

BEFORE THE CORPORATION COMMISSION
OF THE STATE OF OKLAHOMA

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CORPORATION COMMISSION
OF OKLAHOMA

APPLICANT: CIMAREX ENERGY CO.)
)
RELIEF SOUGHT: INCREASED WELL DENSITY)
)
LEGAL DESCRIPTION: SECTION 25, TOWNSHIP 14)
NORTH, RANGE 10 WEST,)
CANADIAN COUNTY,)
OKLAHOMA)

CAUSE CD NO.
201105400-T

APPLICANT: CIMAREX ENERGY CO.)
)
RELIEF SOUGHT: INCREASED WELL DENSITY)
)
LEGAL DESCRIPTION: SECTION 30, TOWNSHIP 14)
NORTH, RANGE 10 WEST,)
CANADIAN COUNTY,)
OKLAHOMA)

CAUSE CD NO.
201105571-T

REPORT OF THE OIL AND GAS APPELLATE REFEREE

These Causes came on for hearing before **Kathleen M. McKeown**, Administrative Law Judge for the Oklahoma Corporation Commission, on the 11th day of January, 2012, at 8:30 a.m. in the Commission's Courtroom, Kerr Building, Tulsa, Oklahoma, pursuant to notice given as required by law and the rules of the Commission for purpose of taking testimony and reporting to the Commission.

APPEARANCES: **Ron M. Barnes**, attorney, appeared on behalf of applicants, Cimarex Energy Co. ("Cimarex"); **Charles L. Helm**, attorney, appeared on behalf of JMA Energy Co., L.L.C. ("JMA"); **Gregory L. Mahaffey**, attorney, appeared on behalf of Chaparral Energy, L.L.C. ("Chaparral"); and **Jim Hamilton**, Assistant General Counsel for the Conservation Division, filed notice of appearance.

The Administrative Law Judge ("ALJ") filed her Report of the Administrative Law Judge on the 30th day of January, 2012 to which Exceptions were timely filed and proper notice given of the setting of the Exceptions.

The Appellate argument concerning the Exceptions was referred to **Patricia D. MacGuigan**, Oil and Gas Appellate Referee ("Referee"), on the 9th day of April, 2012. After considering the arguments of counsel and the record contained within these Causes, the Referee finds as follows:

STATEMENT OF THE CASE

JMA filed Exceptions concerning the ALJ's recommendation to grant the increased density applications of Cimarex. Cimarex seeks increased density authority for eight additional horizontal wells in Section 25 and eight additional horizontal wells in Section 30 in order to develop the Woodford common source of supply.

Cimarex currently operates the Draper #1-25H in Section 25 and the Buser Farms #1-30H in Section 30. Because of the limited drainage areas encountered by Woodford vertical wells, Cimarex believes that the only economic way to produce the reserves underlying the units is by drilling horizontal wells in each unit. Drainage would still be restricted which requires the drilling of up to nine horizontal wells in each unit. Using authority of previously granted emergency orders, Cimarex had begun drilling four of the requested increased density horizontal wells in Section 25 at the time of the bearing on the merits. None of the proposed increased density wells in Section 30 were being drilled on an emergency basis.

JMA protests the granting of the 16 increased density Woodford wells in the subject units based on the current lack of horizontal Woodford production in each unit and, therefore the lack of well and reservoir information available. JMA believes the lack of this information could lead to economic waste if all of the proposed increased density wells are allowed. JMA questions the drainage area of each of the proposed wells and Cimarex's figures as to the total recoverable reserves underlying each unit. JMA is requesting that, at most, two increased density horizontal wells be drilled in each unit and once producing, the wells can be evaluated to determine if further drilling is warranted.

JMA TAKES THE POSITION:

- 1) The ALJ's Report is contrary to the law and to the evidence.

- 2) The ALJ erred in the Recommendations paragraph on Page 2 of the Report: "Cimarex met the requirements of the Commission Rules regarding the need for Increased Density in both units and should be allowed to proceed with the Woodford development."
- 3) The ALJ erred in the Recommendations paragraph on Page 4 of the Report: "The estimated recoverable reserves in place of 63+ BCF underlying each unit is not out of line in the opinion of the ALJ after reviewing the various area orders submitted once the record was closed."
- 4) The ALJ erred in the Recommendations paragraph on Page 4 of the Report: "Devon and Cimarex have both been active in this Woodford play over the last 3 to 4 years and both companies have increased the calculated reserves in place as a result of the continued horizontal drilling used to recover gas from the Woodford."
- 5) The ALJ erred in the Recommendations paragraph on Page 4 of the Report: "Additionally, in several units where only 4 increased density wells were initially requested, applications have been filed within several months following the issuance of that order requesting 3 to 4 more Woodford increased density wells in the same unit."
- 6) The ALJ erred in the Recommendations paragraph on Page 4 of the Report: "In the subject applications, it is evident that Cimarex is seeking authority for 8 increased density wells to avoid the additional cost and time required by a new increased density application."
- 7) The ALJ erred in the Recommendations paragraph on Page 4 of the Report: "These increased density applications and the amount of reserves in place as well as the estimated ultimate recovery projected for each well justifies 8 additional wells be granted in each of the subject units."
- 8) The ALJ erred in failing to consider economic waste in arriving at the Conclusions and Recommendations. The cost to drill and complete a Woodford horizontal well is in excess of \$8 million. The ALJ erred in recommending 16 increased density wells for a cost of \$128 million without any supportable evidence that 16 density wells can be drilled economically.
- 9) The ALJ erred in failing to consider or discuss the absence of a change of conditions since spacing or increased density was previously authorized in the captioned units and immediate area.
- 10) Wherefore, JMA respectfully requests that the Report of the ALJ be reversed and that the Commission deny the applications of Cimarex, or in the alternative, require the density relief be limited to two density wells per section

to determine whether the wells can be successfully completed as economic producers.

THE ALJ FOUND:

1) After taking into consideration all of the testimony and evidence it is the recommendation of the ALJ that the application of Cimarex in CD 201105400-T and CD 201105571-T be granted.

2) Cimarex has a significant ownership presence in the area and subject sections. Cimarex is also actively involved in the area horizontal well development of the Woodford as an operator and interest owner. The testimony and evidence presented showed the regional overview of this Woodford development obtained through the experience Cimarex has received through its mapping of the Cana Woodford Shale and its drilling and production of said shale. Cimarex is ready to drill the subject increased density wells using the rigs it has under contract and, by utilizing each rig to drill two wells, a savings of more than \$100,000 per well will be realized by the participating owners. The estimated recoverable reserves in place of 63+BCF underlying each unit is not out of line in the opinion of the ALJ after reviewing the various area orders submitted once the record was closed. Devon and Cimarex have both been active in this Woodford play over the last three to four years and both companies have increased the calculated reserves in place as a result of the continued horizontal drilling used to recover gas from the Woodford. Additionally, in several units where only four increased density wells were initially requested, applications have been filed within several months following the issuance of that order requesting three to four more Woodford increased density wells in the same unit. In the subject applications, it is evident that Cimarex is seeking authority for eight increased density wells to avoid the additional cost and time required by a new increased density application. These increased density applications and the amount of reserves in place as well as the estimated ultimate recovery projected for each well justifies eight additional wells be granted in each of the subject units.

3) JMA urges that these applications be denied or, at best, modified to grant two increased density wells per unit. This request is based on public production figures from area Woodford wells. JMA has no experience drilling horizontal Woodford wells in the Cana Woodford Shale and JMA has very small ownership interests in this area. The primary reason given for denial/limitation of the applications is that the wells will not be economically viable from the standpoint of JMA. Additionally, the issues of the amount of drainage area extending from the laterals and estimated ultimate reserves underlying the units were also raised as reasons to limit the number of wells. These issues, if ultimately found to be the case as JMA urged, would further limit the economic viability of the proposed increased density wells. The combination of the testimony and evidence regarding the subject units and the current development of the Woodford in the area referred to by Cimarex and

demonstrated in the orders reviewed by the ALJ is a convincing argument that the correlative rights of the unit owners are best protected by granting the subject applications for increased density. The issue of wellbore proximity among the wells will, if required, result in applications for exceptions to the Commission rules. Actual drainage from the laterals can be addressed at that time to determine whether an exception will be granted and/or how it will impact any allowable assigned to the wells.

4) Thus, in light of the aforementioned conclusions, it is the recommendation of the ALJ that the applications of Cimarex in CD 201105400-T and CD 201105571-T be granted. Any orders issuing out of these causes should contain the recommendations provided herein.

POSITIONS OF THE PARTIES:

JMA

1) **Charles L. Helm**, attorney, appeared on behalf of JMA taking exception to the recommendation of the ALJ. The relief sought by Cimarex, the applicant, is increased well density for Section 25, T14N, R10W, and Section 30, T14N, R10W, Canadian County, Oklahoma. JMA states that Cimarex filed for increased well density in both Section 25 and Section 30. JMA asserts that Cimarex requested eight increased density wells in the Woodford common source of supply for each unit.

2) JMA asks that its exceptions to the recommendations of the ALJ be incorporated by reference. JMA requests that the granting of the eight increased density wells in both sections be denied.

3) JMA states that a 640-acre spacing unit overlies both Section 25 and Section 30 and that those sections are centered on a nine-section plat, Exhibit 2 and Exhibit 5.

4) JMA contends that in Section 25 there is already a horizontal well in the Woodford, the Draper #1-25. JMA asserts that there are single horizontal Woodford wells drilled in the offset sections of Section 25, with the exception of Section 23. JMA notes two wells drilled in Section 23, the Krittenbrink #1-23H and the Krittenbrink #2-23H.

5) JMA asserts that in Section 30 there is a similar horizontal well, the Buser Farms #1-30H, which ends in the N/2 NW/4 of the section. JMA contends that there are horizontal Woodford wells in some of the offset sections to Section 30.

6) JMA asserts that there are no vertical Woodford wells in or around Section 25 or Section 30, and that development in the area has been through horizontal drilling.

7) JMA contends that by Order No. 582869, Cimarex was granted four increased density wells in Section 23, where the Krittenbrink #1-23H and Krittenbrink #2-23H had already been drilled. JMA asserts that at the time the increased density wells were granted in Section 23, Cimarex's exhibits showed an expected production of 56 BCF from the increased density wells. JMA contends that these increased density wells have not been drilled, but that Cimarex still has the authority to do so.

8) JMA asserts that the Krittenbrink #1-23H had an initial daily production of 1.7 MCF, and that daily production declined to 1.4 MCF by May of 2011. JMA contends that the Krittenbrink #2-23H had an initial daily production of 3.7 MCF, and that daily production declined to 2.4 MCF by September of 2011. JMA asserts that Cimarex chose not to drill the additional three density wells in Section 23.

9) JMA contends that the wells in Section 23 exemplify the variability in production from Woodford wells. JMA asserts that this contention is bolstered by the fact that production from the Krittenbrink wells varied so widely while the wells were drilled next to each other, stimulated in similar fashion, and completed in a similar fashion.

10) JMA asserts that the details of the Section 23 wells are relevant in this matter because they rebut the evidence put on by Cimarex that the Woodford formation underlying Sections 25 and 30 is uniform in composition. JMA contends that Cimarex founded its Application upon this presumption.

11) JMA contends that the statement of the ALJ at paragraph 3B of the Summary of Evidence in her report that "the Cimarex volumetric study is based on regional isopachs since the Woodford thickness doesn't change across the area and there are limited Woodford perforations that would help create a reliable isopach in the immediate area" is in error.

12) JMA asserts that no geological testimony was presented in this matter. JMA contends that Cimarex relied on the testimony of an engineer and a landman, and that Cimarex did not present any geologic interpretation. JMA asserts that there was no testimony from the engineer regarding reference to an isopach map. JMA contends that the engineer stated that he did not use an isopach map. JMA asserts that the engineer relied on an assumption of 225 feet of gross thickness for the Woodford underlying both Section 25 and Section 30.

13) JMA asserts that the engineer, in Exhibits 3 and 6, reached the prediction of 63 BCF RGIP by relying on the above assumption, rather than by

use of an isopach map or planimeter. JMA contends that the engineer predicted a recovery of 6.1 BCF for each Woodford horizontal well. JMA asserts that the evidence is not consistent with that amount of recovery.

14) JMA contends that Cimarex's application was based upon this assertion that each unit will have an eventual recovery of 63 BCF and each individual well an eventual recovery of 6.1 BCF. JMA asserts that the evidence in this case does not support the above conclusion regarding recovery.

15) JMA contends that Exhibit 7 shows that in Cause No. 2008-1422-T, Cimarex put on evidence supporting a recovery of 2.9 BCF from the Jameson #1-27H in Section 27 in the same township, range and county. JMA states that Section 27 lies between Section 25 and Section 30.

16) JMA asserts that in Cause No. 2008-1422-T, Cimarex put on evidence supporting gas in place of 14.5 BCF from that unit. JMA contends that in Order 552762, Cimarex was granted three increased density wells in Section 27, which Cimarex has not drilled. JMA asserts that Cimarex, in Cause No. 2011-6411-T, requested one additional increased density well in Section 27 and changed its estimate of production in the unit from 14.5 BCF to 64 BCF without a well ever being drilled.

17) JMA contends that Cimarex claimed that each well in Section 27 would recover 6.1 BCF, despite putting on evidence that the likely recovery of the Jameson #1-27H will be 2.46 BCF. JMA asserts that Cimarex's estimation that each section contains 63 BCF contradicts Cimarex's original estimations. JMA reasserts that the Jameson #1-27H is not consistent with the prediction that each well will produce 6.1 BCF.

18) JMA contends that there is no reliable evidence supporting Cimarex's estimations for Sections 25 and 30. JMA asserts that the 16 wells proposed by Cimarex will not be economical.

19) JMA contends that the evidence in Exhibits 11 and 14, presented by the engineering witness for Cimarex, do not support a conclusion of 6.1 BCF recovery from each well. JMA cites the Jameson #1-27H with a predicted recovery of 2.4 to 2.9 BCF, the Buser Farms #1-30H well with a predicted recovery of 4.6 BCF, and the Draper #1-25H well with a predicted recovery of 5.5 BCF.

20) JMA asserts that 88 of the 110 wells analyzed in Exhibit 14 will not meet the 6.1 BCF threshold. JMA contends that Cimarex operates 30 of the wells shown on Exhibit 14, and that only one Cimarex well is expected to recover 6.1 BCF. JMA asserts that 13 of the 30 wells operated by Cimarex are anticipated to recover less than 3 BCF. JMA contends that the engineering witness for Cimarex stated that 51 of the 110 wells noted in Exhibit 14 would

be uneconomical at a cost of \$8 million, the cost of drilling under ideal conditions.

21) JMA asserts that Exhibit 14 displays the variability by unit in the Woodford formation. JMA contends that the range of estimated recovery of the 110 wells in Exhibit 14 is .2 BCF to 12.2 BCF.

22) JMA asserts that there is no evidence of a section being able to support nine wells with a recovery of 6.1 BCF per well in the Woodford. JMA contends that all of Cimarex's units, other than Section 23, contain only one horizontal well.

23) JMA asserts that the drilling of 16 wells will cost \$128 million, and that half of the 16 wells may be uneconomical. JMA requests that the drilling of increased density wells be restricted by the variability in the Woodford Field. JMA requests that the recommendation of the ALJ be reversed, and that increased density be restricted to four wells.

CIMAREX

1) **Ron M. Barnes**, attorney, appeared on behalf of the Applicant, Cimarex and asserts that it has drilled and is authorized to drill considerably more wells. Cimarex states that it operates 30 wells in the area, and that other wells are operated by Devon, QEP, and Marathon.

2) Cimarex states that the engineering witness, Mr. McNulty, has a Bachelor's degree in Petroleum Engineering, has a Master's degree in Petroleum Engineering, and has worked in the industry for seven years. He also has been accepted as an expert in the field of petroleum geology.

3) Cimarex notes 9 wells being drilled in Sections 31 and 30, shown on Exhibit 10, being drilled under a new method in which four wells are drilled simultaneously and the same equipment is used to drill four additional wells simultaneously.

4) There is a misconception of the volumetrics that was done by Mr. McNulty, and that is the expectation for these numbers as far as how well a well will do. If it doesn't do that well, it may take more wells. But what we're talking about is an estimate of what each well will get. It is not anything other than that. The only thing that is not an estimate as far as the volumetrics go is the thickness of the reservoir because it is a blanket deposit.

5) Cimarex asserts that JMA does not operate a well in the area, and that JMA has not drilled in the area. Cimarex contends that if a party does not think a well will be economical, the appropriate response is not to participate.

Cimarex asserts that if JMA's expert does not believe the wells will be economical, JMA can elect not to participate in the well.

6) Cimarex contends that in Section 25, JMA has a 0.7% interest, equivalent to 4.48 acres; Cimarex asserts that in Section 30, JMA has a 0.3% interest equivalent to 1.90 acres. Cimarex contends that JMA's cost per well in Section 25 would be \$56,000. Cimarex asserts that JMA's cost per well in Section 30 would be \$24,000 per well. Cimarex asserts, by contrast, that its expense per well in Section 25 is \$3,280,000 and its expense per well in Section 30 is \$4,240,000. That is what Cimarex is willing to invest on their geology and engineering that they presented in this particular area, eight wells at a time, four rigs on location drilling these particular wells. Cimarex contends that by drilling simultaneously, it will save \$120,000 per well. Cimarex asserts that this method of drilling provides the working interest owners a savings of \$960,000 per unit. Cimarex contends that by skidding the rig, the savings for the two units will be \$1,920,000. Cimarex contends that there are 27 units in this development area, and that savings to the working interest owners in the area would be \$25,920,000. Cimarex asserts that in these 27 units JMA owns 11 acres. Cimarex contends it is inappropriate for such a comparatively small interest holder to dictate the amount or method of drilling.

7) Cimarex asserts that at the ALJ's request it provided examples of increased density orders in the development area: Order No. 592161, in Section 17, T13N, R9W, Devon estimated a recovery of 48.5 BCF and was granted eight increased density wells; Order No. 591730, in Section 18, T13N, R9W, Devon estimated recovery of 52.8 BCF and was granted eight increased density wells; Order No. 582180, in Section 35, T13N, R9W, Devon estimated recovery of 50.24 BCF and was granted eight increased density wells; in three proceedings regarding Section 13, T13N, R10W, Devon was granted an eventual eight increased density wells with an estimate of recovery of 67.81 BCF; Order No. 591976, in Section 14, T13N, R10W, Devon estimated a recovery of 67.89 BCF and was granted eight increased density wells; in Section 15, Marathon was granted an increased density of five wells on an estimated recovery of 34.269 BCF; Order No. 591490, in Section 23, T13N, R10W, QEP was granted an increased density of eight wells on an estimated recovery of 55.4 BCF; Order No. 585677, in Section T13N, R11W, Devon was granted an increased density of three wells.

8) Cimarex contends that the volumetric data shows that nine wells per unit are necessary. Cimarex reasserts that there is significant savings in drilling in this simultaneous fashion.

9) Cimarex contends that as shown in Exhibits 8 and 9, Section 37 was granted seven additional wells on an estimated recovery of 64.04 BCF.

10) Cimarex asserts that the testimony of Mr. McNulty is more reliable than the testimony of Mr. Davis, as shown by the expertise and experience of Mr. McNulty.

11) Cimarex reasserts that JMA has a minute interest in the development area. Cimarex contends that Cimarex, Devon, Marathon, and Chaparral are all participating in wells in this area. Cimarex reasserts that JMA's proper response, if it believes drilling is uneconomical, is to not participate in the wells.

12) Cimarex requests that the recommendation of the ALJ be upheld.

RESPONSE OF JMA

1) JMA asserts that the data presented by Mr. Davis in Exhibit 14 was not challenged at the hearing. JMA contends that Mr. Davis emphasized that there had not been a unit in the area with eight wells drilled with the kind of recovery estimated by Cimarex.

2) JMA notes the wells drilled in Section 10 and Section 11, displayed in Exhibit 10 and Exhibit 14. JMA asserts that the wells in the east half of Section 10 do not meet the estimates advanced by Cimarex (the Guinn #1-10 with a recovery of 2.7 BCF, the Guinn #2-10 with a recovery of 2.1 BCF, the Guinn #3-10 with a recovery of 1.7 BCF, and the Guinn #4-10 with a recovery of 2.4 BCF.) JMA asserts that the wells drilled in Section 10 are uneconomical.

3) JMA contends that the wells drilled in the W/2 of Section 11, the Ratliff wells, will recover in the range of 3 BCF, and are therefore also uneconomical.

4) JMA reasserts that the evidence shows that drilling nine wells in a unit will be uneconomical. JMA asserts that Mr. Davis testified that it is unknown the effect eight wells in a single unit would have upon each other. JMA reasserts that wells in the area have not produced near the 6.1 BCF estimate.

5) JMA contends that the single wells in Section 25 and Section 30 should not be taken to reflect expected production from a multiple well unit. JMA reasserts that the variability of production in the area shows that some of the increased density wells will be uneconomical. JMA contends that it would be proper to allow for four additional wells, rather than 16 additional wells.

6) JMA asserts that Cimarex has not employed the method of simultaneous drilling it relied upon for justification for increased density. JMA contends that Cimarex has begun drilling in Section 25 under an emergency order, but not with four rigs as contemplated.

RESPONSE OF CIMAREX

- 1) Cimarex asserts that it challenged Mr. Davis' statement that no other party had used a similar volumetric method of calculation.
- 2) Cimarex contends that there are no units with eight wells drilled because Cimarex has just reached this point of drilling.
- 3) Cimarex asserts that four wells are being drilled under the emergency order.

SECOND RESPONSE OF JMA

- 1) JMA reasserts that there is no unit with eight wells that have been drilled which is available for analysis beyond the southern area. JMA reasserts that this southern area does not meet Cimarex's production estimates.
- 2) JMA contends that the purpose of its challenge is that the evidence does not reflect the estimates advanced by Cimarex.

CONCLUSIONS

The Referee finds the Report of the Administrative Law Judge should be affirmed.

- 1) The Referee finds that the ALJ wrote a well-reasoned report based upon the evidence presented before her. In her report, the ALJ fully explains and discusses all the issues raised by the evidence and law with regard to the determination to grant the applications. The ALJ discusses the differences between the interpretations of the JMA engineer and the Cimarex engineer and her reasons to accord greater weight to the opinions of the Cimarex witnesses.
- 2) The ALJ is the initial finder of fact and it is her duty as the finder of fact to observe the demeanor of the witnesses, assess their credibility and assign the appropriate weight to their opinions. *Grison Oil Corp. v Corporation Commission*, 99 P.2d 134 (Okl. 1940). The Referee will not disturb her finding of credibility.

3) In *Union Texas Petroleum, a division of Allied Chemical Corporation v. Corporation Commission of State of Oklahoma*, 651 P.2d 652 (Okl. 1981) the Supreme Court stated concerning substantial evidence that:

The Commission has a wide discretion in the performance of its statutory duties, and this court may not substitute its judgment upon disputed factual determinations for that of the Commission but is restricted to a determination of substantial evidentiary support for the order issued under authority of the statutes. *In Re: Application of Continental Oil Company*, 376 P.2d 330 (Okl. 1962). Searching a record for substantial evidence supporting the order appealed does not entail a comparison of the parties' evidence to determine that which is most convincing but only that the evidence supportive of the order be considered to determine whether it implies a quality of proof inducing a conviction that the evidence furnished a substantial basis of facts from which the issue could be reasonably resolved. *Chenoweth v. Pan American Petroleum Corporation*, 382 P.2d 743 (Okl. 1963). Substantial evidence has been additionally outlined as something more than a scintilla; possessing something of substance and of relevant consequences carrying with it a fitness to induce conviction, but remains such that reasonable men may fairly differ on the point of establishing the case. A determination of substantial evidentiary support does not require weighing the evidence but only a measurement of the supportive points to determine whether the criterion of substantiality is present. *Central Oklahoma Freight Lines v. Corporation Commission*, 484 P.2d 877, 879 (Okl. 1971).

4) The Referee observes that the ALJ based her recommendations on her assessment of the demeanor and credibility of the experts. The ALJ assigned the appropriate weight she believed should be applied to their opinions and as noted above, she placed greater weight on the expert testimony of the Cimarex witnesses which is not reversible error. She placed greater weight on Cimarex witnesses, which is the ALJ's function.

5) The ALJ had before her a battle of the experts. From her review of the record in the cause, it is clear that both parties presented experts in engineering that are held in high esteem by their colleagues, have considerable education in their respective fields, and have significant experience in their

professions. Each of the experts had firm convictions and remained firm under cross-examination.

6) The Referee notes that JMA protests the granting of the sixteen Increased Density Woodford wells in the two units based on the current lack of horizontal Woodford production in each unit and well/reservoir information available. JMA also questions the drainage areas of each of the proposed wells and Cimarex's figures as to the total recoverable reserves underlying each unit. JMA asserts that there has been absolutely no evidence where a unit has had eight wells drilled to enable analysis of the recoveries except in an area to the south where the wells are nowhere near what Cimarex suggests every one of these sections has, and that every well is going to get 61 BCF. JMA asserts that the actual results of drilling operations versus the granting of increased densities have not been what Cimarex has projected. JMA asserted that while there may have been wells permitted by an increased density in a unit, there had never been eight wells drilled in any of the units in the area to show what kind of recoveries they had. JMA asserts that the four wells drilled in the E/2 of Section 10 to the south of the proposed units are operated by Cimarex and they have shown that these wells don't recover 6.1 BCF and fall into the uneconomic category. In the W/2 of Section 11 the five wells drilled are a little bit better as they are in the 3 BCF range but those wells aren't going to recover the \$8 million spent to drill each of them.

7) On the other hand, there was testimony presented by Cimarex that they would submit copies to the ALJ of Commission Orders from Increased Density applications for the Woodford in the area to demonstrate other units' projected initial reserves in place and the numbers of Increased Density wells being sought in these applications by the various applicants. There was also evidence presented that there were significant savings to those owners to drill the wells in this particular fashion. Devon, Marathon and QEP have all proposed Increased Density for multiple wells in various units in the area. In addition, Cimarex is able to save a great deal of money with their method of drilling two wells with one rig by skidding the rig. This provides the working interest owners a savings of \$960,000 per unit and the savings for the two units in the present cause will be \$1,920,000. Cimarex also contends that there are twenty-seven units in this development area and the savings to the working interest owners in the area would be \$25,920,000. JMA also has little experience drilling horizontal Woodford wells in the Woodford shale and JMA has a very small ownership interest in this area, only 11 acres in 27 units.

8) The ALJ found in her report on page five:

The combination of the testimony and evidence regarding the subject units and the current development of the Woodford in the area referred to by

Cimarex and demonstrated in the orders reviewed by the ALJ is a convincing argument that the correlative rights of the unit owners are best protected by granting the subject applications for increased density. The issue of wellbore proximity among the wells will, if required, result in applications for exceptions to the Commission rules; actual drainage from the laterals can be addressed at that time to determine whether an exception will be granted and/or how it will impact any allowables assigned to the wells.

9) The Referee agrees with the determination by the ALJ. When an appeal comes down to the fact that the expert opinions presented by the two sides are in direct conflict, it is the duty of the ALJ to assign the weight to the expert opinion presented before her.

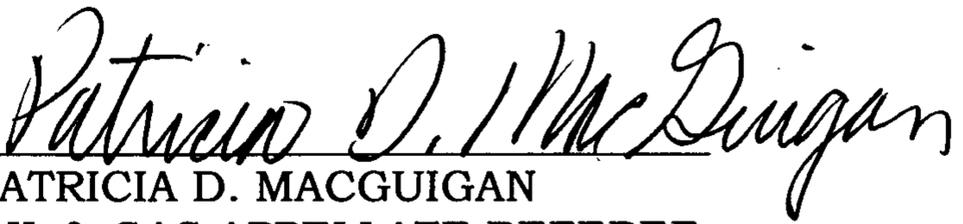
10) The Supreme Court addressed this issue concerning the weight given to expert testimony in direct conflict in *Palmer Oil Corp. v Phillips Petroleum*, 231 P.2d 997 (Okl. 1951) stating:

...At the hearing herein the testimony adduced was chiefly that of petroleum engineers and geologists who testified on the basis of both personal surveys made and of an interpretation of the accumulated data in the hands of the Commission. The testimony of these experts was in direct conflict but that of each was positive upon the issue. Under the circumstances the objection is necessarily addressed to only the weight of the evidence. Under the holding of this court and that of courts generally, *Chicago, R.I. & P. Ry. Co. v. Pruitt*, 67 Okl. 219, 170 P. 1143; 22 C.J. 728, sec. 823, 32 C.J.S., Evidence, § 567, p. 378, the weight to be given opinion evidence is, within the bounds of reason, entirely for the determination of the jury or of the court, when trying an issue of fact, it taking into consideration the intelligence and experience of the witness and the degree of attention he gave to the matter. The rule should have peculiar force herein where by the terms of the Act the Commission is recognized as having peculiar power in weighing the evidence. Since the evidence before the Commission was competent and sufficient if believed, to sustain the order we must, and do, hold that the order is sustained by the evidence and that the contention is

without merit. *Ft. Smith & W.Ry Co. v. State*, 25 Okl. 866, 108 P. 407; *Bromide Crushed Rock Company v. Dolese Bros. Co.*, 121 Okl. 40, 247 P. 74.

11) Thus based on the preceding rationale, the Referee recommends that the Report of the ALJ be affirmed.

RESPECTFULLY SUBMITTED THIS 1st day of June, 2012.


PATRICIA D. MACGUIGAN
OIL & GAS APPELLATE REFEREE

PM:fl/ac

xc: Commissioner Murphy
Commissioner Anthony
Commissioner Douglas
Jim Hamilton
Kathleen M. McKeown
Ron M. Barnes
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