RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION

OIL & GAS DOCKET NO. 01-0297416: THE APPLICATION OF AMMONITE OIL AND GAS CORPORATION PURSUANT TO THE MINERAL INTEREST POOLING ACT FOR THE FORMATION OF A POOLED UNIT FOR THE EOG RESOURCES, INC. HOLLER NO. 1H WELL AND HOLLER NO. 2H WELL, EAGLEVILLE (EAGLEFORD-1) FIELD, MCMULLEN COUNTY, TEXAS

APPEARANCES

For Applicant Ammonite Oil and Gas Corporation:
Rob Hargrove, Attorney at Law
William Osborn, President, Ammonite Oil and Gas Corporation

For Respondent, EOG Resources, Inc.
Doug Dashiell, Attorney at Law
Tim Smith, Petroleum Engineer

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

Date Application Filed:	August 27, 2014
Date of Notice of Hearing:	September 1, 2015
Date of Hearing:	October 16, 2015
Transcript Received:	November 2, 2015
Record Closed:	December 22, 2015
Proposal for Decision Issued:	March 29, 2017
Heard by:	Laura Miles-Valdez, Legal Examiner Paul Dubois, Technical Examiner
Author:	Clayton J. Hoover, Administrative Law Judge

STATEMENT OF THE CASE

Ammonite Oil and Gas Corporation ("Ammonite") has filed an application under the Texas Mineral Interest Pooling Act ("MIPA"), Chapter 102 of the Texas Natural Resources Code. By its application, Ammonite is requesting that the Commission enter orders creating two (2) force-pooled units in McMullen County to include two (2) EOG wells and surrounding leasehold with a contiguous Ammonite lease on a triangular 64-acre tract in which the minerals are owned by the State of Texas (the 64-acre tract is the result of a vacancy discovered in the 1930's, the surface of which was deeded by the State in 2008[1]).

Protestant EOG asserts that Ammonite failed to meet its statutory burden to demonstrate that: (1.) Ammonite has an ownership interest in the proposed tracts to be pooled into the EOG tracts, as required pursuant to MIPA §102.012; (2.) Ammonite has made a reasonable offer to voluntarily pool the tracts; (3.) Ammonite provided proof that forced pooling of the State-owned acreage is necessary to avoid the drilling of unnecessary wells, to protect correlative rights, or to prevent waste; and (4.) the EOG wells and the subject State owned acreage "embrace a common reservoir." EOG asks that the Commission deny the Ammonite application for failing to meet statutory requirements (2.), (3.) and (4.).

The Administrative Law Judge and Technical Examiner recommend **approval** of the proposed units for the EOG Resources, Inc. Holler No. 1H Well and Holler No. 2H Well.

APPLICABLE LAW

Subject to limitations found elsewhere in the act, **Section 102.011 of the MIPA** provides that "[w]hen two or more separately owned tracts of land are embraced in a common reservoir of oil or gas for which the Commission has established the size and shape of proration units, whether by temporary or permanent field rules, and where there are separately owned interests in oil and gas within an existing or proposed proration unit in the common reservoir and the owners have not agreed to pool their interests, and where at least one of the owners of the right to drill has drilled or has proposed to drill a well on the existing or proposed proration unit to the common reservoir, the Commission, on the application of an owner specified in Section 102.012 of [the MIPA] and for the purpose of avoiding the drilling of unnecessary wells, protecting correlative rights, or preventing waste, shall establish a unit and pool all of the interests in the unit within an area containing the approximate acreage of the proration unit, which unit shall in no event exceed 160 acres for an oil well or 640 acres for a gas well plus 10 percent tolerance."

Section 102.014 provides,

"(a) The Commission shall not require the owner of a mineral interest, the productive acreage of which is equal to or in excess of the standard proration unit for the reservoir,

[1] Tr. Pg. 17, ln 18-25

to pool his interest with others unless requested by the holder of an adjoining mineral interest, the productive acreage of which is smaller than such pattern, who has not been provided a reasonable opportunity to pool voluntarily.

"(b) If the conditions specified in Subsection (a) of this section exist, the Commission shall pool the smaller tract with adjacent acreage on a fair and reasonable basis and may authorize a larger allowable for the unit if it exceeds the size of the standard proration unit for the reservoir."

DISCUSSION OF THE EVIDENCE

Ammonite's Application and Proposed Units

The proposed MIPA units in this docket are in the Eagleville (Eagleford-1) Field, McMullen County.

The proposed MIPA Unit for the EOG Resources, Inc. Holler No. 1H Well contains 153.11 total acres comprised of 121.11 acres of the EOG Holler Lease and 32 acres of the State-owned tract.

The proposed MIPA Unit for the EOG Holler No. 2H Well contains 153.11 total acres comprised of 121.11 acres of the EOG Holler Lease and 32 acres of the State-owned tract.

Field Discovery Date, State of Texas Ownership and Common Reservoir

The MIPA does not apply in fields discovered and produced before March 8, 1961, and it does not apply to land in which the State of Texas has an interest unless the State has given consent.[2] These exceptions do not apply in this case—the proposed MIPA units lie within the productive limits of the Eagleville (Eagleford-1) Field, which was discovered in 2007 and had field rules established in 2011,[3] and while leases covering State-owned minerals exist within the proposed MIPA units, the General Land Office consented to the application. [4] Because the two proposed MIPA units are located in, and the two EOG wells are completed in, the Eagleville (Eagleford-1) Field, Ammonite contends that they are in a common reservoir for purposes of forming the two units in accordance with the language of the MIPA. [5]

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[2] MIPA §§ 102.003, 102.004.

[3] Ammonite Closing Argument, Pg. 4,5

[4] *Id.*

[5] MIPA §§ 102.011

The Voluntary Pooling Offers

On or about July 22, 2014, Ammonite sent voluntary pooling offers to counsel for EOG.[6] Ammonite offered EOG the formation of two specifically described units, subject to a mutually acceptable Joint Operating Agreement with EOG as Operator and a ten percent (10%) risk penalty.[7] EOG never responded to these offers with any counteroffer.[8]

Need for MIPA Wells

Ammonite contends that, absent MIPA approval of the proposed units, the reserves underlying the State-owned tract could not be recovered from unconventional wells and would therefore be wasted.[9] Mr. Osborn testified that MIPA approval was necessary to prevent reserves underlying the State owned from being stranded and wasted.[10]

Charge for Risk

Ammonite's application requested that the Commission's MIPA pooling orders for this docket include a 10% charge for risk attached to the working-interest component, as authorized under Section 102.052 of MIPA. Its contention is that a 10% charge for risk is reasonable in an unconventional resource play such as the Eagleville (Eagleford-1) Field.

EOG's Contentions and Evidence

EOG contends that there must be a showing of drainage as proof of a common reservoir, as proof that the voluntary pooling offers were fair and reasonable and as a prerequisite for forced pooling to protect correlative rights. Such contentions are based on several Proposals for Decision in prior cases where protection of correlative rights was the sole basis for MIPA pooling.[11] EOG further contends that the offers on two of the proposed units were not fair and reasonable and that limited permeability and the use of unconventional drilling and completion techniques on wells in the Eagle Ford Shale trend results in a substantial portion of such wells not reaching payout or being commercially successful so that, based on such analysis, a 10% risk penalty is not appropriate.

Well Spacing in the Eagle Ford, Drainage and Common Reservoir Requirement

EOG presented testimony and documentary evidence from Tim Smith, a petroleum engineer, on its contentions. Mr. Smith testified and presented exhibits to show that the

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[6] Ammonite Closing Argument, Pg. 5

[7] Ammonite Closing Argument, Pg. 5,6

[8] *Id.*

[9] Tr Pg 115, ln 19 - Pg. 116, ln. 8

[10] *Id.*

[11] EOG's Closing Argument Pg. 8

Eagle Ford Shale is a resource play, that the reservoir rock has extremely limited permeability and that the current stimulated reservoir volumes and drainage areas of the two wells do not include any of the State-owned tracts leased by Ammonite.[12] Stimulated reservoir volume may only extend 180 feet or less from a horizontal wellbore completed in the Eagle Ford Shale in this area.[13] He also testified that, while there is currently no drainage of the State-owned tracts at issue from the two existing EOG wells as they are currently drilled and completed, the Eagle Ford Shale is a continuous hydrocarbon system.[14]

Substantial Risk of Individual Wells Not Being a Commercial Success

Mr. Smith presented exhibits to show that the Eagle Ford Shale, while extensive, is a very heterogenous reservoir and that development of the Eagle Ford Shale in this area may be commercially successful overall even though a substantial portion of such wells may not reach payout or achieve a commercial return on capital expenditures.[15]

ADMINISTRATIVE LAW JUDGE OPINION

The Railroad Commission is a creature of the Legislature and has no inherent authority.[16] Like other state administrative agencies, the Commission has only those powers that the Legislature expressly confers upon it and any implied powers that are necessary to carry out the express responsibilities given to it by the Legislature.[17] It is not enough that the power claimed by the Commission be reasonably useful to the Commission in discharging its duties; the power must be either expressly conferred or necessarily implied by statute. The agency may not exercise what is effectively a new power, or a power contradictory to the statute, on theory that such a power is expedient for administrative purposes.[18]

The Commission, therefore, does not have unlimited authority to compel the pooling of mineral interests whenever it is presented with a compulsory pooling application that in some sense may be deemed conceptually sound. Compulsory pooling may be ordered only as expressly authorized by the MIPA, which is a limited compulsory pooling statute unique to Texas.[19] Outlining a general theme in interpretation of the MIPA, Smith & Weaver state:

> "Its legislative history has played a key role in the Texas Supreme Court's subsequent interpretation of the act. The courts have consistently construed MIPA

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[12] *Id.* at Pg. 8, 9 & 13

[13] Tr., pg. 154, ln 3- pg. 155, ln 1; pg. 157, lns 20-23

[14] Tr., pg. 154, lns 17-19; pg. 200, lns 21-23

[15] EOG's Closing Argument Pg. 13

[16] Public Util. Comm'n v. GTE-SW Corp., 901 S.W.2d 401, 407 (Tex. 1995)

[17] Public Util. Comm'n v. City Pub. Serv. Bd., 53 S.W.3d 310, 316 (Tex. 2001)

[18] Gage, 582 S.W.2d at 413.

[19] Smith and Weaver, Texas Law of Oil and Gas, Vol. 3, Chapter 12, §12.1(B) at page 12-4 (LexisNexis Matthew Bender 2015).

> as limited in function to protecting small-tract lessees rather than as a broad act designed to protect correlative rights generally..." [20]

The Administrative Law Judge and Technical Examiner are of the opinion that the Ammonite application should be granted as to the proposed units for the Holler Well No. 1H Well and the Holler Well No. 2H, because (1) Ammonite's leases are in a common reservoir with the EOG wells, (2) Ammonite's offers to voluntarily pool were fair and reasonable, and (3) compulsory pooling is necessary to prevent waste. Ammonite met its burden in demonstrating the statutory requirements.

Authority to Apply for and Approve MIPA

As required by MIPA § 102.003, the Field in this case was discovered after March 8, 1961. Testimony and exhibits show that the Eagleville (Eagleford-1) Field was discovered in 2007. Ammonite proved that the proposed MIPA units fall within such field and that such field constitutes a common reservoir, per MIPA § 102.011. This fact was corroborated by Protestant's expert witness, Tim Smith, who testified repeatedly (2 times) that the Eagle Ford Shale in the area is a "continuous hydrocarbon system." [21]

Ammonite has adequately demonstrated that it has authority to apply for pooling pursuant to MIPA § 102.012. While Ammonite does not own an interest in the State-owned tracts, Ammonite leased such tracts from the State of Texas, such leases confer authority upon Ammonite to bring the application and the General Land Office consented to such application. [22]

Fair and Reasonable Offer

The Administrative Law Judge and Technical Examiner conclude that Ammonite's offer to voluntary pool was fair and reasonable as to the Holler Well No. 1H and the Holler Well No. 2H.

Section 102.013 of the MIPA requires that the applicant for forced pooling "set forth in detail the nature of voluntary pooling offers made to the owners of the other interests in the proposed unit." This section also provides that the Commission shall dismiss the application if it finds that a fair and reasonable offer to pool voluntarily has not been made by the applicant. The Commission does not have jurisdiction under the MIPA unless a fair and reasonable offer to pool voluntarily has been made.[23] The MIPA has thus been characterized by scholars as a "compulsory voluntary pooling act," because a force pooling order will not issue unless the applicant has made a strong effort to secure pooling

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[20] Smith and Weaver, Texas Law of Oil and Gas, Vol. 3, Chapter 12, §12.1(B) at page 12-5 (LexisNexis Matthew Bender 2015).

[21] Tr., pg. 154, lns 17-19; pg. 200, lns 21-23

[22] Ammonite Closing Argument, Pg. 5,6

[23] *Carson v. Railroad Com'n of Texas*, 669 S.W.2d 315, 316 (Tex. 1984).

voluntarily and has been rebuffed.[24] A fair and reasonable offer to pool voluntarily is one which takes into consideration those relevant facts, existing at the time of the offer, which would be considered important by a reasonable person in entering into a voluntary agreement concerning oil and gas properties.[25] While it is true that authority exists for the position that whether an offer to pool voluntarily is "fair and reasonable" is to be judged from the standpoint of the party being forced to pool,[26] the facts of each MIPA application will determine whether an offer was fair and reasonable to all parties.[27] Here, Ammonite made an initial voluntary offer to pool two separate proposed MIPA units as described in these this docket and the record. EOG refused to respond to Ammonite's offers with counteroffers. As in the *Mulvey* MIPA case, the fact that the party to be pooled into did not respond to the initial voluntary pooling offer supports granting the MIPA.

In *Mulvey*[28], the Examiner stated that it was significant that the party to be pooled into (i.e., Bay Rock Operating Co.), made no counteroffer to Mulvey and made no attempt to negotiate or respond to Mulvey's offer in any manner. This determination is in line with the Texas Supreme Court's holding in *Carson*:

> "It is well recognized that the intent of the MIPA is to encourage negotiation and voluntary pooling. In *American Operating Co v Railroad Commission*,[29] the court stated, 'The fact that the MIPA was enacted to encourage voluntary pooling would seem to contemplate a process of negotiations among the parties. . . Although the MIPA does not require that a counter offer be made in response to a voluntary pooling offer, it is a factor which we consider in making a determination as to whether such an offer is a fair and reasonable. . ."[30]

When judged from the standpoint of the parties being forced to pool, Ammonite's voluntary pooling offers to EOG as to the Holler Well No. 1H and the Holler Well No. 2H were fair and reasonable. These Ammonite voluntary offers, including and in light of the proposed risk penalty and common reservoir issues discussed below, were fair and reasonable under the circumstances and were the exact type of offers contemplated in the creation of the MIPA as to the Holler Well No. 1H and the Holler Well No. 2H.[31]

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[24] *See* Smith and Weaver, *Texas Law of Oil and Gas*, Vol. 3, Chapter 12, §12.3(B-1) at pg. 12-24.1 (LexisNexis Matthew Bender 2015).

[25] *Carson v. Railroad Com'n of Texas, supra* at page 318.

[26] *Windsor Gas Corp. v. Railroad Com'n of Tex.*, 529 S.W.2d 834, 837 (Tex.Civ.App.-Austin 1975, writ dism'd as moot); *Pend Orielle Oil & Gas Co., Inc. v. Railroad Com'n of Texas*, 788 S.W.2d 878 (Tex.App.-Austin 1990, *writ granted*), *affirmed in part, reversed in part on other grounds* 817 S.W.2d 36 (Tex. 1991).

[27] *See* Oil & Gas Docket 2-97041; *Application of Michael R. Mulvey pursuant to the Mineral Interest Pooling Act to Pool into the Pecos Development Corporation's Block 71 Unit, Well No. 2, Clayton (Wilcox 7360) Field, Live Oak County, Texas.* (Final Order issued April 6, 1992).

[28] *Id*

[29] 744 S.W.2d 149, 154 (Tex. App.–Houston [14th Dist.] 1987), *writ denied.*

[30] *See also Carson*, 669 S.W.2d at 318 (discussing that failure to negotiate by offeror contributed to holding that the offer was not fair and reasonable), *and Windsor*, 529 S.W.2d at 834 (holding that "take it all" or "leave it all" offer was not fair and reasonable).

[31] *See Carson*, at 317.

Charge for Risk

Section 102.052 of the MIPA states the Commission shall make "provision in the pooling order for reimbursement ... of all actual and reasonable drilling, completion, and operating costs plus a charge for risk not to exceed 100 percent of the drilling and completion costs."[32] The clear implication from the MIPA is that imposition of a "risk penalty" is to assure that the economic risk assumed in the drilling and completing of a well is reasonably shared by the operator and the working interest owners.

The Commission has previously recognized the "standard for assessing a fair and reasonable risk penalty is the actual chance of a successful completion at the time the well [is] drilled."[33] Further, the Commission has also recognized that in the absence of evidence of risk, and where most wells drilled in the field appear to be commercially producible, the Commission has concluded that a nominal risk penalty (e.g. 10%) is appropriate.[34]

While many wells in the Eagleville (Eagleford-1) Field do not payout or achieve commercial success, virtually all of them become commercially producible and recover a substantial portion of the capital expenditures. There is almost no possibility of a dry hole, which greatly reduces one of the main risks the MIPA penalty is designed to address. In addition, it should be noted that if a MIPA applicant such as Ammonite is pooled with a well that does not reach payout, that applicant will not be allocated any production, thereby sharing the misery and mitigating to some extent the need for a risk penalty. In its voluntary pooling offers presented to EOG, Ammonite proposed a charge for risk of 10%, which would be taken out of its share of production from and after the effective date of the pooled unit or payout of the existing well, whichever is later. Such a penalty is supported by precedent and the evidence. The evidence presented demonstrates, and Commission precedent supports, a determination that imposition of a 10% charge for risk based on the facts of this case, is fair and reasonable as is required by § 102.017 of the MIPA.

Common Reservoir

The Eagle Ford Shale is a resource play being developed with unconventional drilling and completion techniques. Although heterogenous with localized sweet spots, it is a continuous hydrocarbon system, as Tim Smith repeatedly points out. The two proposed MIPA units in these this docket are within the correlative interval and the geographic parameters of the Eagleville (Eagleford-1) Field. Within the Eagleville (Eagleford-1) Field, the Eagle Ford Shale constitutes a "continuous hydrocarbon system"[35] and is therefore a "common reservoir" for purposes of MIPA.

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[32] Tex. Nat. Res. Code 102.052 (emphasis added).

[33] Oil & Gas Dockets 3-77,090 & 3-79,517, the *Application of General Production Corp. Et. Al., Giddings (Austin Chalk, Gas) Field, Lee County, Texas*, at page 6 (Final Order signed April 9, 1984.)

[34] Oil & Gas Docket 6-75,587, *Application of Panola Producing Company, Carthage (Cotton Valley) Filed, Panola County, Texas* (Final Order signed September 7, 1982).

[35] Tr., pg. 154, lns 17-19; pg. 200, lns 21-23

Protestant's reliance on the PFD's from prior cases before the Railroad Commission is unpersuasive since those cases relied on existing drainage as the predominant factor in establishing a common reservoir and on protecting correlative rights as the sole basis for MIPA pooling therein. Drainage can be relevant, but it is not mentioned in the MIPA and is not an essential element of a successful application if all the other requirements are met. The PFD's cite Smith & Weaver for the proposition that a showing of drainage is necessary for MIPA pooling. [36] Smith & Weaver cites the case of *Railroad Commission v. Broussard, 755 S.W.2d 951, (Tex. App.-Austin 1988, writ denied)*, and states, "It is unfair to let an applicant share in production from a well that does not drain any oil or gas from the applicant's tract." [37] While this statement may reflect an accurate conclusion in the context of the facts in *Broussard*, it is important to note that it was made in connection with the reasonableness of an offer to pool in a conventional reservoir. Such case did not involve a resource play like the Eagle Ford Shale, which is a continuous hydrocarbon system with permeability and drainage areas so low that many wells cannot even drain their proration unit. The case is easily distinguishable on that basis. While the existence of drainage may be some evidence of a common reservoir and of a fair and reasonable offer, especially in a conventional reservoir context, there is ample evidence in the record to show that the absence of drainage should not be one-dimensional litmus test for the success of a MIPA pooling application in the Eagle Ford Shale trend or the Eagleville (Eagleford-1) Field.

Compulsory Pooling Required

Ammonite demonstrated that the proposed MIPA units as to the Holler Well No. 1H and the Holler Well No. 2H will prevent waste of the State's mineral reserves. Testimony demonstrated that Ammonite is unable to drill an economically feasible well on the State-owned acreage. Therefore, it is not possible for the State-owned oil and gas reserves to be produced without pooling.[38] Under the MIPA, the Commission may order compulsory pooling only if it is necessary to avoid the drilling of unnecessary wells, protect correlative rights, or prevent waste. Here, by denying the proposed MIPA units, the State of Texas's General Land Office and the Permanent School Fund would be denied the reasonable opportunity to recover their fair share of the oil and gas in the shared common reservoir, thereby causing waste by stranding the Eagle Ford Shale reserves underlying the State-owned tracts.

Due to the location and the configuration of the State-owned tracts, there is no feasible way for the mineral reserves in the Eagleville (Eagleford-1) Field underlying these tracts to be developed and recovered without pooling.[39] Because of limited permeability, this is also true of the currently undrained acreage within EOG's existing leases and units. The testimony and Exhibits presented by Tim Smith demonstrate that none of the EOG wells are likely to drain all of the acreage included within their respective leases, the existing

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[36] Smith & Weaver, *Texas Law of Oil and Gas*, Vol. 3, Chapter 12, §12.3[A][6] at pg. 12-18-12-39
[37] Smith & Weaver, *Texas Law of Oil and Gas*, Vol. 3, Chapter 12, §12.3[B] at pg. 12-30
[38] Tr. Pg. 57, ln. 22 – Pg. 58, ln. 2
[39] *Id.*

proration units or the proposed MIPA units. It is clear from his testimony that future drilling, workovers, completions or stimulation operations will ultimately be required to recover reserves from EOG's undrained acreage included in the existing proration units and the proposed MIPA units. Formation of the units will therefore not result in the drilling of unnecessary wells. Compulsory pooling as proposed by Ammonite, enabling such current or future wells to produce from such undrained acreage, both on EOG's acreage and the Nueces State owned tracts, is the only way to prevent waste and to permit all owners to have their fair share of hydrocarbons produced from the common reservoir in this case. EOG, as operator of the proposed MIPA units, will then be able to formulate and execute an appropriate plan to reasonably develop each of the units.

The Administrative Law Judge and Technical Examiner believe that as to the Holler Well No. 1H and the Holler Well No. 2H (1) the separately owned tracts fall within a common reservoir, (2) Ammonite's voluntary pooling offer was fair and reasonable and (3) pooling under MIPA is necessary to prevent waste.

Therefore, based on the record in this case, adoption of the following Findings of Fact and Conclusions of Law is recommended:

FINDINGS OF FACT

1. Notice of the hearing was provided by mail to all interested parties at mailing addresses provided by the applicant at least 30 days prior to the hearing.

2. In addition, notice was published in *The Progress,* a newspaper of general circulation in McMullen County, on October 7, September 16, 23 and 30, 2015.[40]

3. On or about July 22, 2014, Ammonite sent a voluntary pooling offer to EOG for each of the two proposed MIPA units in these this docket. No counteroffer was made by EOG.

4. The basic terms, including the 10% risk penalty, outlined in the voluntary pooling offer made by Ammonite have been found to be fair and reasonable in other cases and are fair and reasonable in each of these dockets as to the Holler Well No. 1H and the Holler Well No. 2H.

5. The tracts within each proposed MIPA unit are within a common reservoir. They are embraced within a continuous hydrocarbon system and are all within the Eagleville (Eagleford-1) Field, for which the Commission has established the size and shape of proration units. The Eagleville (Eagleford-1) Field is a "continuous hydrocarbon system" which is present and reasonably productive in the area covering both of the proposed units.

[40] Applicant's Ex. 18.

6. The Eagleville (Eagleford-1) Field was discovered in 2007, and field rules were first established in 2011. This field has special field rules providing for 330-foot lease-line spacing, and there is no between-well spacing requirement. The standard drilling and proration unit for the Eagleville (Eagleford-1) Field is now 80 acres. An operator is permitted to form optional drilling units of 40 acres.[41]

7. Formation of the proposed MIPA units is the only option for accessing and producing reserves under the State-owned tracts and the contiguous undrained acreage within the existing leases and units so as to prevent waste.[42]

8. Compulsory pooling as requested by Ammonite will prevent waste in the proposed units. Without compulsory pooling, Ammonite will not be able to drill any wells, Ammonite and its lessees will not have a reasonable opportunity to recover their fair share of hydrocarbons from the reservoir and the underlying hydrocarbons will be left unrecovered.

CONCLUSIONS OF LAW

1. Pursuant to Texas Natural Resources Code § 102.016, notice of the hearing was given to all interested parties by mailing the notices to their last known addresses at least 30 days before the hearing and, in the case of parties whose whereabouts were unknown, by publication of notice for 4 consecutive weeks in a newspaper of general circulation in the county where the proposed unit is located at least 30 days before the hearing.

2. As to as to the Holler Well No. 1H and the Holler Well No. 2H, the Commission has jurisdiction over the parties and the subject matter and has authority to issue a compulsory pooling order pursuant to Texas Natural Resources Code § 102.011.

3. Ammonite made fair and reasonable offers to pool voluntarily to EOG, as required by Texas Natural Resources Code § 102.013, as to the Holler Well No. 1H and the Holler Well No. 2H.

4. The tracts within each proposed MIPA unit are within a common reservoir because they are all within the Eagleville (Eagleford-1) Field and are all within a continuous hydrocarbon system, which is being developed as an unconventional resource play.

5. As to the Holler Well No. 1H and the Holler Well No. 2H, the terms and conditions of the Commission's Final Order in this proceeding are fair and reasonable, will afford the owner of each tract or interest in each respective unit the opportunity to produce or receive a fair share of, and will prevent waste of, produced hydrocarbons.

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[41] Applicant's Exs. 19 and 20.

[42] Tr., Pg. 57 – Pg. 58, ln. 14

RECOMMENDATION

It is recommended that Ammonite's application be approved as to the proposed units for the Holler Well No. 1H and the Holler Well No. 2H, subject to conditions, as set forth in the attached Final Order.

Respectfully Submitted,

Clayton J. Hoover
Administrative Law Judge

Paul Dubois
Technical Examiner