



# RAILROAD COMMISSION OF TEXAS

## HEARINGS DIVISION

February 12, 2013

**Rule 37 Case No. 0277186**  
**Status No. 712543**  
**District 9**

---

**APPLICATION OF CHESAPEAKE OPERATING, INC. FOR A RULE 37 EXCEPTION FOR ITS LANCASTER LEASE, WELL NO. 1H, NEWARK EAST (BARNETT SHALE) FIELD, TARRANT COUNTY, TEXAS.**

---

**FOR APPLICANT:**

Glenn Johnson, Attorney  
Will Jordan, Attorney  
David Triana, Petroleum Engineer  
Bill Spencer, Regulatory Consultant  
Melissa Condley, Reservoir Engineer

**APPLICANT:**

Chesapeake Operating, Inc.

**FOR PROTESTANTS:**

J. Michael Ferguson, Attorney  
  
Kenneth Meisner  
  
Mark Hixson

**REPRESENTING:**

Home Buyer Solutions  
Heritage Oil and Gas  
  
Himself and Owners of 20 Tracts  
  
Himself, Madrid Royalties and Metro Royalty

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

<b>APPLICATION FILED:</b>	June 16, 2013
<b>NOTICE OF HEARING:</b>	July 30, 2013
<b>HEARD BY:</b>	Marshall Enquist - Hearings Examiner Paul Dubois - Technical Examiner
<b>HEARING DATE:</b>	September 19, 2013
<b>HEARING CLOSED DATE:</b>	October 30, 2013
<b>PFD CIRCULATED:</b>	February 12, 2014

**STATEMENT OF THE CASE**

In this docket, Applicant Chesapeake Operating, Inc. (“Chesapeake”) seeks a permit allowing it to fully perforate its proposed Lancaster Unit Well No. 1H. Protestant J. Michael Ferguson (“Ferguson”) argues that Chesapeake has ignored his client’s offer to lease and that if the requested permit is granted, his client’s correlative rights will be affected and they will not be able to obtain their fair share of natural gas. Protestant Mark Hixson (“Hixson”) argues that Chesapeake has obtained drilling permits for the well at issue in this hearing despite the presence of unleased tracts on the wellpath. Protestant Hixson also argues that unleased mineral owners should be allowed to participate in the subject well on the same basis as the unleased mineral owners in the Finley case <sup>1</sup>. Protestant Kenneth Meisner (“Meisner”) argues that Chesapeake’s previous Commission-approved permits for the well should be considered void as the wellbore was drilled through unleased tracts, thereby committing an impermissible mineral trespass.

Chesapeake Operating, Inc. (“Chesapeake” or “Applicant”) seeks a drilling permit pursuant to the provisions of Statewide Rule 37 for its Lancaster Unit, Well No. 1H, a horizontal well in the Newark East (Barnett Shale) Field, Tarrant County, Texas. Chesapeake previously filed an application for Well No. 1H which was granted on June 7, 2013. This permit provided Chesapeake the authority to drill its Lancaster Unit Well No. 1H at a time when the unit consisted of 508.957 leased acres within the boundaries of a 604.075-acre unit. The permit was restricted by “no perforation zones” (NPZs) and was approved administratively.

After Chesapeake received the grant of its drilling permit restricted by NPZs, and after acquiring more leases, Chesapeake filed the present permit application for 549.03 leased acres on June 18, 2013. By the time of the hearing, the Lancaster Unit had grown to 552.518 leased acres within the boundaries of a 632.109-acre unit.

The surface location of Well No. 1H is on-unit. It is 156 feet from the south line and 427 feet from the east line of the unit and 802 feet from the south line and 1938 feet from the east line of the S.G. Jennings Survey, Abstract No. 843. The proposed penetration point is 1399 feet from the south line and 654 feet from the east line of the unit. The terminus is 666 feet from the north line and 685 feet from the west line of the unit and 389 feet from the south line and 643 feet from the east line of the J.E. Brandon Survey, Abstract No. 209. The lateral runs on a SSW-NNE trend.

A Rule 37 exception is needed for the Lancaster Unit, Well No. 1H, because the section of the well proposed to be perforated is closer than 330 feet to the boundary of unleased tracts which are internal to the unit. Protestant Ferguson appeared and represented Home Buyer Solutions and Heritage Oil and Gas. Protestant Mark Hixson appeared at the hearing and represented himself, Madrid Royalties and Metro Royalty. Kenneth Meisner appeared at the hearing representing 20 tract owners who contend

---

<sup>1</sup> Oil & Gas Docket No. 09-0252373: Application of Finley Resources, Inc. for the Formation of a Unit Pursuant to the Mineral Interest Pooling Act for the Proposed East Side Unit, Newark, East (Barnett Shale) Field, Tarrant County, Texas.

they are unleased mineral owners.

Special field rules for the Newark, East (Barnett Shale) Field provide for 330 foot lease line spacing. As to horizontal wells, where the horizontal portion of the well is cased and cemented back above the top of the Barnett Shale formation, the distance to any property line, lease line, or subdivision line is calculated based on the distance to the nearest perforation point in the well, and not based on the penetration point or terminus. Where an external casing packer is placed in a horizontal well and cement is pumped above the external casing packer to a depth above the top of the Barnett Shale formation, the distance to any property line, lease line, or subdivision line is calculated based on the top of the external casing packer or the closest open hole section in the Barnett Shale. The standard drilling and proration unit for the Newark, East (Barnett Shale) Field is 320 acres. An operator is permitted to form optional drilling units of 20 acres.

### **MATTERS OFFICIALLY NOTICED**

The examiners have taken Official Notice of Complaint File 2013-082, which is the complaint of Kenneth Meisner regarding Chesapeake Operating, Inc.'s Lancaster lease, Well Nos. 1H and 2H. The examiners have also taken Official Notice of Complaint File 2013-089, which is the complaint of James Kirk Lancaster regarding Chesapeake Operating, Inc.'s Lancaster Lease, Well Nos. 1H and 2H. Those complaints relate directly to this permit application and the examiners have considered those complaints in reaching the recommendation in this docket.

### **DISCUSSION OF THE EVIDENCE**

#### **CHESAPEAKE OPERATING, INC.**

The present application is Chesapeake's sixth for the Lancaster Lease, Well No. 1H. The first application was submitted March 22, 2011 as a surface location permit on a 35.45-acre unit, which Chesapeake stated was necessary to begin the permitting process with the City of Fort Worth.

Chesapeake's second application, filed May 2, 2012 and granted on May 15, 2012, conferred what Chesapeake refers to as a "long lateral, short perforation" permit on 498.02 leased acres. The lateral, from PUPP (proposed upper perforation point) to PLPP (proposed last perforation point) was 4,202.16 feet long and the actual perforation interval was 329.41 feet long. Based on this permit, Chesapeake spudded Well No. 1H on June 20, 2012, drilling and cementing the well to total length.

The third application for the well was filed on May 31, 2012. Notice by publication was required. During the time the application was pending, the Commission received a letter from Mark Hixson dated October 11, 2012, stating that a tract, identified as Tract No. 810, had its lease nullified through foreclosure by a Trustee's Deed filed of record on April 25, 2012, and that a corner of the tract was within 330 feet of the applied-for wellbore. Mr. Hixson's letter alleged a lack of notice. The mineral rights to the tract were acquired by Madrid Royalties, which is represented by Mr. Hixson. The Commission also received, on December 4, 2012, a letter dated November 29, 2012, apparently written

by Kenneth Meisner<sup>2</sup> but signed by James Randy Isham, who indicated that Tract No. 762 was unleased. That tract was foreclosed on July 7, 2009, thus voiding the existing lease, and was then purchased by Mr. Isham on October 21, 2009. The letter also referenced another property, Tract No. 1063, that had been foreclosed on by Trustee's Deed on June 12, 2012, again voiding an existing lease, and had become the property of James Kirk Lancaster. An accompanying plat indicated the wellpath of the Well No. 1H went through a corner of each property.

Chesapeake believes it corrected any problems in its third application related to tracts that had become unleased through foreclosure. On December 17, 2012, Chesapeake leased Tract No. 762 from Mr. Isham and leased Tract No. 1063 from Jack Travis Moore, who had purchased the tract from Mr. Lancaster. Chesapeake requested that the third application be granted administratively with NPZ restrictions accounting for the other protesting tracts. Chesapeake's third application was granted on December 21, 2012. The NPZ restrictions prevented any perforations within 330 feet of Tract No. 810. The unit had grown to 508.11 leased acres within a 604.075-acre unit. The full lateral length was 5,789.95 feet, with a perforated lateral length of 1,137.23 feet and a non-perforated lateral length of 4,652.72 feet. Chesapeake notes that this permit superceded the permit granted on May 15, 2012.

The fourth application for the subject well was filed on January 4, 2013. This application received numerous protests and allegations that various lots were not leased. A letter from Kenneth Meisner dated February 8, 2013, stated that the lease granted by Anita Ford on her property at 2852 Major Street had expired, but no tract number was given. A letter from Kenneth Meisner dated February 15, 2013 signed by Lesley Nerio stated that the lease on her tract at 2205 Forest Avenue had expired on July 1, 2011, after the three year primary term expired. No tract number was provided for 2205 Forest Avenue. A letter from Mr. Meisner dated February 1, 2013 signed by Randy Isham, stated that the lease on his tract at 6709 Norma Street, which is Tract No. 762, had expired on November 14, 2012. A letter from Mr. Meisner dated February 14, 2013 signed by Zachary Robbins stated that his property had previously been leased by Lloyd Jones, but that the lease was terminated by a foreclosure to FNMA which took place March 6, 2012, recorded March 14, 2012. A corner of this tract (Tract No. 642) falls within 330 feet of the applied-for wellbore. The letter notes that this tract was unleased at the time that Chesapeake received an NPZ-restricted drilling permit around May 2, 2012 (the permit referred to was granted on May 15, 2012). Chesapeake withdrew its fourth application on March 4, 2013.<sup>3</sup>

A fifth application was filed on May 31, 2013 and was approved on June 7, 2013. Leased acreage had increased slightly to 508.957 acres within a 604.075-acre unit. The perforated lateral length was 872.90 feet out of a total lateral length of 4,408.42 feet, a reduction in perforated lateral length from

---

<sup>2</sup> The Commission has received numerous letters regarding the Chesapeake applications on the Lancaster Unit. With the single exception of one letter written by Susan Hyde, all have apparently been written by Kenneth Meisner. The letters are all in an identical format and all are written in the distinctive idiom of Mr. Meisner, though they purport to represent the views of the individuals whose names are found on the signature line.

<sup>3</sup> A search of the Commission website will not reveal the filing of the fourth application if viewed on the publicly available site, which only shows pending and approved applications. The fourth application, which was withdrawn and is no longer pending, can only be accessed with an online log-in.

the third granted application (See Exhibit I). Chesapeake characterizes this application as a long lateral, short perforation application, and notes again that this permit supercedes the previously granted permits.

In the present application, filed on June 18, 2013, the sixth in the series, Chesapeake seeks a permit allowing it to fully perforate its Well No. 1H on the Lancaster Unit. At the time the June 7, 2013 permit was approved, the Lancaster Unit contained 508.97 leased acres within a 604.075-acre unit. When the present application was filed, the Lancaster Unit consisted of 549.03 acres. At the time of the hearing in this docket, on September 19, 2013, the leased acreage had increased to 552.518 acres within a larger 632.109-acre unit (See Exhibit II). Chesapeake states the unit is 87.4 percent leased.

Based on an earlier permit granted on May 15, 2012, Well No. 1H was drilled and cemented. The well was spudded on June 20, 2012 and completed on July 1, 2012. Stage 1 of the well was perforated between February 8, 2013 and February 11, 2013. Chesapeake believes that the spudding and drilling of the well on June 20, 2012 holds its leases under their own terms, even if the permit obtained on May 15, 2012 was defective. Chesapeake believes that any dispute over the effect of spudding the well as to the continuing validity of leases cannot be resolved at the Commission and must be resolved in district court.

An isopach map derived from the logs of nearby wells indicate the Barnett Shale is roughly 340 feet thick under the Lancaster Lease. Devon Energy Production Co., LLP conducted a study of the Tarrant/Denton/Wise County area which calculated total gas in place at 139 BCF per square mile in those counties, based on an average formation thickness of 433 feet, porosity of 0.04% and TOC (Total Organic Carbon) of 4%. Using that study, and correcting for the thickness of the Newark, East (Barnett Shale) Field under the Lancaster Lease and the leased acreage, Chesapeake calculated the original gas in place in the 552.518 leased acres of the Lancaster Lease to be 94.226 BCF. Assuming a recovery factor of 46 percent, Chesapeake calculates there is 43.344 BCF of recoverable gas beneath the Lancaster Lease.

Chesapeake reviewed the Newark, East (Barnett Shale) Field wells within a four mile radius of the Lancaster Unit, finding 107 wells within that radius. Plotting the estimated ultimate recovery of each of those wells, Chesapeake developed a scatter diagram and used a least squares regression method to produce a trend line to predict the ultimate recovery of a well in the area based on its length. Based on the scatter diagram, with the drainhole length as the "x" axis and the estimated ultimate recovery in MMCF as the "y" axis, Chesapeake derived a well recovery formula of " $y = 0.6335x + 1494$ ". This formula indicates each incremental foot of wellbore will recover 0.635 MMCF of gas. The 1494 is the amount of gas, in MMCF, that Chesapeake would expect to recover with a vertical wellbore and no incremental horizontal drainhole length. Thus, Chesapeake calculates its proposed full-length lateral for Well No. 1H of 5964 feet will recover 5.272 BCF of gas.

Chesapeake presented its calculation of hydrocarbon recovery under the current permit plus the additional regular well length due to additional leasing. Well No. 1H would have a lateral 5,963.59 feet long with a perforated lateral length of 1,551 feet, with no-perforation zones totaling 4,413 feet, resulting in a recovery of 2.477 BCF for the partially perforated wellbore. A fully perforated lateral

would recover 5.272 BCF, so the no-perforation zone restricted lateral would fail to recover 2.795 BCF of gas.

Chesapeake next calculated the recovery of the lateral if restricted by the tracts represented by Mr. Hixson and Mr. Meisner. In that case, the perforated lateral length would be 2860 feet, recovering 3.306 BCF. The no-perforation zone restricted lateral would fail to recover 1.966 BCF of otherwise recoverable gas.

If the tracts represented by Mr. Ferguson restrict the perforated lateral, there would be 5,304 feet available for completion. This would allow an ultimate recovery of 4.418 BCF of gas, leaving 0.418 BCF of gas unrecovered.

In any of the three scenarios recounted above, whether the unrecovered hydrocarbons are 2.795 BCF, 1.966 BCF or 0.418 BCF, the amount of unrecovered hydrocarbons is significant. Chesapeake asks that the Commission remove all current no-perforation zone restrictions on its Well No. 1H and allow perforation of the full lateral of Well No. 1H so that Chesapeake's leased mineral owners will be able to avoid confiscation of their minerals.

Chesapeake presented an exhibit showing that, based on the number of lots currently leased, it conceivably might need at least five wells to recover the gas in place beneath the Lancaster Unit. However, due to the location of unleased tracts, it would not be feasible to drill additional wells at this time. If the permits for Well Nos. 1H and 2H are granted, and additional tracts are not leased, any future wells would almost certainly be forced into paths within 330 feet of Well Nos. 1H and 2H, leading to well interference upon fracturing. Movement of Well No. 1H to the east would interfere with the placement of proposed Well No. 5H. Movement of Well No. 1H to the west would interfere with the placement of proposed Well No. 3H.

Chesapeake is aware that two of the protestants, Hixson and Meisner, believe that many of Chesapeake's leases have lapsed. Chesapeake believes they are incorrect. In a very few cases in which leased tracts were foreclosed on, thus terminating the leases on those tracts, Chesapeake has acted to lease those tracts again and has filed subsequent applications for drilling permits. Chesapeake argues that the subsequently granted applications supercede and correct earlier granted applications that may have had defects. Chesapeake also argues that the protestants are asking the Commission to make property rights determinations which should be pursued in District Court.

### **PROTESTANTS' POSITION AND EVIDENCE**

#### **J. Michael Ferguson**

Mr. Ferguson represents two entities: Heritage Oil and Gas and Home Buyer Solutions. Collectively, Mr. Ferguson represents four tracts, two of which lie within 330 feet of the wellbore of the Lancaster 1H. Mr. Ferguson's clients have made an offer to participate in the well if Chesapeake will provide an invoice, but Chesapeake has ignored the offer. If Chesapeake is granted a permit, the

correlative rights of Mr. Ferguson's unleased clients will be affected and they will be unable to recover their fair share of natural gas.

Mr. Ferguson presented witness Samantha Richerson, who works for All American Royalties, which manages the mineral interests of Heritage Oil and Gas as well as Home Buyer Solutions. Of the four tracts All American Royalties manages, an offer to lease two of the tracts was made to Dale Properties, which works with Chesapeake, two weeks prior to the hearing. There was no response from Dale Properties. As to the two other properties, which are within 330 feet of Well No. 1H, All American Royalties contacted Chesapeake directly, through its attorneys. One of those attorneys contacted by email on September 9, 2013 was Glenn Johnson, who replied on September 11, 2013 that he had received the email.

Mr. Ferguson requests that the Commission deny Chesapeake's request to perforate the full wellbore length of the Well No. 1H as this would result in the confiscation of his client's minerals.

#### Mark Hixson

Mr. Hixson, like his fellow protestant Mr. Meisner, believes that Chesapeake lost a number of leases in the Lancaster Unit because it failed to extend those leases past their five-year primary term, which began in most cases in 2007. The Chesapeake leases, acquired from Paloma Barnett, LLC, contained a provision for an additional extension period upon payment of additional bonus. Chesapeake could have paid the additional bonuses if it wanted to perpetuate its leases, but chose not to do that. Instead, Chesapeake made an economic decision to proceed with a Rule 37 case in order to confiscate the gas of unleased mineral owners. Mr. Hixson presented a plat showing that the path of the Well No. 1H goes through Tract Nos. 439, 440, 659, 639, 1068, 730, 731, 732, 735, 850, 753, 752, 762, 296C, 805, 801, 802 and 909, which Mr. Hixson believes to be currently unleased as a result of Chesapeake's failure to extend the primary term of those leases. Mr. Hixson asserts that the Commission cannot grant a permit for a well that does not have a clear wellbore path and should order that any well trespassing against unleased mineral acreage be plugged.

Mr. Hixson believes the Commission is a representative of the people of Texas and should protect the rights of the people. The Commission is where people come when they have a grievance. Mr. Hixson protests the confiscation and taking of his mineral rights by Chesapeake Energy in its application for an exception to Statewide Rule 37. He asserts that a grant of the Statewide Rule 37 permit would be tantamount to reverse forced pooling of the unleased properties that lie within the envelope that describes the distance 330 feet from the perforated well path. Mr. Hixson considers this the involuntary appropriation of his mineral rights. Mr. Hixson requested that, if the permit is granted, the protestants be granted the terms prescribed by the Commission for combined royalty and working interest in the Final Order of the Finley Resources case dated August 25, 2008.

Mr. Hixson additionally indicated that, should the Chesapeake Rule 37 exception application be granted, he would be willing to participate in the well on the same basis as anyone else. If Chesapeake submits a bill for his portion of the drilling expenses, he will pay it.

Kenneth Meisner

Mr. Meisner represents himself and the owners of 20 tracts: Jeff Woodfin, Leroy Edward Couture, Winnie L. Sutton, John W. Harper, Betty Darlene Brown, Andrew Simcock, Milton & Charlene Huggins, Zachary & Alyssa Robbins, Ralph M. Engstrom, Patsy A. Kelly, Linda Daugherty, Miguel & Lizbeth Villegas, Carlos & Martina Olmos, David & Mary Diane George, Linda Quinones, James & Margaret Borchert, the Bettie Borchert Estate, James Kirk Lancaster, James Randy Isham and Anita K. Ford.

Mr. Meisner believes that the drilling permit for the Lancaster Unit, Well No. 1H that was granted to Chesapeake on May 15, 2012 was invalidated by a fact not disclosed to the Commission, that fact being that there were unleased tracts directly on the path of the wellbore. Mr. Meisner refers to unleased tracts directly on the path of the Well No. 1H as "well blockers". After the grant of the permit for the Well No. 1H, Chesapeake spudded the well on June 20, 2012 and drilled it to full length, but did not complete it.

It is Mr. Meisner's understanding that the Railroad Commission does not grant permits to drill through unleased tracts. The unleased tracts directly on the wellpath of the Well No. 1H are Tract Nos. 762 and 1063. It is Mr. Meisner's belief that the May 15, 2012 drilling permit was invalidated by the presence of unleased tracts which were drilled through, and, therefore, the actual drilling of the well is of no legal effect. In addition, Mr. Meisner notes that Tract No. 642 was foreclosed on March 6, 2012 and, on November 14, 2012, was purchased by Zachary Robbins. A corner of this tract was within 330 feet of the proposed wellbore, but notice of application was not provided to the Federal National Mortgage Association, the foreclosing entity, or to Mr. Robbins, the subsequent purchaser. The lack of notice to these two parties also would invalidate the permit.

Mr. Meisner notes that the great majority of the leases that make up the Lancaster Unit were taken in 2007, and had five year primary terms with provisions for an extension, depending on the lease signed, of two or five years. A few of the leases did not make any provision for an extension past the primary term. The two or five year extension was only available if Chesapeake, in the absence of operations, paid an additional bonus amount. Mr. Meisner believes Chesapeake has never paid the bonus amount for a lease extension to any of its Lessors.

One lease, to Lesley McCurley Nerio, had a primary term of only 3 years and, according to her, expired on July 1, 2011. However, Mr. Meisner states that Ms. Nerio was re-leased by Chesapeake within a week of her complaint. Likewise, Mr. Meisner notes that another tract, Tract No. 1115, was foreclosed against Debra Wall on September 4, 2012, and recorded on September 25, 2012, but that this tract was soon leased by KCF Properties, and is currently shown as leased to Chesapeake.

Chesapeake asserts that it leased Tract No. 1063 from Jack Travis Moore on December 17, 2012. Mr. Meisner disagrees. Tract 1063 was originally leased to Dale Property Services by John Roger Leyhe and Melissa Bailey Leyhe on August 26, 2010. The tract was foreclosed by K. Lancaster Properties, LLC on June 6, 2012. By Special Warranty Deed dated July 5, 2012 and recorded on August 3, 2012,

the same property was sold by Lancaster Crowley Investment, LLC to Jack Travis Moore. The seller's signature on the document is J.K. Lancaster. Mr. Moore leased the minerals to Chesapeake on December 17, 2012. On March 19, 2013, the Trustee (Franz Loriega) on the original foreclosure on June 6, 2012, filed a "Correction Instrument as to a Recorded Original Instrument", correcting the July 5, 2012 Special Warranty Deed from Grantor Lancaster Crowley Investment, LLC to Grantee Jack Travis Moore by changing the Grantor to K. Lancaster Properties, LLC. Subsequently, Mr. Moore sold the property back to K. Lancaster Properties, LLC on June 21, 2013.

Chesapeake bases its good faith claim to title on the lease of Tract 1063 from Jack Travis Moore, and states that when Mr. Moore sold the property back to K. Lancaster Properties, LLC on June 21, 2013, he sold back the surface estate only. Mr. Meisner disagrees, and states that the sale of Tract No. 1063 to Jack Travis Moore was from the wrong entity and that the March 19, 2013 corrective instrument filed by Trustee Franz Loriega was of no legal effect because it violates Texas Property Code §5.028 in that the change was material as opposed to nonmaterial.

Mr. Meisner's position is twofold. First, that Chesapeake's spud of the Well No. 1H on June 20, 2012 under the May 15, 2012 permit was invalid and of no legal effect due to unleased tracts in the path of the wellbore, and, second, because the drilling and completion of Well No. 1H was invalid and of no legal effect, Chesapeake's leases began terminating at the end of their five year primary terms because Chesapeake did not pay for extensions to its leases. By letter dated June 27, 2013, Mr. Meisner provided the Commission a list of the expired leases and requested an administrative review of the matter. The earliest date of lease expiration of a tract directly on the wellpath of the Well No. 1H was August 14, 2012. Mr. Meisner alleges seventeen leases directly on the wellpath of the Well No. 1H have expired. The earliest date of expiration of leases which are not directly on the wellpath but still within the 330-foot leaseline spacing distance of the Well No. 1H was July 30, 2012. Mr. Meisner alleges seventeen leases within 330 feet of the path of Well No. 1H, and therefore entitled to notice of any application, have expired.

Mr. Meisner later provided the Commission a list of leases and lessors whose leases expired in 2012 and who did not receive notice of Chesapeake applications subsequent to Mr. Meisner's June 27, 2013 letter. This lack of notice further invalidates Chesapeake applications.

Mr. Meisner's closing statement, made on behalf of the individuals he represents, included a protest that has been made in several Commission hearings:

We protest the attempted confiscation and taking of our mineral rights by Chesapeake in its application for an exception to statewide spacing rule 3.37. We declare that this action constitutes and is tantamount to a reversed force pooling on the unleased properties lying within an envelope which describes a distance of 330 feet from the perforated well path. We consider this to involve the involuntary appropriation of our mineral rights. We ask that if this course is forced upon us by the decision of the Commission, we be granted, at the very least and at our choosing, the terms prescribed by the Commission for a combined royalty and working interest in the final order of the

Finley Resources case dated August 25, 2008.

### EXAMINERS' OPINION

Chesapeake's application to perforate the entire wellbore of its Well No. 1H on the Lancaster Unit is a standard application as to the technical merits of the case. It is, however, complicated by allegations that preceding applications and granted permits were flawed due to Chesapeake's failure to account for unleased tracts that it drilled through and Chesapeake's failure to give notice to owners of tracts whose leases terminated due to a failure to pay for lease extensions. The different aspects of this case are here taken in turn.

#### I. Chesapeake's Technical Case

It is the basic right of every landowner or lessee to a fair and reasonable chance to recover the oil and gas under their property as recognized by the Texas Supreme Court in Gulf Land Co. v. Atlantic Refining Co., 131 S.W.2d 73, 80 (Tex. 1939). Denial of that fair chance is confiscation within the meaning of Rule 37. *Id.* To obtain an exception to Statewide Rule 37 to protect correlative rights and prevent confiscation, the applicant must show that 1.) it is not possible for the applicant to recover its fair share of minerals under its tract from regular locations; and 2.) that the proposed irregular location is reasonable.

The examiners are of the opinion that approval of the Statewide Rule 37 exception requested by Chesapeake is necessary to prevent confiscation and protect correlative rights. Chesapeake and its lessors are entitled to recover their fair share of gas from beneath the Lancaster Lease. "Fair share" is measured by the currently recoverable reserves beneath the lease, which in this case is 43.344 BCF. The evidence shows that it is not feasible for Chesapeake to recover its fair share of gas from regular locations in the unit. More than 87% of the tracts within the boundaries of the Lancaster Unit are under lease to Chesapeake. The Lancaster Lease Well No. 1H, at its full length of 5964 feet is projected to recover 5.272 BCF of gas. Restrictions that might be imposed on the well by "no perforation zones" from the prior permit or restrictions to accommodate tracts represented by Mr. Hixson, Mr. Meisner or Mr. Ferguson would result in failure to recover 2.795 BCF of gas (NPZs on prior permit), 1.966 BCF of gas (Hixson and Meisner) or 0.418 BCF of gas (Ferguson). The examiners find that these are substantial quantities of recoverable hydrocarbons that would not be recovered if NPZs are imposed on the wellbore of Well No. 1H on the Lancaster Unit.

The issues raised by Mr. Ferguson, Mr. Hixson and Mr. Meisner, regarding the alleged confiscation of their mineral rights, may be remedied in four ways. First, they have the option of leasing their minerals to Chesapeake so that they may receive royalty payments for the recovery of their proportional share of the minerals in the Lancaster Lease. Second, they may resort to District Court for a determination whether the leases for one or more tracts traversed by the wellbore have expired. Third, they have the right to choose to lease to another operator or to seek a permit to drill their own wells on their mineral property. Although the practicality of this remedy is doubtful due to the small size of the protestants' tracts, it is a potentially available remedy under the law. Fourth, they may file for a Mineral Interest Pooling Act hearing at the Commission and attempt to force pool their tracts into the Lancaster

Unit.

The remedy proposed by Mr. Hixson and Mr. Meisner, that they be included in the unit as both royalty owners and working interest owners as per the Commission's Final Order dated August 25, 2008 in the Finley Resources case, is not available in this docket. The Finley Resources docket was heard pursuant to the Mineral Interest Pooling Act, while the present docket is a Statewide Rule 37 exception case.

The examiners find that the location of Well No. 1H is reasonable as a first well in the development of a unit that will ultimately require as many as five wells in a development pattern designed to recover Chesapeake's fair share of the gas in place beneath the Lancaster Unit. In addition, the examiners find that Chesapeake has demonstrated a good faith claim to the leases on 87% of the acreage within the Lancaster Unit.

The examiners recommend that Chesapeake's application to perforate the entire lateral of its Well No. 1H on the Lancaster Unit be approved. Imposition of wellbore restrictions on Well No. 1H on the Lancaster Unit would result in the confiscation of the fair share of reserves attributable to Chesapeake and its lessors.

## II. Invalid Permits and Lease Terminations

Mr. Meisner has alleged that the permit granted to Chesapeake for its Well No. 1H on May 15, 2012 is null and void due to the fact that the wellbore was drilled through tracts (Tract Nos. 762 and 1063) that had been foreclosed on and were not under lease to Chesapeake, thereby resulting in a mineral trespass. Mr. Meisner also notes that another tract (Tract No. 642) was foreclosed on, thus voiding the previous lease to Chesapeake, and that the new owner of the tract, Zachary Robbins, was not provided notice of the application, which also renders the granted permit void.

Mr. Meisner goes on to draw the conclusion that the spudding of Well No. 1H on June 20, 2012 and its unperforated completion on July 1, 2012, was of no legal effect in maintaining the Chesapeake leases and that those leases began to expire at the end of their primary terms because Chesapeake failed to make payments for the extension of the leases. While this may be Mr. Meisner's strong personal belief, he has failed to consider Commission precedent and relevant Texas legal decisions.

Chesapeake has not disputed the fact that the permit obtained on May 15, 2012 failed to account for three tracts, Tracts Nos. 762, 1063 and 642, that had been foreclosed on. If the Commission requires Chesapeake to defend the viability of its May 15, 2012 drilling permit in a "Show Cause" hearing, it is highly probable that the May 15, 2012 permit will be found void *ab initio*. However, the Commission has dealt with an analogous situation previously in the "Buffalo Bill" docket.<sup>4</sup>

---

<sup>4</sup> Oil & Gas Docket No. 09-0273959: Commission Called Hearing to Provide Chesapeake Operating, Inc. an Opportunity to Show Cause Why Drilling Permit No. 703664 Issued November 12, 2010, for the Buffalo Bill Lease, Well No. 1H, Newark, East (Barnett Shale) Field, Johnson County, Texas, Should Not be Declared Invalid and/or Revoked for Failure to Provide Notice as Required by Statewide Rule 37.

The basic facts in the Buffalo Bill case are similar to those in the present case, and, in fact, involved one of the protestants in the present case, Mark Hixson. In that case, Chesapeake was granted a permit on November 12, 2010. The well was drilled and completed by December 11, 2010. Mr. Hixson complained that Chesapeake failed to give notice to Hixlo, a Mark Hixson company, of its application to drill a well within a Rule 37 distance, 330 feet, of unleased undivided interests owned by Hixlo in 7 tracts of land. Upon receipt of the complaint, Complaint File 2011-120 was created by the Commission. In response to the Complaint, Chesapeake admitted that Hixlo was an unleased owner entitled to notice and that Chesapeake had erroneously failed to provide notice to Hixlo.

A “Show Cause” hearing was set in the matter, resulting in examiners James M. Doherty and Richard Atkins issuing a PFD which found that the November 12, 2010 permit was void *ab initio*. However, the PFD also found that since completing the well on December 11, 2010, Chesapeake 1.) had performed a gel squeeze in the well to isolate a saltwater invasion problem, the gel squeeze plugging any perforations within 330 feet of the Hixlo tracts, and 2.) had obtained an amended permit on February 15, 2012 which superceded the November 12, 2010 permit. Due to the plugged perfs eliminating any perfs within 330 feet of the Hixlo property, the examiners found that Hixlo was no longer an affected party and had no standing to complain of the amended drilling permit. In addition, the examiners found that the superceding permit granted to Chesapeake on February 15, 2012 had mooted the complaint that the subject well should be plugged. Due to Complainant’s lack of standing and the fact that Chesapeake had obtained a valid permit for its well, examiners Doherty and Atkins recommended that the “Show Cause” docket be dismissed.

There are similar facts in the present Lancaster Unit case. Chesapeake acknowledges that its second permit for its Well No. 1H, granted May 15, 2012, was obtained without notice to Zachary Robbins, the owner of Tract 810, and that the application failed to account for two previously leased tracts which had suffered lease termination through foreclosure and that had then been drilled through. However, Chesapeake subsequently leased the two foreclosed properties on its wellpath on December 17, 2012 and was granted a permit on December 21, 2012.

Chesapeake obtained a fifth permit for its Well No. 1H on June 7, 2013, after defining a “no perforation zone” that ensured no perforations would be within 330 feet of Zachary Robbins Tract No. 642, and the Madrid Royalties Tract No. 810. Both tracts are shown on Chesapeake’s list of unleased tracts. Thus, Chesapeake has a valid permit for its Well No. 1H that properly accounts for Tracts Nos. 762, 1063, 642 and 810. The June 7, 2013 permit supercedes all previous permits, mooting the complaints based on the unleased nature of those tracts.

Based on the fact that Chesapeake’s Well No. 1H passed through two unleased tracts, Mr. Meisner believes that the May 15, 2012 permit had no legal effect and that Chesapeake’s leases began to terminate as of July 30, 2012. Mr. Meisner has provided the Commission with a list of 34 leases he believes have terminated. There are two problems with the theory that the Chesapeake leases began terminating on July 30, 2012.

The first problem is that the leases under discussion (all essentially identical) state:

“If, at the expiration of the primary term, Lessee is conducting operations for drilling, completing or reworking a well, this lease shall continue as long as such operations are prosecuted or additional operations are commenced and prosecuted (whether on the same or successive wells) with no cessation of more than 90 days, and, if production is discovered, this lease shall continue as long thereafter as oil or gas are produced.”

The leases further state that “Drilling operations or mining operations shall be deemed to be commenced when the first material is placed on the leased premises or when the first work, other than surveying or staking the location, is started thereon which is necessary for such operations.”

Further, the leases state:

“Notwithstanding anything to the contrary contained in this lease, at the option of the Lessee, which may be exercised by Lessee giving notice to the Lessor, a well which has been drilled and Lessee intends to frac shall be deemed a well capable of producing in paying quantities and the date such well is shut-in shall be when drilling operations are completed.”

Chesapeake’s spud date of June 20, 2012 and its July 1, 2012 completion appear to qualify as operations for drilling sufficient to hold and perpetuate the leases past their primary term. Ultimately, whether or not this is correct is a question that can only be resolved in district court. The Commission has no authority to determine property rights or determine whether or not a lease has terminated. “The Railroad Commission has no power to determine property rights.” Jones v. Killingsworth, 403 S.W.2d 325, 328 (Tex. 1966). See also Ryan Consolidated Petroleum Corp. v. Pickens, 285 S.W.2d 201 (Tex. 1955); Magnolia Petroleum Co. v. Railroad Commission, 170 S.W.2d 189 (Tex. 1943); Nale v. Carroll, 289 S.W.2d 743 (Tex. 1956).

The second problem is that operations under an invalid permit may still be operations sufficient to hold a lease. Chesapeake has noted several cases standing for the proposition that leases, by their terms, are maintained by provisions in the lease terms, including operations, regardless of the regulatory status of those operations. In Duncan Land & Exploration, Inc. v. Littlepage, 984 S.W.2d 318 (Tex. App. - Fort Worth 1999, pet. denied), the court of appeals held that an operator’s production in violation of Commission rules and orders kept the lease in effect, even though the operator willfully and intentionally violated a Commission shut-in order. In Gray v. Helmerich & Payne, Inc., 834 S.W.2d 579 (Tex. App. - Amarillo 1992, writ denied), the court held that “operations” took place, even though the operator had not yet obtained a permit for those operations. In Estate of Grimes v. Dorchester Gas Producing Co., 707 S.W.2d 196 (Tex. App. - Amarillo 1986, writ ref’d n.r.e.), the court rejected an argument that a lease had terminated because the production was not legal production. In Mulvey v. Mobil Producing Texas and New Mexico, Inc., 147 S.W. 3d 594, 602 (Tex. App. - Corpus Christi 2004, pet. denied), the court held that fraudulent misrepresentations to the Commission to obtain a permit did not support a collateral attack on the validity of the order granting the permit.

The above case citations illustrate the distinction between the judicial determination of private property rights and agency regulation of drilling and production. If the protestants wish to prove that

the Chesapeake leases began terminating on July 30, 2012, that determination can only be obtained in district court. Armed with judicial findings of lease terminations, the protestants may then come back to the Commission for agency action consistent with the judicial findings. Under the present facts, Chesapeake has at least a good faith claim sufficient for the Commission to issue a permit.

Mr. Meisner disputes Chesapeake's December 17, 2012 lease of the mineral estate under Tract No. 1063 from Jack Travis Moore, as he believes Mr. Moore purchased the tract from an incorrect grantor, and that a subsequent attempt by the trustee to correct the name of the grantor violated Texas Property Code §5.028 by making a material change to the warranty deed as opposed to a nonmaterial change.

The fact remains that Jack Travis Moore obtained a Special Warranty Deed to Tract No. 1063 on July 5, 2012, signed by Grantor J.K. Lancaster, a principal in both Lancaster Crowley Investment, LLC and K. Lancaster properties, LLC, and subsequently leased the mineral estate to Chesapeake. This amounts to enough of a good faith claim to support issuance of a drilling permit. A final determination of the rights received by Mr. Moore, as well as a determination of the effect of the corrective instrument filed by Trustee Franz Loriga, is a matter for the district courts, as the Commission has no authority to determine property rights.

The complaints of Kenneth Meisner and James Kirk Lancaster raise issues that are properly decided in district court. For that reason, the examiners recommend that the complaints of Kenneth Meisner and James Kirk Lancaster be dismissed.

### Recommendation

The examiners recommend that Chesapeake be granted an exception to Statewide Rule 37 for its Well No. 1H on the 552.518 leased acres of the 632.109-acre Lancaster Unit in Tarrant County based on prevention of confiscation. The examiners also recommend that the complaints of Kenneth Meisner (Complaint No. 2013-082) and James Kirk Lancaster (Complaint No. 2013-089) be dismissed. 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. At least 10 days notice of this hearing was given to the designated operator, all offset operators, all lessees of record for tracts that have no designated operator, and all owners of record of unleased mineral interests for each affected adjacent tract.
2. Chesapeake Operating, Inc. ("Chesapeake" or "Applicant"), seeks an exception to Statewide Rule 37 for the Lancaster Lease, Well No. 1H, in the Newark, East (Barnett Shale) Field in Tarrant County.
3. On June 7, 2013, Chesapeake obtained a permit to drill Well No. 1H, at a Rule 37 location on what was at that time the 508.957 leased acres of the 604.075-acre Lancaster Unit, approved

administratively with a perforated lateral length of 872.90 feet and NPZs totaling 3,535.52 feet out of a total lateral length of 4,408.42 feet. The plat associated with that application is attached to this proposal for decision as Exhibit I. Exhibit I is incorporated into this finding by reference.

4. On June 18, 2013, Chesapeake submitted an application to remove the NPZs from the lateral of its Well No. 1H on its Lancaster Lease. Through additional leasing, the Lancaster Unit had grown to 632.109 acres, with 552.518 leased acres, an 87% lease rate, and the wellbore length Chesapeake requests a permit for has increased to 5,963.59 feet. The plat associated with that application is attached to this proposal for decision as Exhibit II. Exhibit II is incorporated into this finding by reference.
5. A Rule 37 exception is needed for the proposed Lancaster Lease, Well No. 1H, because sections of the well proposed to be perforated are closer than 330 feet to the boundaries of certain tracts internal to the unit that are unleased.
6. Special field rules for the Newark, East (Barnett Shale) Field provide for 330 foot leaseline spacing. As to horizontal wells, where the horizontal portion of the well is cased and cemented back above the top of the Barnett Shale formation, the distance to any property line, leaseline, or subdivision line is calculated based on the distance to the nearest perforation point in the well, and not based on the penetration point or terminus. Where an external casing packer is placed in a horizontal well and cement is pumped above the external casing packer to a depth above the top of the Barnett Shale formation, the distance to any property line, leaseline, or subdivision line is calculated based on the top of the external casing packer or the closest open hole section in the Barnett Shale. The standard drilling and proration unit for the Newark, East (Barnett Shale) Field is 320 acres. An operator is permitted to form optional drilling units of 20 acres.
7. The surface location of the Lancaster Unit, Well No. 1H is located on the unit. It is 156 feet north of the south line of the unit and 427 feet west of the east line of the unit, and 802 feet from the south line and 1938 feet from the east line of the S.G. Jennings Survey, A-843. The proposed penetration point is 1399 feet from the south line and 654 feet from the east line of the unit. The terminus is 666 feet from the north line and 685 feet from the west line of the unit and 389 feet from the south line and 643 feet from the east line of the J.E. Brandon Survey, A-209. The lateral runs in a NNE-SSW trend.
8. The Chesapeake application is opposed by J. Michael Ferguson, representing Home Buyer Solutions and Heritage Oil and Gas, which own four unleased tracts, including two that are within 330 feet of the Lancaster Unit. Mark Hixson represents Madrid Royalties, the owner of Tract No. 810, and Metro Royalty. Mr. Meisner represents the owners of twenty tracts, being Jeff Woodfin, Leroy Edward Couture, Winnie L. Sutton, John W. Harper, Betty Darlene Brown, Andrew Simcock, Milton & Charlene Huggins, Zachary & Alyssa Robbins, Ralph M. Engstrom, Patsy A. Kelly, Linda Daugherty, Miguel & Lizbeth Villegas, Carlos & Martina Olmos, David & Mary Diane George, Linda Quinones, James & Margaret Borchert, the Bettie Borchert Estate, James Kirk Lancaster, James Randy Isham and Anita K. Ford.

9. The Barnett Shale formation is present and productive under the entirety of the Lancaster Unit.
10. To establish the currently recoverable reserves under the 552.518 leased acres of the 632.109-acre Lancaster Unit, Chesapeake used a volumetric calculation:
  - a. Available well logs in the vicinity of the Lancaster Unit indicate the thickness of the Barnett Shale locally to be 340 feet.
  - b. A study conducted by Devon Energy Production Co., LLP for the Tarrant/Denton/Wise County area calculated original gas in place at 139 BCF per square mile in those counties, based on an average formation thickness of 433 feet, porosity of 0.04 and %TOC (Total Organic Carbon) of 4%. Using that study, and correcting for the thickness of the Newark, East (Barnett Shale) Field under the Lancaster Unit and the leased acreage, Chesapeake calculated the original gas in place in the 552.518 leased acres of the Lancaster Unit to be 94.226 BCF. Assuming a recovery factor of 46%, Chesapeake calculates there is 43.344 BCF of recoverable gas beneath the Lancaster Unit.
11. Chesapeake plotted drainhole length versus estimated ultimate recovery for 107 wells within a 4 mile radius of the applied-for well on a scatter diagram. Using the least squares regression method, Chesapeake derived a well recovery formula of " $y = 0.6335x + 1494$ ", with drainhole length represented by "x" and estimated EUR in MMCF represented by "y". This indicates that each incremental foot of horizontal wellbore will recover an additional 634 MCF of gas, while a purely vertical well would recover 1,494 MMCF.
12. The total usable length of the Well No. 1H drainhole, after removal of the NPZs placed on the subject well under the permit granted on June 7, 2013, is 5964 feet. Applying Chesapeake's calculated well recovery formula, Well No. 1H will have an estimated ultimate recovery of 5.272 BCF of gas.
13. As permitted on June 7, 2013, Well No. 1H was projected to be 4408.42 feet in length, with 3535.5 feet of NPZs and only 872.90 feet available for perforation. Since that time, due to additional leasing, Well No. 1H is projected to be 5964 feet in length and the length of wellbore available for perforation has grown to 1551 feet, leaving 4,443 feet subject to NPZ restrictions. Removal of the NPZ restrictions would result in the recovery of 2.795 BCF that would otherwise not be recoverable. If the wellbore is restricted by NPZs imposed by the tracts represented by Mr. Hixson and Mr. Meisner, the restricted lateral would fail to recover 1.966 BCF of gas. If the wellbore is restricted by NPZs imposed by the tracts represented by Mr. Ferguson, the restricted lateral would reduce recovery by 0.418 BCF of gas.
14. The amount of gas that would go unrecovered absent removal of NPZ restrictions, whether 2.795 BCF, 1.966 BCF or 0.416 BCF, is a significant quantity of hydrocarbons.
15. Chesapeake's fair share of gas in place beneath the Lancaster Unit is 43.344 BCF of gas.

- a. The calculated EUR of Chesapeake's proposed well on the Lancaster Unit, Well No. 1H, plus the EUR of five hypothetical wells that could only be partially completed at this time, would allow Chesapeake to recover 12.096 BCF.
  - b. The calculated EUR of Chesapeake's proposed well on the Lancaster Unit, Well No. 1H, plus the calculated EUR of five hypothetical wells that could only be partially completed at this time, for a total of 12.096 BCF of gas, is less than Chesapeake's fair share of the recoverable reserves in place beneath the Lancaster Unit, which is 43.344 BCF of gas.
16. The proposed location of the Lancaster Unit Well No. 1H is reasonable.
- a. Based on 500 foot well spacing, the Lancaster Unit will accommodate five wells.
  - b. If the location of the Lancaster Well No. 1H were moved to the east, it would interfere with the future placement and recoveries of proposed Well No. 5H. If moved to the west, the Lancaster Unit Well No. 1H would interfere with the future placement and recovery of proposed Well No 3H.
  - c. The location of the Lancaster Unit, Well No. 1H is reasonable.
17. Chesapeake continues its attempt to sign unleased mineral interest owners in the Lancaster Unit.
18. Protestants Hixson and Meisner, and James Kirk Lancaster through Meisner, allege that Chesapeake Leases in the Lancaster Unit began to terminate on August 14, 2012 as to leases directly on the wellpath and on July 30, 2012 as to leases within 330 feet of the wellpath, due to the fact that the drilling permit granted to Chesapeake on March 15, 2012 was invalid.
- a. The ultimate question of whether leases began to terminate despite Chesapeake's drilling of the Well No. 1H on June 20, 2012 requires determination of the effect of various clauses in the individual leases, a determination within the jurisdiction of the district courts, not the Commission.
  - b. The ultimate determination of whether Tract No. 1063 was properly leased by Jack Travis Moore to Chesapeake depends on a determination of the property rights conveyed to Jack Travis Moore by James Kirk Lancaster as a principal in K. Lancaster Properties, LLC and Lancaster Crowley Investment, LLC, a determination within the jurisdiction of the district courts, not the Commission.
  - c. The allegations of lease terminations made by Mark Hixson and by the complaints of Kenneth Meisner (Complaint No. 2013-082) and James Kirk Lancaster (Complaint No. 2013-089) raise issues of law that are outside of the jurisdiction of the Commission, which must be resolved in the district courts.

19. Chesapeake has established that it has at least a good faith claim to a valid mineral lease on all tracts traversed by the proposed well.

### 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. Chesapeake has a good faith claim to the minerals under all tracts traversed by the Lancaster Unit Well No. 1H.
4. Approval of a Rule 37 exception for the proposed location of the Lancaster Unit, Well No. 1H, as requested by Chesapeake Operating, Inc., is necessary to prevent confiscation and protect the correlative rights of the leased mineral owners.
5. The complaints of Kenneth Meisner (Complaint No. 2013-082) and James Kirk Lancaster (Complaint No. 2013-089) are not within the Commission's jurisdiction and should be dismissed.

### RECOMMENDATION

The examiners recommend that the application of Chesapeake Operating, Inc., for a Statewide Rule 37 exception for the proposed location of the Lancaster Unit, Well No. 1H in the Newark, East (Barnett Shale) Field, Tarrant County, be granted as necessary to prevent confiscation and protect correlative rights.

The examiners also recommend that the complaints of Kenneth Meisner (Complaint No. 2013-082) and James Kirk Lancaster (Complaint No. 2013-089) be dismissed.

Respectfully submitted,

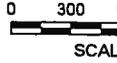


\_\_\_\_\_  
Marshall Enquist  
Hearings Examiner



\_\_\_\_\_  
Paul Dubois  
Technical Examiner





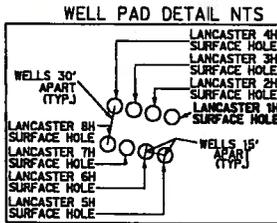
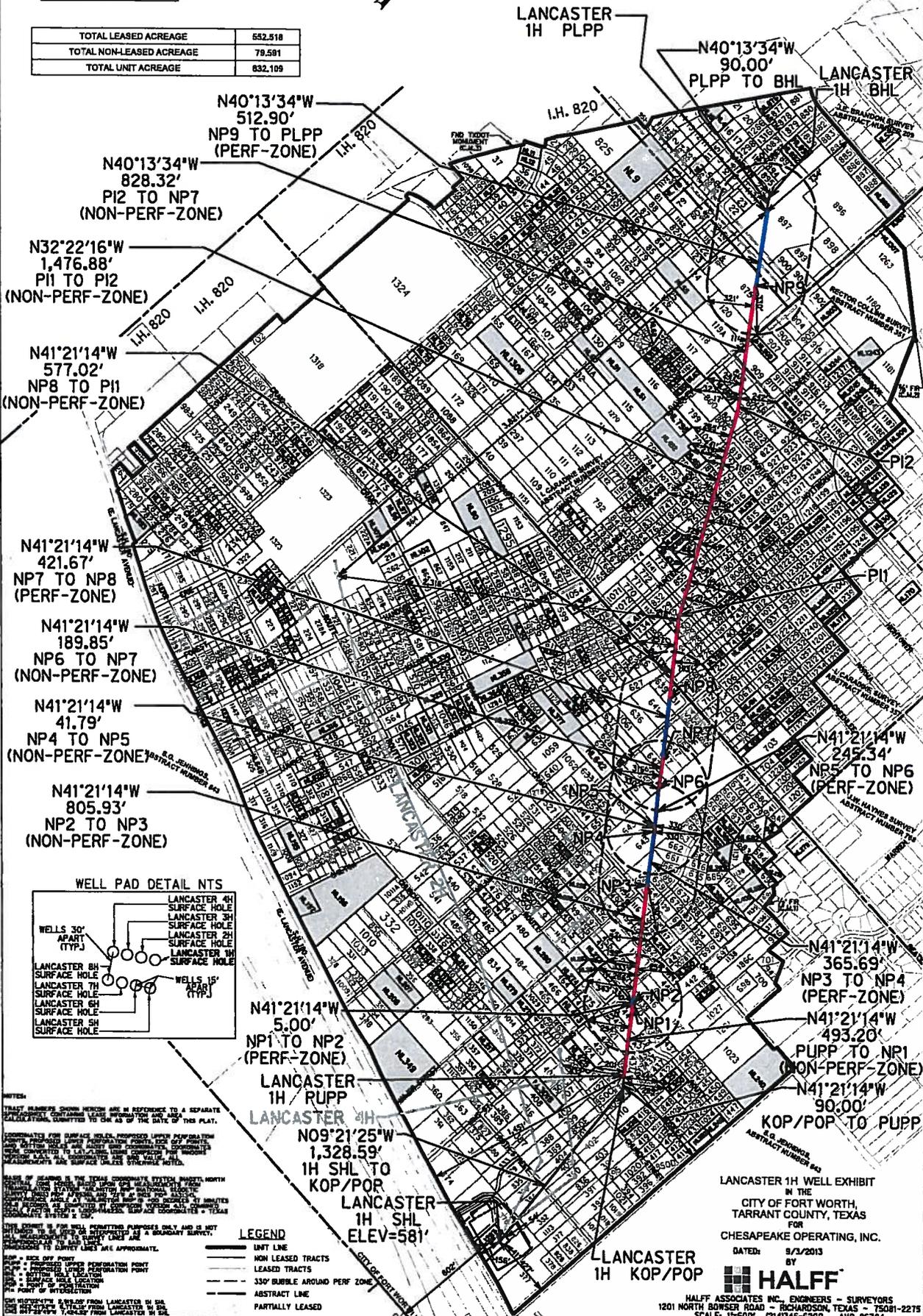
# EXHIBIT II

## Rule 37 Case No. 0277186



PERFORATED LATERAL LENGTH	1,550.50'
NON-PERFORATED LATERAL LENGTH	4,412.99'
TOTAL LATERAL LENGTH	5963.59'

TOTAL LEASED ACREAGE	652.518
TOTAL NON-LEASED ACREAGE	79.581
TOTAL UNIT ACREAGE	832.109



**NOTES:**

TRACT BOUNDARIES SHOWN HEREON ARE IN REFERENCE TO A SEPARATE SURVEY AND ARE NOT TO BE USED FOR CALCULATIONS, COMMITTED TO ON AS OF THE DATE OF THIS PLAT.

COORDINATES FOR SURFACE HOLES, PROPOSED UPPER PERFORATION POINTS, PROPOSED LOWER PERFORATION POINTS, END OF POINTS AND END OF LATERALS ARE BASED ON THE 2011 DATUM AND ARE UNADJUSTED FOR TYPICAL SURFACE HOLES. COORDINATES FOR POINTS CONVERTED TO LAY FLAT USING THE CONVERSION METHOD PROVIDED HEREON. S.A.S. HAS CONDUCTED A FIELD CHECK OF THE COORDINATES AND MEASUREMENTS ARE SURFACE UNLESS OTHERWISE NOTED.

BASE OF BEARING IS THE TEXAS COORDINATE SYSTEM BOUNDARY NORTH. THE BEARING IS THE BEARING OF THE BOUNDARY LINE. THE BEARING IS THE BEARING OF THE BOUNDARY LINE. THE BEARING IS THE BEARING OF THE BOUNDARY LINE.

THIS EXHIBIT IS FOR WELL PERMITTING PURPOSES ONLY AND IS NOT TO BE USED FOR ANY OTHER PURPOSE. THIS EXHIBIT IS NOT A BOUNDARY SURVEY. THE BOUNDARY SURVEY IS THE BOUNDARY SURVEY. THE BOUNDARY SURVEY IS THE BOUNDARY SURVEY.

REFERENCES TO SURVEY LINES ARE APPROXIMATE.

END OF POINT = END OF POINT  
PUPP = PROPOSED UPPER PERFORATION POINT  
LPP = PROPOSED LOWER PERFORATION POINT  
WELL = WELL LOCATION  
SHL = SURFACE HOLE LOCATION  
PI = POINT OF INTERSECTION

THE SURVEY IS 500 FEET FROM LANCASTER IN SH. THE SURVEY IS 500 FEET FROM LANCASTER IN SH. THE SURVEY IS 500 FEET FROM LANCASTER IN SH.

**LEGEND**

- UNIT LINE
- NON-LEASED TRACTS
- LEASED TRACTS
- 330' BUBBLE AROUND PERF ZONE
- ABSTRACT LINE
- PARTIALLY LEASED

LANCASTER 1H WELL EXHIBIT  
IN THE  
CITY OF FORT WORTH,  
TARRANT COUNTY, TEXAS  
FOR  
CHESAPEAKE OPERATING, INC.

DATED: 9/3/2013  
BY  
**HALFF**

HALFF ASSOCIATES INC., ENGINEERS - SURVEYORS  
1201 NORTH BOWSER ROAD - RICHARDSON, TEXAS - 75081-2275  
SCALE: 1"=600' (214346-6200 AVO. 26724)

Exhibit No. **72**  
CHESAPEAKE OPERATING, INC.  
Rule 37 Case No 0277186  
September 19, 2013

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**RULE 37 CASE NO. 0277186  
Status No. 712543  
District 09**

---

**APPLICATION OF CHESAPEAKE OPERATING, INC. FOR A RULE 37 EXCEPTION FOR ITS LANCASTER LEASE, WELL NO. 1H, NEWARK, EAST (BARNETT SHALE) FIELD, TARRANT COUNTY, TEXAS.**

---

**FINAL ORDER**

The Commission finds that, after statutory notice in the above-numbered docket, heard on September 19, 2013, the 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 and the findings of fact and conclusions of law contained therein, and any exceptions and replies thereto, hereby adopts as its own the findings of fact and conclusions of law contained therein, and incorporates said findings of fact and conclusions of law as if fully set out and separately stated herein.

It is **ORDERED** by the Railroad Commission of Texas that Complaint No. 2013-082, the Complaint of Kenneth Meisner and Complaint No. 2013-089, the Complaint of James Kirk Lancaster, be **DISMISSED**.

It is further **ORDERED** by the Railroad Commission of Texas that the application of Chesapeake Operating, Inc., for an exception permit under the provisions of Statewide Rule 37 for the proposed location of the Lancaster Lease, Well No. 1H, in the Newark, East (Barnett Shale) Field be and is hereby **APPROVED** at the following locations in the S.G. Jennings Survey, A-843 and the J.E. Brandon Survey, A-209, Tarrant County, Texas:

**SURFACE LOCATION:**

The surface location is 156 feet from the south line of the lease and 427 feet from the east line of the lease, and 802 feet from the north line and 1938 feet from the east line of the S.G. Jennings, A-843.

**PENETRATION POINT LOCATION:**

1399 feet from the south line and 654 feet from the east line of the lease.

**TERMINUS LOCATION:**

666 feet from the north line and 685 feet from the west line of the lease and 389 feet from the south line and 643 feet from the east line of the J.E. Brandon Survey, A-209.

**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 Railroad Commission of Texas (RRC) Groundwater Advisory Unit (GWAU). Before drilling a well, the operator must obtain a letter from the Railroad Commission of Texas stating the depth to which water needs protection. Write: Railroad Commission of Texas, Groundwater Advisory Unit (GWAU), P.O. Bos 12967, Austin, Texas 78711-3087. File a copy of the 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 Texas Commission On Environmental Quality 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.

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.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to TEX. GOV'T CODE §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the parties are notified of the order.

Done this \_\_\_\_ day of \_\_\_\_\_, 2014.

**RAILROAD COMMISSION OF TEXAS**

\_\_\_\_\_  
**CHAIRMAN BARRY T. SMITHERMAN**

\_\_\_\_\_  
**COMMISSIONER DAVID PORTER**

\_\_\_\_\_  
**COMMISSIONER CHRISTI CRADDICK**

**ATTEST:**

\_\_\_\_\_  
**SECRETARY**