

CAROL KEETON RYLANDER, CHAIRMAN  
BARRY WILLIAMSON, COMMISSIONER  
CHARLES R. MATTHEWS, COMMISSIONER



LINDL C. FOWLER, JR., GENERAL COUNSEL  
LARRY BORELLA, ASST. DIRECTOR  
OIL & GAS SECTION

## RAILROAD COMMISSION OF TEXAS OFFICE OF GENERAL COUNSEL

RULE 37 DOCKET NO. 0209712

APPLICATION OF APACHE CORPORATION FOR AN EXCEPTION TO STATEWIDE RULE 37 TO PLUG BACK ITS WELL NO. 8-1A, STATE TRACTS UNIT IN THE MAGNET WITHERS (HETEROSTEGINA) FIELD, WHARTON COUNTY, TEXAS

**APPEARANCES:**

**REPRESENTING:**

**FOR APPLICANT:**

Carroll Martin (attorney)  
Steve Griesbach

Apache Corporation

**FOR PROTESTANT:**

Patrick Thompson

William Oehmig

**PROCEDURAL HISTORY**

DATE APPLICATION FILED:  
NOTICE OF HEARING:  
HEARING DATE:  
TRANSCRIPT RECEIVED:  
PFD CIRCULATION DATE:  
HEARD BY:

August 10, 1995  
September 25, 1995  
October 27, 1995  
November 31, 1995  
March 8, 1996  
Jeffrey T. Pender, Hearings Examiner  
Margaret Allen, Technical Examiner

STATEMENT OF THE CASE

Apache Corporation ("Apache") has applied to plug back to the Magnet Withers (Heterostegina) Field ("Het Field"), its Well No. 8-1A on the 40 acre State Tracts Unit ("subject well"). The proposed completion will be the first completion on the tract in the applied-for field. The subject well was first completed as an oil well in the Magnet Withers Field ("Main Field") in April, 1967 and has been plugged back and perforations added in the Main Field several times since the original completion. The subject well was directionally drilled from a location 325 feet to the northeast of the bottom hole location at the centerline of the stream bed of the Colorado River. Because of the long, thin and sinuous shape of the tract, no regular locations are available (see attached plat).

The Main Field is an oil field. The Het Field produces gas only. Both fields are on Statewide Rules. Because the proposed location is 168 feet from the lease line, an exception to Rule 37 is required. Apache claims that an exception is necessary to prevent waste and protect correlative rights. Mr. William Oehmig, an adjacent, unleased mineral interest owner, protests the application.

EVIDENCE

Steve Griesbach, petroleum engineer, was the only witness for Apache. Mr. Oehmig did not put on a direct case but did cross examine Mr. Griesbach.

The State Tracts Unit currently has no wells completed in the applied-for field. Apache proposes to plug back and recomplete the well in the Het Field. Gas produced from this well will be primarily used to support gas lift operations in the Main Field on other leases.

The subject well was drilled and completed between 5572' and 5576' in the Main Field on April 24, 1967. On July 4, 1976 perforations were added from 5568' down to the top of the existing perms. In January, 1977, the well was plugged back and perforations added from 5528' to 5533'. The last set of perforations in the Main Field was added in May, 1980 from 5520' to 5526'.

Only three wells have produced from the Het Field in this area. The closest Het Field well to the proposed well is the Cockburn Oil Corporation Well No. 2-F, about 1/2 miles to the northeast. It has produced 34,528 MCF since October, 1983 and is currently shut-in. The Het Field discovery well, the Magnet Winters Miocene Gas Unit 1 No. 6, has produced 684,477 MCF since September, 1981. Its current production rate was not available. The third well in the Het Field, Apache's Franz, J.H. No. 4, tested only 210 MCFD on completion in September, 1995. The Franz, J.H. No. 4 was permitted as a plug back from the Main Field by exception to Rule 37, in a manner similar to Apache's current application.

Mr. Griesbach estimates that the lease contains 207 MMCF recoverable gas reserves based on volumetric calculations. Assuming an initial production rate of 300 MCFD and a 45% exponential decline, Mr. Griesbach predicts that the well will produce 163.3 MMCF and therefore drain approximately 31 acres. If the well produces 163.3 MMCF then a recompletion in the Het Field will result in a rate of return greater than 100%. If forced to drill a new well to the Het field, the project would never return its costs.

#### EXAMINER'S OPINION

The examiners believe that Apache is entitled to an exception to Rule 37 for the proposed well to prevent confiscation and prevent waste.

#### CONFISCATION CASE

It was uncontested that the proposed well is the first well in the field on the tract and that there are about 163 MMCF of recoverable gas under the tract. It is also uncontested that there are no regular locations available on the tract. Mr. Oehmig claimed that a more reasonable location would be further to the north so that his tract to the south would not be drained. However, due to the long, thin shape of the tract, there will be some drainage of adjacent tracts no matter what location is chosen. Apache did demonstrate that its proposed location is far enough from Oehmig's property that there will be little, if any, drainage of his property. Accordingly, the proposed location is reasonable and Apache is entitled to an exception to Rule 37 to prevent confiscation.

On cross examination of Mr. Griesbach, Mr. Oehmig attempted to establish that there would be no confiscation if the permit was denied because the State of Texas was able to get its fair share of hydrocarbons under the tract from other wells in the area. Gulf Oil Corp. v. Smith, 145 S.W.2d 283 (Tex.Civ.App.-Austin 1940, refused) (quoting Ward Oil Corp. v. Overton Ref. Co., 139 S.W.2d 292,293 (Tex.Civ.App.-Austin 1940, refused), "...the test is whether the owner with the wells he already had, has been given a fair and equal opportunity with other producers on surrounding tracts within the drainage area to recover his fair share of the oil in place beneath his tract. If he has, no confiscation results."). However, no evidence was obtained on cross examination of Mr. Griesbach demonstrating that the State owns any interest in any surrounding tracts that drain the subject tract. Moreover, no evidence of ownership by the State in surrounding wells was offered by either party.

#### WASTE CASE

In the case of Exxon v. Railroad Commission of Texas, 571 S.W.2d 497 (Tex. 1978), the Texas Supreme Court said that economic factors may be relevant to a determination of whether a Rule 37 exception was necessary to prevent the waste of oil. In the context of an existing well bore, the Commission may grant a Rule 37 exception if the existing well bore will recover reserves that cannot be produced by any other existing well and it is not

economically feasible to drill at a regular location on or off the subject tract. This is so even if drilling a new well at a regular location would recover the oil reserves recoverable by the existing well bore. Schlachter v. Railroad Commission of Texas, 825 S.W.2d 737 (Tex.Civ.App-Austin 1992, denied) (interpreting Exxon). However, an exception is not automatic upon showing that a redrill would be uneconomic. The applicant must demonstrate that "...the existing well was drilled and completed in the original formation legitimately and in good faith and not as a subterfuge to bolster a later exception under [Rule 37]." Exxon at 501.

The applied-for recompletion meets the requirements of Exxon. It is unrefuted that the nearest well in the Het Field is over 1/2 miles to the north east. It is virtually impossible for any of the existing wells in the Het Field to recover the reserves that are the target of the proposed recompletion.

It was also unrefuted that it would not be economically feasible to drill a new well for the targeted reserves at any regular location. Mr. Griesbach testified that the results of his economic study show that a redrill would never recover costs.

It is not likely that the subject well was originally drilled as a subterfuge to bolster a later exception under Rule 37. The subject well has produced oil from the Main Field for almost 30 years and been the subject of several plug backs and completions. It is highly unlikely that the gas reserves in the Het, alone, would have been the main justification for drilling the subject well back in 1967.

Moreover, the Commission has granted exceptions to Rule 37 similar to the one requested in this application, most recently for Apache's Franz J.H. Well No. 4. It too, was a plugback and recompletion in the Het Field from the Main Field.

Accordingly, the examiners believe that Apache is entitled to an exception to Rule 37 to prevent waste.

#### FINDINGS OF FACT

1. Notice of hearing was given on September 25, 1995, to all designated operators, lessees of record of tracts that have no designated operator, and owners of record of unleased mineral interests for each adjacent tract and each tract nearer to the well than the prescribed minimum lease-line spacing distance.
2. Apache Corporation ("Apache") has applied to plug back to the Magnet Withers (Heterostegina) Field ("Het Field"), its Well No. 8-1A ("subject well") on the 40 acre State Tracts Unit ("subject tract") currently completed in the Magnet Withers Field ("Main Field"), Wharton County, Texas. The proposed location is 168 feet from the east line of the subject tract.

3. The proposed well is the first well on the subject tract in the Het Field. The nearest producing well in the Het Field is over 1/2 miles to the northeast.
4. Both the Het Field and the Main Field require 467 feet lease line spacing, 1,200 feet between-well spacing and 40 acre units. There are no regular locations on the subject tract.
5. Since the time that the subject well was first completed in 1967, it has been plugged back and perforated in several higher intervals within the Main Field.
6. There are approximately 163 MMCF of recoverable Het field gas under the tract. The proposed well will drain the 31 acres within 585 feet from the well.
7. A new well would not be drilled to recover only the Het Field reserves under this tract.
8. The original well bore drilled in 1967, was not drilled as a subterfuge to bolster a later Rule 37 application in the Het Field.
  - a. The subject well has produced oil from the Main Field for almost 30 years and been the subject of several plug backs and completions.
  - b. It is highly unlikely that the gas reserves in the Het, alone, were the main justification for drilling the subject well back in 1967.
9. If Apache is not permitted to recompleate in the Het Field there will be waste of a substantial amount of gas.
10. If Apache is not permitted to recompleate in the Het Field, it will be denied a fair opportunity to recover its share of hydrocarbons under the lease.
11. The proposed location is a reasonable location.
  - a. The bottom hole location of the proposed completion is along the centerline of the subject tract.
  - b. All locations will cause some off-tract drainage. There are no locations on the subject tract that will minimize drainage from off-tract.

CONCLUSIONS OF LAW

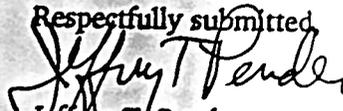
1. Proper notice of hearing was timely issued by the Railroad Commission to appropriate persons legally entitled to notice.

2. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties in this hearing have been performed.
3. Apache is entitled to an exception to Rule 37 to prevent confiscation and to prevent waste.

**RECOMMENDATION**

The examiners recommend that the above findings and conclusions be adopted and that the application of Apache be granted.

Respectfully submitted,

  
Jeffrey T. Pender  
Hearings Examiner

  
Margaret Allen  
Technical Examiner

JTP/bjw