

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL & GAS DOCKET NO. 08-0322573

**APPLICATION OF DIAMONDBACK E&P LLC (217012) FOR AN EXCEPTION TO
STATEWIDE RULE 40 FOR THE BUSHWACKER UNIT NW 33-21 LEASE, WELL NO.
702H AND THE BUSCHWACKER UNIT SE 33-21 LEASE, WELL NO. 604H
PHANTOM (WOLFCAMP) FIELD, WARD COUNTY, TEXAS**

FINAL ORDER

The Railroad Commission of Texas ("Commission") finds that notice in the above-numbered docket was provided to all parties entitled to notice. A hearing in the above numbered docket was heard on October 9, 2019, by a Commission Technical Examiner and Administrative Law Judge (collectively, "Examiners"). This proceeding was duly submitted to the Commission at a conference held in its offices in Austin, Texas. After considering the evidence and record in this case, the Commission adopts the following findings of fact and conclusions of law.

Findings of Facts

1. Diamondback E&P LLC ("Diamondback") requests an exception to Statewide Rule 40 (16 Tex. Admin. Code § 3.40) for the Bushwacker Unit NW 33-21 Lease, Well No. 702H (Drilling Permit No. 843091) and Bushwacker Unit SW 33-21 Lease, Well No. 604H (Drilling Permit No. 838436), Phantom (Wolfcamp) Field in Ward County, Texas.
2. Statewide Rule 40 prohibits the "double assignment" of acreage to non-stacked lateral, horizontal wells in the same field.
3. On September 23, 2019 the Hearings Division of the Commission sent an Amended Joint Notice of Hearing ("Notice") to the Applicant and offsetting operators in the field setting a hearing date of October 9, 2019. Consequently, the parties received more than 10 days' notice. The Notice contains (1) a statement of the time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and rules involved; and (4) a short and plain statement of the matters asserted. The hearing was held on October 9, 2019, as noticed. Applicant appeared and participated at the hearing. No protest was received.
4. The correlative interval for the Phantom (Wolfcamp) Field (Field No. 71052900) is 9,515 feet to 12,447 feet deep. The Field consists of the Third Bone Spring formation and the entire Wolfcamp formation.

5. Callon Petroleum Operating CO ("Callon") has mineral interest rights from the surface to the base of the Third Bone Spring, and Diamondback has mineral interest rights below the base of the Third Bone Spring under Section 21, Block 33, Ward County, Texas.
 - a. The Bushwacker Unit NW 33-21 Lease consists of 320.64 acres in the north half of Section 21, Block 33, Ward County, Texas. The Bushwacker Unit NW 33-21 Well No. 702H is located on that tract.
 - b. The Bushwacker Unit SW 33-21 Lease consists of 332.96 acres in the south half of Section 21, Block 33, Ward County, Texas. The Bushwacker Unit SW 33-21 Well No. 604H is located on that lease.
 - c. The Bushwacker Unit NW 33-21 and the Bushwacker Unit SW 33-21 comprise all of Section 21, Block 33, Ward County, Texas.
6. Diamondback has drilled and completed its Bushwacker Unit NW 33-21 Lease, Well No. 702H and Bushwacker Unit SW 33-21 Lease, Well No. 604H, as horizontal drainhole wells with a first take and last take points on Section 21. The wells are completed in the Wolfcamp formation below the Third Bone Spring. Diamondback seeks to assign acreage to these well and future wells in the Phantom (Wolfcamp) Field.
7. As shown by the Memorandum of Oil and Gas Lease between PEC Minerals LP and Providence Energy, LTD, dated January 18, 2017, Providence acquired an undivided 75% of the Lessor's mineral interests in "S/2S/2, N/2 of Section 21, Block 33, H&TC RR Co. Survey, A-155, limited to all depths below the base of the Bone Spring Formation, which is defined to the stratigraphic equivalent of 11,060', as seen on the Dual Laterologic-Microguard gamma ray log of the Davis 33-20 #1 Well, API 4247535333, located in Section 20, Block 33, H&TC RR Company Survey Ward County, Texas.
8. As shown by the Pooling Agreement and Designation of Pooled Unit Johnson 33-21 Unit No., 2H Well dated January 18, 2012, between the Lessees (Cimarex Energy Co., Summit Cove Energy, Ltd., Touchstone Petroleum Corp., Exile Oil & Gas Company, Magnum Hunter Production, Inc.) and Royalty Owners (Hunt Oil Company, PEC Minerals, LP, and Morrison Daughters Agency) dissolving the previous pooled unit as recorded in Volume 853, Page 551, of the Official Public Records of Ward County, TX and creating the 521.7 acre unit of the pooled intervals "from the surface of the earth down to and including a depth of one hundred (100) feet below the Base of the Third Bone Spring Formation. The Base of the Third Bone Spring Formation is defined as being the stratigraphic equivalent of 11,060' measured depth as seen on the Dual Laterolog-MicroGuard Gamma Ray Log of the Davis 33-20 #1 Well, API #4247535333, located 5,000' FNEL and

500' FNWL of Section 20, Block 33, H&TC RR Company Survey, Ward County, Texas."

9. Callon operates its Johnson 33-21 Unit and Pitzer Johnson Unit that cross into Section 21, Block 33 Ward County, Texas.
 - a. Callon operates its Pitzer-Johnson 33-21 Unit No. 2H Well. This well is completed in the Bones Springs formation and is assigned 263.9 acres in the Phantom (Wolfcamp) Field.
 - b. Callon operates its Johnson 33-21 Lease, Well No. 2H. This well is completed in the upper Bone Springs Formation and is assigned 480 acres in the Phantom (Wolfcamp) Field.
10. Diamondback's Lease agreement covers the deep rights on Section 21, beneath the Third Bone Springs Formation.
11. The Wolfcamp formation contains a series of stacked "benches" that are the primary targets of horizontal drilling and production in the Phantom (Wolfcamp) Field. Without an exception to Statewide Rule 40, operators who lease the deeper benches in the same Commission designated field cannot obtain permits to drill and produce from these lower benches.
12. The average Wolfcamp horizontal well in the Phantom (Wolfcamp) Field produces approximately 611 thousand barrels of oil equivalent. Without an exception to Statewide Rule 40, this production will be unrecovered for the current or future wells.
13. An exception to Statewide Rule 40 is necessary for Diamondback to produce its fair share of the hydrocarbons from its leasehold estate.
14. Granting a Statewide Rule 40 exception is necessary to prevent waste and to protect correlative rights.
15. In the Phantom (Wolfcamp) Field, the Commission has granted a Statewide Rule 40 exception in Final Order Oil and Gas Docket Nos. 08-0309365, 08-0311740, 08-0311741, 08-0311742, and 08-0311743.
16. A Statewide Rule 40 exception is necessary for Diamondback to drill, complete, and produce the Field below the severance point at the Third Bone Springs Formation as indicating in its Lease agreement.
17. A Statewide Rule 40 exception will allow Diamondback to produce hydrocarbons that would otherwise go unproduced and unrecovered.

18. Granting the Statewide Rule 40 exception will protect the correlative rights of Callon.

Conclusions of Law

1. Proper notice of hearing was timely issued to appropriate persons entitled to notice. See, e.g., Tex. Gov't Code §§ 2001.051, 052; 16 Tex. Admin. Code § 1.42.
2. The Commission has jurisdiction in this case. See, e.g., 16 Tex. Nat. Res. Code §81.051.
3. Diamondback's application for an exception to Statewide Rule 40 for the Bushwacker Unit NW 33-21 Lease, Well No. 702H and Bushwacker Unit SW 33-21 Lease, Well No. 604H and future wells is necessary to prevent waste and protect correlative rights.

Therefore, it is **ORDERED** that the Bushwacker Unit NW 33-21 Lease, Well No. 702H and Bushwacker Unit SW 33-21 Lease, Well No. 604H and future wells are **GRANTED** an exception to Statewide Rule 40 (16 Tex. Admin. Code § 3.40) in the Phantom (Wolfcamp) Field as shown on Attachment A to the Final Order. The entirety of Section 21 may be assigned for drilling, development or for allocation of allowables or other purposes to this well, or to anyone or more additional wells on the same lease or pooled unit, or to any production sharing unit or allocation well including this lease or unit so long as the well density for wells below the depth severance complies with §3.38 and §3.40 of the Commission's statewide rules and/or special field rules, and any amendments and/or revisions thereof.

Pursuant to § 2001.144(a)(4)(A), of the Texas Government Code, and by agreement of the parties in writing or on the record, **the parties have waived the right to file a motion for rehearing and the Final Order in this case is final and effective on the date the Master Order relating to the Final Order is signed.**

Signed on March 4, 2020

RAILROAD COMMISSION OF TEXAS

**(Order approved and signatures affixed by
Hearings Division's Unprotested Master
Order dated March 4, 2020)**

Surface



Center of the Earth

Diamondback Exhibit No. 7
Oil & Gas Docket No. 08-0322573
October 9, 2019

Bushwacker

Diamondback Exhibit No. 12
 Oil & Gas Docket No. 08-0322573
 October 9, 2019

