Falls) Field should be denied.

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. Rife Energy Operating, Inc. (Applicant or Rife) seeks an exception to Statewide Rule 37 to drill Well No. 1A on the Wilson Lease in the Greenwood (Lower Marble Falls) Field and the wildcat field.
2. The Wilson Lease is a narrow, rectangular 64 acre tract which does not have any locations regular to all of the lease lines in the fields identified in the application. The proposed well will be located 335 feet from the northwestern lease line and 419 feet from the southeastern lease line. The proposed location is regular to the northeastern and southwestern lease line boundaries. A copy of the plat filed with Applicant's Form W-1 (Application for Permit to Drill, Deepen, Plug Back or Re-Enter) is attached.
3. The Greenwood (Lower Marble Falls) Field and the wildcat field are subject to spacing requirements of 467 feet minimum distance to the nearest lease line and 1200 feet minimum distance between wells.
4. The application is protested by the offsetting operator Pioneer Exploration, Ltd. (APioneer). Pioneer claims that Rife has not perfected its right to develop the mineral interest underlying the southwesterly 32 acres of the proposed 64 acre drilling unit, asserting by implication that Pioneer may possess those mineral interests.
5. Rife currently has a lease agreement with the mineral interest owner for the Wilson Lease, applicable to any hydrocarbons below the total subsurface depth of 7,000 feet.
6. The Greenwood (Lower Marble Falls) Field would not be the proper Commission recognized field

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for the proposed well.

- A. The nearest well completed in the Greenwood (Lower Marble Falls) Field is over 8 miles from the proposed location.
  - B. Rife expects to encounter virgin reservoir conditions in the Marble Falls interval identified as productive by the well log data submitted for the Wilson No.1 Well.
7. An unusual subsurface condition is present in the wildcat field underlying the Wilson Lease at the proposed location for the Wilson No. 1A Well.
- A. In October 2003, Rife drilled the Wilson No. 1 Well to the Newark, East (Barnett Shale) Field only 30 feet from the proposed location for the Wilson 1A Well.
  - B. An openhole spectral density compensated neutron microresistivity log and the mud log for the Wilson No. 1 Well show that between -7175 and -7368 feet, 16 feet of permeability was encountered in the Marble Falls Formation.
  - C. A study of four wells located within one mile of the proposed location shows that the presence of permeability is an unusual reservoir condition. The Marble Falls Formation is present in all four wells, but only two wells encountered permeable reservoir rock. The one Marble Falls producing well in the cluster is located within 1250 feet of a dry hole.
8. No existing wells or wells at regular locations would drain all of the reserves identified by the log data from the Wilson No. 1 Well in the wildcat field.
- A. There are no regular locations in the wildcat field on the Wilson Lease due to the configuration of the tract.
  - B. Rife would not be able to dually complete the Wilson No. 1 Well in both the Marble Falls Formation and the Newark, East (Barnett Shale) Field because the Barnett Shale must be pumped after being fracture stimulated.
  - C. Rife's uncontradicted drainage calculations show that no well at a regular location on offsetting leases would produce the reserves in the wildcat field underlying its Wilson Lease.
9. The proposed well would recover an additional 44,000 barrels which would not otherwise be recovered. Reserves of 44,000 barrels constitute a substantial volume of additional hydrocarbons.

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**CONCLUSIONS OF LAW**

1. Proper notice of hearing was timely given to all persons legally entitled to notice.
2. All things have occurred to give the Commission jurisdiction to decide this matter.
3. Rife possesses a good faith claim of the right to operate the Wilson Lease at subsurface depths of 7000 feet and below.
4. An exception to Statewide Rule 37 for a well at the applied-for location is necessary to prevent waste from the wildcat field at subsurface depths of 7000 feet and below.
5. An exception to Statewide Rule 37 for a well at the applied-for location is not necessary to prevent waste or confiscation from the Greenwood (Lower Marble Falls) Field.

**RECOMMENDATION**

The examiners recommend that Rife's application be granted in the wildcat field limited to the subsurface depth of 7000 feet and below in accordance with the attached Final Order. The examiners further recommend that the application be denied in the Greenwood (Lower Marble Falls) Field.

Respectfully submitted,

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Mark J. Helmueller  
Hearings Examiner

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Margaret Allen  
Technical Examiner