



# RAILROAD COMMISSION OF TEXAS

## HEARINGS DIVISION

May 20, 2016

**Rule 37 Case No. 0294252**  
**Status No. 794084**

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**Application of Ponderosa Oil & Gas, LLC for an Exception to Statewide Rule 37 for the Westbrook Lease, Well No. 1, Wildcat and Sugar Valley , S. (Frio 11050) Fields, Matagorda County, Texas.**

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### PROPOSAL FOR DECISION

#### APPEARANCES:

##### FOR APPLICANT:

Ana Maria Marsland Griffith, Attorney  
Ben Barnes, Managing Member

##### APPLICANT:

Ponderosa Oil & Gas, LLC  
"

##### PROTESTANT:

David T. Spencer

##### REPRESENTING:

Himself

### PROCEDURAL HISTORY

##### APPLICATION FILED:

August 13, 2014

##### NOTICE OF HEARING:

March 11, 2015

##### HEARD BY:

Marshall Enquist - Administrative Law Judge  
Paul Dubois - Technical Examiner

##### HEARING DATE :

June 1, 2015

##### PFD CIRCULATION DATE:

May 20, 2016

### STATEMENT OF THE CASE

Ponderosa Oil & Gas, LLC ("Ponderosa" or "Applicant"), seeks an exception to Statewide Rule 37 for its Westbrook Lease, Well No. 1, Sugar Valley, S. (Frio 11050) Field and Wildcat Field, Matagorda County, Texas. The Westbrook Lease is a pooled unit composed of four tracts totaling 90.67 acres (see Exhibit 1). The Form P-12 for the pooled unit shows two of the four tracts have unleased interests. The proposed drillsite on Tract 3 is only 260 feet from Tract 1, which has an unleased interest.

As a result of the unleased interest, Ponderosa requires an internal spacing exception. The owner of the unleased interest on Tract 1, Mr. David T. Spencer ("Mr. Spencer"), protests this application.

Notice of Application in this case was issued on November 20, 2014. Mr. Spencer's protest was received on November 26, 2014. Corrected Notice of Hearing was issued on March 11, 2015, for a hearing date of March 30, 2015. Mr. Spencer requested a Continuance in order to continue negotiations with Ponderosa, which was granted on March 24, 2015. Following that date, the file contains numerous letters from March 26, 2015 through April 14, 2015 between Ponderosa and Mr. Spencer in which the parties try to arrange meetings and/or propose offers and counteroffers.

By letter dated April 15, 2015, a second Request for Continuance was declined by the hearings Examiner and the hearing date set for June 1, 2015.

The field rules for the Sugar Valley, S. (Frio 11050) Field require 467 foot leaseline spacing, 1200 foot between well spacing and 40-acre units with a tolerance of 20 acres.

The proposed well location is 957 feet from the NW line of the lease and 920 feet from the south line of the lease, and 957 feet from the NW line of the survey and 3275 feet from the NE line of the survey, being the Freeman George Survey, A-40.

## **DISCUSSION OF THE EVIDENCE**

### **Ponderosa's Evidence**

On May 31, 2001, Aspect Resources, LLC drilled the Heckendorn Well No. 1 as a Wildcat well in a 325-acre pooled unit in the Freeman George Survey, A-40 and the Freeman Pettus Survey, A-73. The well was completed in the Sugar Valley, S. (Frio 11050) Field. This particular Frio sand is friable and the well began sanding up in 2003. In addition, the bottom of the casing began to collapse, preventing efforts to clean out the well. The well was plugged December 18, 2012. During its productive life, the well produced 5.4 BCF of gas and 166,000 barrels of condensate.

Ponderosa's evidence indicates the Heckendorn well was perforated only in the lower section of the productive interval. The top of pay, as shown on the Form G-1 filed August 27, 2001, was at 11,618 feet, with a perforated interval from 11,618 feet to 11,654 feet. Ponderosa's structure map shows that the Heckendorn Well No. 1 landed on the west flank of the relevant structure. It is Ponderosa's belief that it's proposed well will land very near the top of the structure, accessing substantial reserves still remaining in the upper part of the interval. Ponderosa calculates the Original Recoverable Reserves in the structure were 14 BCF of gas and 560,000 barrels of condensate, and that after deducting the 5.4 BCF of gas and 166,000 barrels of condensate produced by the Heckendorn well, the Remaining Recoverable Reserves are 8.58 BCF of gas and 393,000 barrels of condensate.

Ponderosa has conducted seismic work in the area and believes the target zone is bounded by three downthrown main faults: the Link Fault and the Linnville Bayou Fault to the north and the Sugar

Valley Fault to the south. The target structure is further bounded to the north and south, and reduced in size by, two splay faults lying between the Link Fault and the Sugar Valley Fault (see Exhibit 2). The proposed Ponderosa Westbrook Well No. 1 will attempt to land near the high point on the structure, giving up a few feet of structural advantage to remain a prudent distance from the bounding faults.

There is no regular location for the proposed well on Tracts 2, 3 and 4. There is a regular location on Tract 1, but that is not a viable location for Ponderosa for three reasons: 1.) the regular location would intercept the structure at about the same elevation as the Heckendorn Well No. 1 zone, resulting in the probable loss of one half of the reserves Ponderosa hopes to recover; 2.) a well at a regular location would be close to an existing dwelling; and 3.) the lower eastern corner of the regular location would be dangerously close to one of the bounding splay faults (see Exhibit 3). Ponderosa provided a land map showing the location of the tracts in its pooled unit overlaid on its structure map for the target zone. The land map shows that a well drilled at the small regular location would land at about the same structural elevation as the Heckendorn well or possibly a few feet higher, missing the bulk of the probable reserves held up-structure.

The well location Ponderosa has chosen will intersect the structural target near its thickest point, thereby maximizing the recovery from the Westbrook Well No. 1. Ponderosa asserts that if it is required to use the small regular location on Tract 1 (absent the grant of the proposed Statewide Rule 37 internal leaseline spacing exception location), about 4.25 BCF of gas and 195,000 barrels of condensate will not be recovered, resulting in waste.

Ponderosa is aware that Mr. Spencer believes the target field may partly underlie his unleased interest in Tract 1 and that his family's land may also be underlain by a portion of the target field, but Ponderosa notes that the Heckendorn Well No. 1 was completed in, and produced from, the lower half of the Sugar Valley, S. (Frio 11050) Field, and that lower half of the target field may already be drained and wet. The letters in the hearing file show that Ponderosa has successively offered, over the course of two or more years, to lease Mr. Spencer's 1/9 mineral interest in Tract 1 and has offered to lease 10 or 40 acres of Mr. Spencer's family land. Mr. Spencer has countered with offers of his own, in the belief that the Ponderosa leases do not offer sufficient protection to him or his family. Mr. Spencer and Ponderosa have not been able to reach an agreement.

### **David T. Spencer's Evidence**

Mr. Spencer would like to have his 1/9 mineral interest in Tract 1 included in the Ponderosa Westbrook Unit. In addition, he would like to have part of his family's land, located in the Freeman Pettus Survey, A-73, included in the unit as well.

Using well data related to the Heckendorn Well No. 1, Mr. Spencer estimates an 11.49% pore volume in the Sugar Valley, S. (Frio 11050) Field. Based on this, he believes it is likely that any hydrocarbons remaining on his family's land could be easily drained by a nearby well. Having seen the exhibits offered by Ponderosa during the hearing, Mr. Spencer believes they confirm that at least part of the recoverable hydrocarbons in the Sugar Valley, S. (Frio 11050) Field lie under his family's land

and under his 1/9 interest in Tract 1. If Ponderosa's Rule 37 exception is granted, he fears that he and his family will be drained without compensation.

If Ponderosa's requested exception location is approved, Mr. Spencer asks that the Commission grant him an offsetting well location on his family land so that he may have the possibility of finding an operator that will use that location to drill a protection well for his family.

### **ALJ's and Technical Examiner's Opinion**

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.

Ponderosa has shown that a well drilled on the small regular location located on Tract 1 will intercept the target structure on its flank, at approximately the same depth the structure was encountered by, and drained by, the Heckendorn well. This location will not permit Ponderosa to recover its fair share of minerals from the regular location. Ponderosa's proposed Rule 37 exception location for its Westbrook Well No. 1 will encounter the structure near its highest point and may result in the recovery of as much as 8.58 BCF of gas and 393,000 barrels of condensate, which Ponderosa calculates is its fair share. In light of the location of the top of the structure and the proximity to bounding faults, the ALJ and Technical Examiner find that the proposed location of the Westbrook Well No. 1 is reasonable.

An applicant seeking an exception to Rule 37 based on waste must demonstrate that: (1) unusual conditions, different from conditions in adjacent parts of the field, exist on the tract for which the exception is sought; and (2) as a result of these conditions, a substantial volume of hydrocarbons will be recovered by the well for which a permit is sought that would not be recovered by any existing well or by additional wells drilled at regular locations. *Hawkins v. Texas Co.*, 209 S.W.2d 338, 343-44 (Tex. 1948).

The evidence shows that the area of the proposed Westbrook Well No. 1 is faulted, which Ponderosa has not shown is different from conditions in adjacent parts of the field. Although it is true that the well may recover a substantial volume of hydrocarbons that would not be recovered by any existing well or a well drilled at a regular location, the ALJ and Technical Examiner do not believe Ponderosa has shown that unusual conditions, different from conditions in adjacent parts of the field, exist at the proposed location of the Westbrook Well No. 1.

Mr. Spencer requested that he be granted a permit for an offsetting well in the event that the Ponderosa permit is granted. Mr. Spencer is apparently not a Commission-recognized operator at this time and could not be granted a drilling permit. He has the option of contacting operators in his area to

find one willing to file a Form W-1 with the Commission for a permit to drill a well on his family land.

Ponderosa did not present any evidence regarding the Wildcat Field mentioned on the Form W-1. Ponderosa did mention a "bail-out zone" it referred to as the "CIB 10" that it would try to produce if the proposed well is a failure, but this zone does not appear to be a Commission-recognized field.

The ALJ and Technical Examiner recommend that Ponderosa be granted a Statewide Rule 37 exception permit for its proposed Westbrook Well No. 1 in the Sugar Valley, S. (Frio 11050) Field, Matagorda County, Texas, based on prevention of confiscation.

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. In Rule 37 Case No. 0294252, Ponderosa Oil & Gas, LLC ("Ponderosa" or "Applicant"), seeks an exception to Statewide Rule 37 for the Westbrook Well No. 1, Sugar Valley, S. (Frio 11050) Field, Matagorda County, Texas on its 90.67-acre Westbrook Lease.
3. The Field Rules for the Sugar Valley, S. (Frio 11050) Field require 467 foot leaseline spacing and 1200 feet between wells on 40 acres units.
4. The Westbrook Lease is a pooled unit composed of four tracts, being Tracts 1 through 4. Tracts 1 and 2 are partially leased , with included unleased interests.
  - a. Tract No. 1 has an unleased mineral interest of approximately 1/9<sup>th</sup> owned by David T. Spencer, or a net interest in 5.09 acres in the 46.79-acre Tract 1.
  - b. The proposed Westbrook Well No. 1 is located 260 feet from the leaseline of Tract No. 1, and is within a Statewide Rule 37 leaseline spacing distance of the unleased interest in Tract 1, thus requiring an internal leaseline spacing exception.
5. David T. Spencer, representing himself and family members, protested Ponderosa's application for the Westbrook Well No. 1.
6. Mr. Spencer and Ponderosa have not been able to reach an agreement on lease terms for Mr. Spencer's unleased interest in Tract No. 1 of the Westbrook Lease.
7. The surface location of the Westbrook Well No. 1 is on lease and is located 957 feet from the

NW leaseline and 920 feet from the south line of the lease and 957 feet from the NW line and 3275 feet from the NE line of the George Freeman Survey, A-40.

8. The target structure in the Sugar Valley, S. (Frio 11050) Field at this location is bounded by three downthrown faults: the Link Fault and the Linnville Bayou Fault to the north and the Sugar Valley Fault to the south. The target structure is further bounded to the north and south, and reduced in size by, two splay faults lying between the Link Fault and the Sugar Valley Fault.
9. The target structure has already been partially drained by the Heckendorn Well No. 1, drilled in 2001. The well was perforated from 11,618 feet to 11,654 feet and produced 5.4 BCF of gas and 166,000 barrels of condensate.
10. The area of the Westbrook Lease is highly faulted, which is not unusual in Frio Sands.
11. Ponderosa calculates the remaining recoverable reserves under the Westbrook Lease are 8.58 BCF of gas and 393,000 Barrels of condensate, which Ponderosa considers its fair share of the remaining recoverable reserves.
12. There is a small regular location on Tract No. 1 of the Westbrook Lease from which Ponderosa could reach the target structure, but this would intersect the target structure at roughly the same elevation as the Heckendorn Well No.1, which has already largely drained that depth interval. Ponderosa would not be able to recover its fair share of reserves from the small regular location on Tract No. 1.
13. Ponderosa's proposed location for its Westbrook Well No. 1 would recover its fair share of recoverable reserves, which Ponderosa estimates at 8.58 BCF of gas and 393,000 Barrels of condensate.
14. The proposed location for the Westbrook Well No. 1 is reasonable

#### 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. Approval of a Rule 37 exception for the proposed location of the Westbrook Lease, Well No. 1, as proposed by Ponderosa Oil & Gas, LLC, is necessary to prevent confiscation and protect the correlative rights of the leased mineral owners.
4. Ponderosa Oil & Gas, LLC has met its burden of proof and satisfied the requirements of Railroad Commission Statewide Rule 37 in the instant Rule 37 case.

**RECOMMENDATION**

The ALJ and Technical Examiner recommend that the application of Ponderosa Oil & Gas, LLC, for a Statewide Rule 37 exception for the proposed location of the Westbrook Lease, Well No. 1, in the Sugar Valley, S. (Frio 11050) Field, Matagorda County, be granted as necessary to prevent confiscation and protect correlative rights.

Respectfully submitted,



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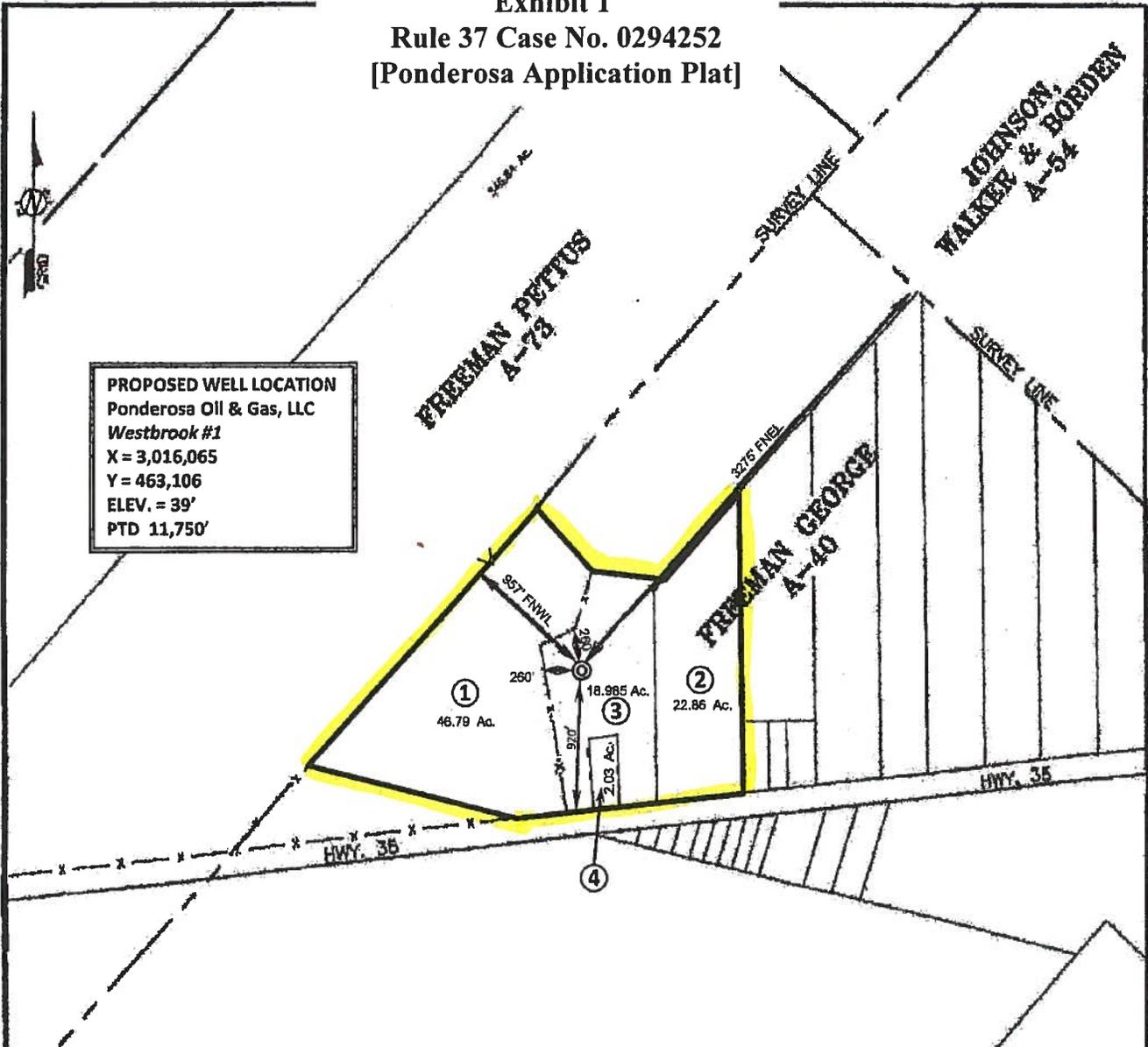
Marshall Enquist  
ALJ



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Paul Dubois  
Technical Examiner

**Exhibit 1**  
**Rule 37 Case No. 0294252**  
**[Ponderosa Application Plat]**



**PROPOSED WELL LOCATION**  
 Ponderosa Oil & Gas, LLC  
 Westbrook #1  
 X = 3,016,065  
 Y = 463,106  
 ELEV. = 39'  
 PTD 11,750'

Lease Acreage is based on deed call areas as provided by Ponderosa Oil & Gas, L.L.C.

The proposed well location is approximately 5.4 miles northeast of Van Vleck, Texas.

All coordinates and bearings are based on the Texas State Plane Coordinate System, Texas South Central 4204 (NAD 27).

I hereby certify that this plat is true and correct to the best of my knowledge.

*Benjamin K Barnes/cs*  
 Benjamin K. Barnes Date 11/5/2014

Tract	Status	Lessor	Net/Gross Acres	% Unit
1	Leased	Kent Heckendorn, et al	20.8489/46.79	22.996
1	Leased	Barbara Brice	20.8489/46.79	22.996
1	Unleased	David T. Spencer	5.0922/46.79	5.617
2	Leased	Elvie Matejek	15.681/22.86	17.296
2	Unleased	Leonard John Kidd et al	7.179/22.86	7.918
3	Leased	Vallia R. Westbrook	18.985/18.985	20.939
4	Leased	Terrence M. Westbrook	2.03/2.03	2.239
<b>TOTAL LEASED ACREAGE</b>			90.655 Net/ 90.665 Gross	100

**PONDEROSA OIL & GAS, LLC**

**PROPOSED WELL LOCATION**  
**WESTBROOK #1**  
**FREEMAN GEORGE LEAGUE, A-40**  
**MATAGORDA COUNTY, TEXAS**

DATE: 11/05/14	SCALE: 1" = 1900'	JOB No.:
CHL	REV.	ACAD FILE:

Linnville Bayou Fault

Exhibit 2  
Rule 37 Case No. 0294252  
[Detail from Ponderosa Exhibit 8  
with Major Faults Identified]

DE  
-9131'

LINK

FAULT

Sue-Ann/Texas  
Spencer

Sue-Ann Oil  
Matejek

Aspect Resources  
Heckendom

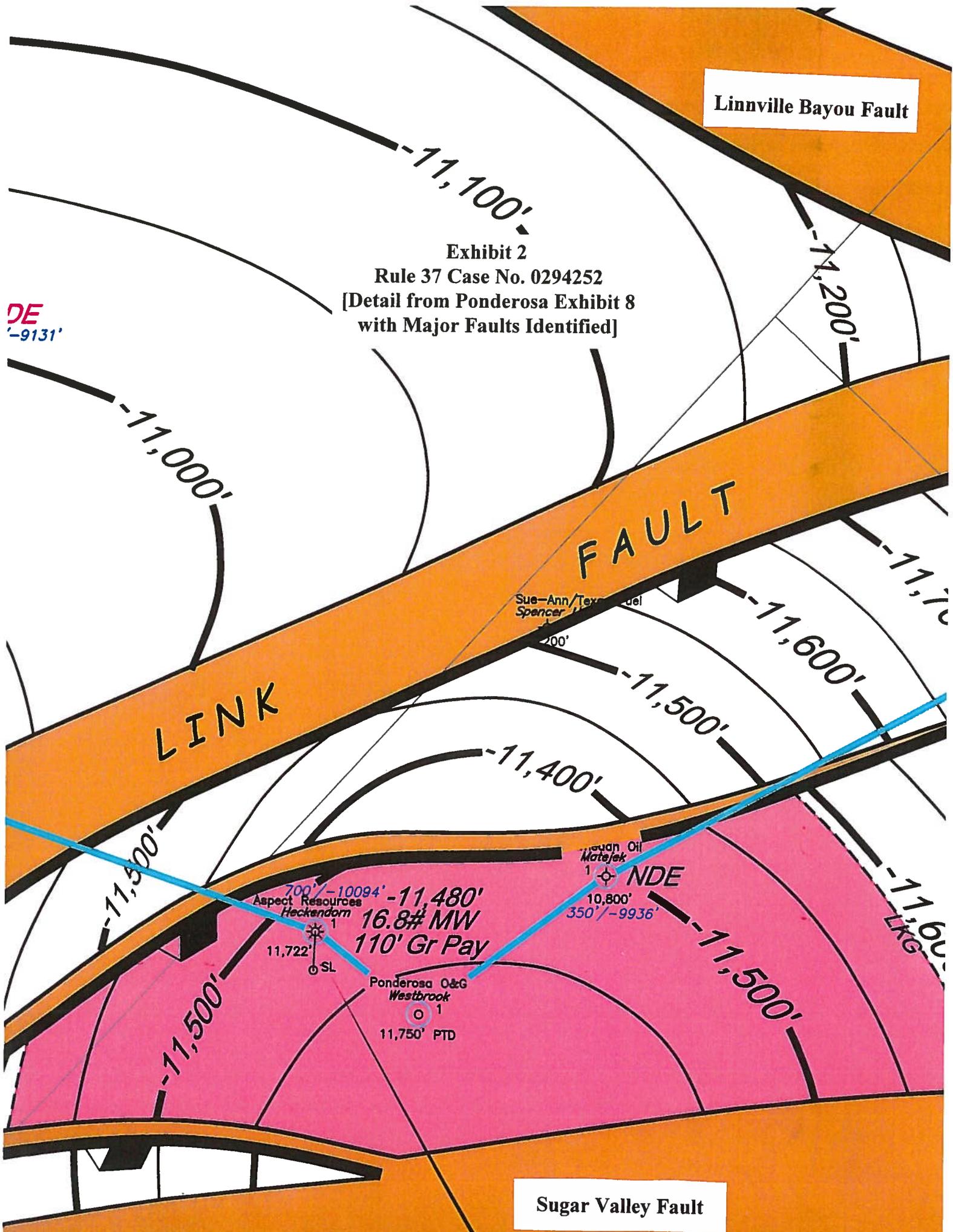
16.8# MW  
110' Gr Pay

NDE

Ponderosa O&G  
Westbrook

11,750' PTD

Sugar Valley Fault



**Exhibit 3**  
**Rule 37 Case No. 0294252**  
**[Detail from Ponderosa Exhibit 2]**

Evers  
Robertson  
1  
10,220'

Sue-Ann/Texas  
Spencer 1'  
200'

Samedan Oil  
Matajek  
0,800'

Aspect Resources  
Heckendorn  
1,722'  
SL

Ponderosa O & G  
Westbrook  
11,750' PTD

Superior  
Spencer 2  
10,227'

