

**DECISION SHEET OF THE OIL & GAS APPELLATE REFEREE**

APPLICANT: CRAWLEY PETROLEUM CORPORATION )  
RELIEF SOUGHT: INCREASED DENSITY ) CAUSE CD NO. 201106285 )  
LEGAL DESCRIPTION: SECTION 14, TOWNSHIP 11 )  
NORTH, RANGE 23 WEST, )  
ROGER MILLS COUNTY, )  
OKLAHOMA )

**FILED**  
APR 05 2012

APPLICANT: CRAWLEY PETROLEUM CORPORATION ) COURT CLERK'S OFFICE - OKC CORPORATION COMMISSION OF OKLAHOMA )  
RELIEF SOUGHT: LOCATION EXCEPTION ) CAUSE CD NO. 201106286 )  
LEGAL DESCRIPTION: SECTION 14, TOWNSHIP 11 )  
NORTH, RANGE 23 WEST, )  
ROGER MILLS COUNTY, )  
OKLAHOMA )

**ORAL APPEAL OF THE ADMINISTRATIVE LAW JUDGE'S RULING ON A REQUEST TO ALLOW ADMISSION OF EVIDENCE, EXHIBIT 5**

This Request for Admission of Evidence (Exhibit 5) was presented in the hearing before **Michael D. Norris**, Administrative Law Judge for the Oklahoma Corporation Commission, at 9 a.m. on the 8<sup>th</sup> day of March, 2012, in the Commission's Courtroom, Jim Thorpe Building, Oklahoma City, 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:** **John C. Moricoli, Jr.**, attorney, appeared for applicant, Crawley Petroleum Corporation ("Crawley"); **Eric R. King**, attorney, appeared for JMA Energy Co., LLC ("JMA"); and **Jim Hamilton**, Assistant General Counsel for the Conservation Division, filed notice of appearance.

The Administrative Law Judge ("ALJ") issued his Oral Ruling to which Oral Exceptions were timely lodged and proper notice given of the setting of the Exceptions.

The Appellate argument concerning the Oral Exceptions was referred to **Patricia D. MacGuigan**, Oil and Gas Appellate Referee ("Referee"), on the 5<sup>th</sup> day of April, 2012. After considering the arguments of counsel and the record contained within these Causes, the Referee finds as follows:

### **DECISION OF THE OIL AND GAS APPELLATE REFEREE**

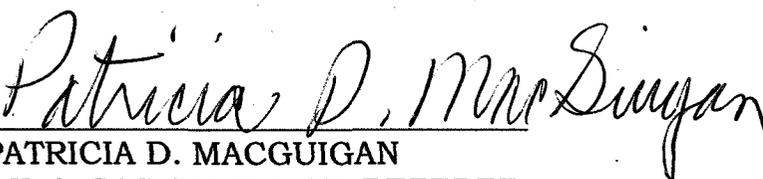
The ALJ made an evidentiary ruling denying the admission of Exhibit 5 determining that said exhibit was not relevant to the issues involved in the present causes. JMA requested admission of Exhibit 5 into the evidence which was objected to by Crawley and the ALJ determined that Exhibit 5 was irrelevant. JMA took exceptions to the ALJ's ruling and instituted this Oral Appeal of the ALJ's Ruling on JMA's Request to allow admission of Exhibit 5 into evidence. The Appellate Referee has determined that the rules of procedure do not allow an appeal of a mid-trial evidentiary ruling. The ALJ's evidentiary ruling concerning the admission of Exhibit 5 is not an Interlocutory Order which would be appealable under 12 O.S. Section 952(b)(2)(3); 12 O.S. Ch. 15, App. 1, Rule 1.40 et seq.; or 12 O.S. Ch. 15, App. 1, Rule 1.60 et seq. The Referee's ruling in this case does not preclude JMA from asserting error in the non-admission of Exhibit 5 in any appeal by JMA of the ALJ's final report issued in this case. Allowing an oral appeal concerning admittance or non-admittance of evidence in the middle of a protested proceeding would most likely set a precedent which would cause protested hearings from being completed in a timely manner.

The Supreme Court in *Jinks v. Braly*, 216 P.2d 581 (Okl. 1950) states that to constitute a 'final order' from which an appeal will lie, it must be an order affecting a substantial right in the action, and the effect of such order must determine the action and prevent a judgment. See also *Roach v. Jimmy D. Enterprises, Ltd.*, 912 P.2d 852 (Okl. 1996); *DLB Energy Corp. v. Oklahoma Corp. Com'n*, 805 P.2d 657 (Okl. 1991).

For the above stated reasons, the Referee finds that the decision by the ALJ to deny admission of Exhibit 5 is not appealable at the present stage of the protested hearing because it does not constitute a "final order" or an

appealable Interlocutory Order, as it does not affect a substantial part of the merits of the controversy.

**RESPECTFULLY SUBMITTED THIS 5<sup>th</sup> day of April, 2012.**

  
PATRICIA D. MACGUIGAN  
OIL & GAS APPELLATE REFEREE

PM:ac

xc: Commissioner Murphy  
Commissioner Anthony  
Commissioner Douglas  
Jim Hamilton  
ALJ Michael D. Norris  
John C. Moricoli, Jr.  
Eric R. King  
Office of General Counsel  
Michael L. Decker, OAP Director  
Oil Law Records  
Court Clerks - 1  
Commission Files