

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
OIL AND GAS SECTION**

RULE 37/38 CASE NO. 0210331; APPLICATION OF RIO PETROLEUM, INC. FOR A RULE 37 AND RULE 38 EXCEPTION TO DRILL WELL NO. 1, POWELL D-3 MIPA UNIT, LATHEM (CANYON GRANITE WASH) FIELD, HARTLEY COUNTY, TEXAS

OIL AND GAS DOCKET NO. 10-0210155; APPLICATION OF RIO PETROLEUM, INC. PURSUANT TO THE MINERAL INTEREST POOLING ACT FOR THE ESTABLISHMENT OF THE POWELL D-3 MIPA UNIT, LATHEM (CANYON GRANITE WASH) FIELD, HARTLEY COUNTY, TEXAS

FINAL ORDER

The Commission finds that, after statutory notice in the above-numbered dockets, heard beginning on December 6, 1995, and again on September 4, 1996, the presiding examiners have made and filed a report and proposal for decision containing findings of fact and conclusions of law, which was served on all parties of record, and that this proceeding was duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas.

The Commission, after review and due consideration of the proposal for decision, the findings of fact and conclusions of law contained therein, and any exceptions and replies thereto, hereby adopts as its own Findings of Fact Nos. Two (2) through Twenty (20) and Conclusions of Law Nos. One (1) through Four (4) contained in the proposal for decision, and incorporates said findings of fact and conclusions of law as if fully set out and separately stated herein. In addition, the Commission adopts amended Finding of Fact No. One (1), additional Findings of Fact Nos. Twenty-One (21) through Twenty-Three (23), and substituted Conclusion of Law No. Five (5). Existing Conclusion of Law No. Five (5) is deleted.

Amended Finding of Fact No. 1

1. Notice of hearing on the applications of Rio Petroleum Inc. ("Rio"), under the Mineral Interest Pooling Act ("MIPA"), to create the Powell D-3 MIPA Unit and the Powell B-2 MIPA Unit in the Lathem (Canyon Granite Wash) Field ("subject field") was sent by first class mail to all interest owners in the proposed units on October 13, 1995 and on November 13, 1995. Notice of hearing on the MIPA applications was also accomplished by publication in a newspaper of general circulation on October 13, 20, 27 and November 3, 1995 in the *Dalhart Daily Texan*. Notice of hearing in the companion Rule 37/38 applications for the Powell "D" MIPA Unit Well #3 and the Powell "B" MIPA Unit Well #2, Docket Nos. 0210331 and 0210332, were sent by first class mail on October 26, 1995 and November 21, 1995 to all designated operators, lessees of tracts that have no designated operator and all

unleased mineral interest owners for each adjacent tract and each tract within 660' of the proposed well. Notice of hearing on the application for a Rule 38 exception for Well No. D-2 on the Powell D Lease was sent by first class mail on November 21, 1995 to all designated operators, lessees of tracts that have no designated operator and all unleased mineral interest owners for each adjacent tract and each tract within 660' of the proposed well.

Additional Findings of Fact Nos. 21 through 23

21. There are currently 784,000 barrels of oil under the 160 acre Powell D (#63333) Lease. The Powell D-1 Well and Powell D-2 Well, in conjunction with the proposed Powell D-3 Unit Well, will recover 749,257 barrels of oil, leaving 35,000 barrels of oil under the 160 acre Powell D Lease.
22. Pooling 74.96 acres out of the Powell D Lease leaves only 85.04 acres in the Powell D Lease available for assignment to the existing Powell D-1 and Powell D-2 wells; therefore, a Rule 38 exception is necessary for one of the wells to allow both wells to continue to produce.
23. There are mineral interest owners in the 160 acre Powell D Lease and in the 80 acre Powell D-3 Unit that do not share in production from any well on an offset tract in the subject field.

Substitute Conclusion of Law No. 5

5. Rio is entitled to an exception to Statewide Rule 38 for the 85 acre Powell D Lease, Well No. D-2, under the Century doctrine to prevent confiscation.
 - A. Pooling of a portion of the 160 acre Powell D Lease creates a voluntary subdivision of the remaining 85.04 acres.
 - B. Under the Century doctrine the mineral owners of the reconstituted 160 acre Powell D Lease would be entitled to a Rule 38 exception for a third well on the tract to prevent confiscation.
 - C. The location of the existing Powell D-2 well would be a reasonable location to prevent confiscation of oil from beneath the reconstituted tract.

Therefore, it is **ORDERED** by the Railroad Commission of Texas that the application of Rio Petroleum, Inc., for establishment of an MIPA Unit in the Lathem (Canyon Granite wash) Field, Hartley county, Texas, be and is hereby **GRANTED** and a pooled unit containing 80 acres in the Lathem (Canyon granite Wash) Field is hereby established as shown on Exhibit A attached and incorporated herein, subject to the following terms and conditions:

1. Such unit shall be called the Powell D-3 MIPA Unit.

2. Exxon Corporation is appointed operator of the Powell D-3 MIPA Unit. Operations on the unit shall be governed by the operating agreement proposed by Rio Petroleum, Inc., and submitted at the hearing as Rio Exhibit No. 46.
3. Production, revenues and expenses associated with the Powell D-3 well shall be allocated on the basis of acreage included in the 80-acre unit.
4. If any working interest owner or unleased mineral owner elects not to pay his proportionate share of the drilling and completion costs in advance, the parties advancing those costs shall receive reimbursement solely out of the non-consenting interest owner's share of production for all actual and reasonable drilling, completion and operating costs, plus a charge for risk not to exceed 10% of the drilling and completion costs.

It is further **ORDERED** by the Railroad Commission of Texas that Rio Petroleum, Inc. be and is hereby **GRANTED** an exception permit under the provisions of Statewide Rule 37 to drill its Well No. 1 on the Powell D-3 MIPA Unit in the Lathem (Canyon Granite Wash) Field, Hartley County, Texas, at the following location:

100' from the south line and 753' from the west line of the Powell D-3 MIPA Unit.

2,540' from the north line and 753' from the west line of section 107, Block 48, H & TC RR Co. Survey, A-174, Hartley County, Texas.

It is further **ORDERED** by the Railroad Commission of Texas that a Rule 38 density exception is approved to permit the existing Exxon Powell D-1 and D-2 wells to continue producing on the originally productive acreage out of the Powell D Lease that was assigned to their proration units and not included in the Powell D-3 MIPA Unit in the Lathem (Canyon Granite Wash) Field.

CONDITIONS

1. **Fresh Water Sand Protection.** The operator must set and cement sufficient surface casing to protect all usable-quality water as defined by the Texas Water Commission. Before drilling a well, the operator must obtain a letter from the Texas Water Commission stating the depth to which water needs protection. Write: Texas Water Commission, Surface Casing, P. O. Box 13087, Capitol Station, Austin, Texas 78711-3087. File a copy of the Water Commission letter with the appropriate district office.
2. **Permit at Drilling Site.** A copy of the Form W-1 (Drilling Permit Application), the location plat, a copy of Statewide Rule 13 alternate surface casing setting depth approval from the district office, if applicable, and this drilling permit must be kept at the permitted well site throughout the drilling operations.

3. **Notification of Setting Casing.** The operator MUST call in notification to the appropriate district office a minimum of eight (8) hours prior to the setting of surface casing, intermediate casing, AND production casing. The individual giving notification MUST be able to advise the district office of the docket number.
4. **Producing Well.** Statewide Rule 16 requires that the operator submit a Form W-2 (oil well) or Form G-1 (gas well) to the appropriate Commission district office within thirty (30) days after completion of such well. Completion of the well in a field authorized by this order voids the order for all other fields included in the order unless the operator indicates on the initial completion report that the well is to be a dual or multiple completion and promptly submits an application for multiple completion. All zones are required to be completed before the expiration date of this order.
5. **Dry or Noncommercial Hole.** Statewide Rule 14(b)(2) prohibits suspension of operations on each dry or noncommercial well without plugging unless the hole is cased and the casing is cemented in compliance with Commission rules. If properly cased, Statewide Rule 14(b)(2) requires that plugging operations must begin within a period of one (1) year after drilling or operations have ceased. Plugging operations must proceed with due diligence until completed. An extension to the one year plugging requirement may be granted under the provisions stated in Statewide Rule 14(b)(2).
6. **Intention to Plug.** The operator must file a Form W-3A (Notice of Intention to Plug and Abandon) with the district office at least five (5) days prior to beginning plugging operations. If, however, a drilling rig is already at work on location and ready to begin plugging operations, the district director or the director's delegate may waive this requirement upon request, and verbally approve the proposed plugging procedures.
7. **Notification of Plugging a Dry Hole.** The operator MUST call to notify the appropriate district office a minimum of four (4) hours prior to beginning plugging operations. The individual giving notification MUST be able to advise the district office of the docket number and all water protection depths for that location as stated in the Water Commission letter.
8. **Plugged Wells.** Should this well ever be plugged and abandoned, the Commission will consider such plugging and abandonment as prima facie evidence that production from said well is no longer necessary to prevent confiscation of applicant's property or to prevent waste; and upon such plugging and abandonment, the authority for such well as granted under this permit shall cease.
9. **Permit Expiration.** This permit expires two (2) years from the date this order becomes administratively final, unless actual drilling operations have begun. The permit period will not be extended.

It is further **ORDERED** by the Commission that this order shall not be final until 20 days after it is actually mailed to the parties by the Commission; provided that if a motion for rehearing of the application is filed by any party at interest within such 20-day period, this order shall not become final until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission.

Each exception to the examiners' proposal for decision not expressly granted herein is overruled. All requested findings of fact and conclusions of law which are not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

Done this _____ day of _____, 19_____.

RAILROAD COMMISSION OF TEXAS

CHAIRMAN

COMMISSIONER

COMMISSIONER

ATTEST:

SECRETARY