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BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

APPLICANT:	**HALLCO PETROLEUM, INC.**	
RELIEF SOUGHT:	**UNITIZATION ENHANCED RECOVERY UNIT – DESCRIBED AS THE CONKLIN UNIT**	**CAUSE CD NO. 201202483**
LEGAL DESCRIPTION:	**S/2 OF SECTION 9, TOWNSHIP 27 NORTH, RANGE 5 EAST, KAY COUNTY, OKLAHOMA**	

FILED
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CORPORATION COMMISSION
OF OKLAHOMA

APPLICANT:	**CHAPARRAL ENERGY, L.L.C.**	
RELIEF SOUGHT:	**UNITIZED MANAGEMENT, OPERATION AND FURTHER DEVELOPMENT OF THE BURBANK KAY COUNTY ENHANCED RECOVERY UNIT, INCLUDING TERTIARY RECOVERY OPERATIONS**	**CAUSE CD NO. 201203768**
LEGAL DESCRIPTION:	**W/3 OF SECTION 3, ALL OF SECTION 4, ALL OF SECTION 9, THE W/2 OF SECTION 10, THE W/2 OF SECTION 15, ALL OF SECTION 16, THE N/2 NE/4 OF SECTION 21, AND THE W/2 OF SECTION 22, ALL IN TOWNSHIP 27 NORTH, RANGE 5 EAST, KAY COUNTY, OKLAHOMA**	

REPORT OF THE OIL AND GAS APPELLATE REFEREE ON AN ORAL APPEAL OF MOTION TO CONSOLIDATE, MOTION TO PRODUCE, SECOND MOTION TO PRODUCE AND A MOTION TO DISMISS

These Oral Motions came on for hearing before various Administrative Law Judges for the Oklahoma Corporation Commission, 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: **Dale E. Cottingham**, attorney, appeared for applicant, Hallco Petroleum, Inc. ("Hallco"); **Gregory L. Mahaffey**, attorney, appeared for applicant, Chaparral Energy, LLC ("Chaparral"); and **Jim Hamilton**, Assistant General Counsel for the Conservation Division, filed notice of appearance.

The Motion to Dismiss and the Motion to Consolidate were heard by ALJ Michael Decker on the 7th and 13th day of August, 2012 with an oral ruling made by the ALJ on August 22, 2012. The Second Motion to Produce was heard by ALJ Michael Decker on 28th day of August, 2012 with an oral ruling on the same date. The Motion to Produce was heard by ALJ Paul Porter on the 3rd day of July, 2012 with an oral ruing on the same date.

The various ALJs above issued their oral rulings on the above Motions 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 5th day of October, 2012. After considering the arguments of counsel and the record contained within these Causes, the Referee finds as follows:

STATEMENT OF THE CASE

Hallco filed its application in Cause CD 201202483 on April 19, 2012 seeking the unitization enhanced recovery unit described as the Conklin unit for the S/2 of Section 9, T27N, R5E, Kay County, Oklahoma. Hallco sought to unitize the geological interval within the Unit Area known as the Red Fork (Burbank) interval, being identified from 2,951 feet to 3,040 feet in the electric logs survey of the Conklin #9-3 well, now operated by Hallco, which well is located in the NE/4 SW/4 of Section 9. The unitized interval of the Red Fork (Burbank) was previously spaced in the S/2 of Section 9 by Order No. 256462 with 40 acre

units. Hallco requested in its application that pursuant to 52 O.S. Section 287.9 an order granting their application would supersede and modify the existing Commission Order No. 256462 affecting the proposed unit. Hallco alleged that the enhanced recovery operation would be in the interest of conservation, prevention of waste and protection of correlative rights. Hallco also alleges that the unitized method of operation as applied to the unitized interval is feasible, will prevent waste and will with reasonable probability result in increased recovery of substantially more oil and gas from the unitized interval than would otherwise be recovered. Hallco requested that it or some other party requested by Hallco be approved as unit operator.

Chaparral filed its application in Cause CD 201203768 seeking unitized management, operation and further development of the Burbank Kay County enhanced recovery unit, including tertiary recovery operations for the W/2 of Section 3, all of Section 4, all of Section 9, the W/2 of Section 10, the W/2 of Section 15, all of Section 16, the N/2 NE/4 of Section 21, and the W/2 of Section 22, all in T27N, R5E, Kay County, Oklahoma. Chaparral requested an order creating the Burbank Kay County enhanced recovery unit for the purpose of unitized management, operation and further development of the oil and gas underlying that subsurface portion of the Unit Area from the Burbank, common source of supply found between the base of the Pink Lime down to the top of the Mississippian Unconformity being the stratigraphic equivalent of a subsurface depth of 2928 feet down to and including 3,070 feet, as found in the Dual Induction/Gamma Ray Log of the Conklin #9-3 well located in the NE/4 SW/4 of Section 9. Chaparral considered the plan to be fair, reasonable and equitable to the end that it would protect, safeguard and adjust the respective rights and obligations of the respective owners entitled to share in production from the proposed Burbank Kay County enhanced recovery unit. Chaparral was requesting that it be named operator of the Unit Area under the plan. The plan would be ratified by owners of record owning more than 63% (exclusive of royalty interest owned by lessees or by subsidiaries of any lessee of record) of the normal 1/8th royalty interest in and to the Unit Area. The Plan would be signed and ratified by lessees of record owning more than 63% of the Unit Area. The land described in the caption of the application was reasonably underlain by the Burbank common source of supply and the unitized management, operation and further development of the Unit Area and of said common source of supply are reasonably necessary to waterflooding operations and other forms of joint effort calculated to increase substantially the ultimate recovery of oil and gas from said Unit Area and said common source of supply than would otherwise be recovered. Unitized management, operations and further development of the Unit Area and the Burbank common source of supply by pressure maintenance, pressuring operations, waterflooding operations (CO_2 injection) and other forms of joint effort, in accordance with

the Plan, are feasible, will prevent waste and will, with reasonable probability, result in the recovery of substantially more oil and gas from said Unit Area and said common source of supply than would otherwise be recovered. The estimated additional cost, if any, of conducting such operations as are contemplated by the Plan will not exceed the value of the additional oil and gas recovered.

On May 24, 2012 Hallco filed a Motion to Produce certain documents and records from Chaparral for inspection and copying. All of the issues concerning the Motion to Produce filed on May 24, 2012, were resolved by Hallco and Chaparral except for two items, #19 and #24 listed on Hallco's Motion to Produce. Item #19 requested documents relating to previous results of tertiary recovery in the Burbank Field, how it worked and what were the results in the areas covered. Item #24 requested any and all versions of PowerPoint presentations Chaparral displayed to third parties regarding Chaparral's proposed CO_2 flood in the Burbank Field.

The Motion to Consolidate was filed by Chaparral on July 30, 2012, stating that these causes concerned the same land insofar as the S/2 of Section 9, T27N, R5E, Kay County, Oklahoma. These causes both involve enhanced recovery proposals, but involve competing ideas on how the S/2 of Section 9 and adjacent land should be developed. The witnesses testifying will be the same in each cause and that in the interest of judicial economy and consistency of decisions said causes should be consolidated for hearing.

Hallco filed a Motion to Dismiss on July 31, 2012, stating that Chaparral's application in Cause CD 201203768 should be dismissed because Chaparral lacked legal authority for its cause under 52 O.S. Section 287.1 – 287.15, in that Chaparral has failed to abide by the procedural requirements of 52 O.S. Section 287.6. Hallco further alleged that Chaparral lacks legal authority for its cause under OCC-OAC 165:5-7-20, in that Chaparral has failed to abide by the procedural requirements set forth therein.

On August 17, 2012 Hallco filed its Second Motion to Produce pursuant to OCC-OAC 165:5-11-1 to produce any and all contracts between Chaparral and any entity for the purchase or intended purchase of CO_2. Hallco's Second Motion to Produce also requested any and all contracts relating to locating and construction and/or use and costs of a CO_2 pipeline, including without limitation all right-of-way agreements, purchase agreements, pipe line maps, construction maps, and as built drawings.

REPORT OF THE ADMINISTRATIVE LAW JUDGE

MOTION TO PRODUCE

ALJ PAUL PORTER recommended on July 3, 2012 that Hallco be allowed to view all of the power point presentation previously displayed to third parties and any notes regarding the same and also determined that Chaparral was to supply to Hallco information supporting the Chaparral polymer study. Both items/requests provided by Chaparral would be subject to a Commission Protective Order.

SECOND MOTION TO PRODUCE

ALJ MICHAEL DECKER heard the Second Motion to Produce on August 28, 2012. This Second Motion to Produce filed by Hallco sought information regarding a CO_2 contract that was proposed and mentioned in prior proceedings. The ultimate plan of Chaparral with regard to their fieldwide unitization proposal was to use a CO_2 injection in the Burbank Field. The Burbank Field is a very large and prolific oil recovery area in northeastern Oklahoma. The greatest portion of the Burbank Field that's involved with proposals by Chaparral is located in Osage County. It is not within the jurisdiction of the Oklahoma Corporation Commission. Approximately 22,000 acres of the Burbank Field is located in Osage County. There is a branch of the Burbank Field that extends into Kay County that's about 3,000 acres. The application filed by Chaparral covers the 3,000 acres that is within the Oklahoma Corporation Commission's jurisdiction under 52 O.S. Section 287.1 through 287.15. Chaparral's application pertains to tertiary recovery operation of the Burbank Field or the Burbank common source of supply which is a sandstone formation oil recovery area. The ultimate outcome would be that they would do a tertiary recovery process that would use CO_2 to inject and to try to enhance the recovery from the existing wells in the field using CO_2. Therefore, Hallco which has a portion of the area that's affected by the application filed by Chaparral filed a motion seeking the discovery of the CO_2 contract. The ALJ's recommendation was that the discovery of the contract should be permitted and there also should be a protective order that would be instituted that would prevent the review or the use of this document outside the context of this dispute. There would be CO_2 contract cost estimates provided in the proposal for the unitization plan that would involve the CO_2 and what it would entail and what the expense would be. The ALJ therefore

recommended that the CO_2 contract be provided to Hallco so that it could evaluate what the contract provided and how that would relate to the information that's ultimately obtained in a unitization plan and a protest on the unitization for their overall 3,000 acre area.

MOTION TO DISMISS

ALJ MICHAEL DECKER recommended that the Hallco Motion to Dismiss in CD 201203768 be denied. An application for the unitized management of the Burbank Sand through secondary and tertiary recovery operations should be filed and considered by the Commission if such activity is to be approved for the area, as that area will ultimately be defined by the engineering and geological evidence. The Chaparral application proposing unitized management of the area covered by CD 201203768 should not be dismissed, but Chaparral should be required to file a separate application to clarify, and amend if necessary, Order No. 27937 to eliminate any confusion about the impact of the 1953 order on any secondary recovery operations proposed by the instant unitization proposals.

Title 52 O.S. Section 287.4 is the provision in the Unitization Statute that talks about the area of the plan and what's required and what the Commission must determine about the area of the plan. Hallco has asserted that Order No. 27937 which was issued by the Commission in 1953 was essentially an unitization order. It was claimed by Hallco that this application by Chaparral was a collateral attack on Order No. 27937 and if there is no reference to that prior order in the application filed by Chaparral then the application should be dismissed because it did not deal with Order No. 27937. Chaparral claims that this Order No. 27937 is not an unitization order but is what is classified as a "cooperative water flood order" and that it had been inactive for many years. The testimony given by Chaparral at the hearing on the Motion to Dismiss was that there were numerous areas where the leases had been released and there had been new leases taken. There were no circumstances whereby the Order No. 27937 had served as a basis for holding by production leases that were in the vicinity that was covered by the order. The testimony also indicated that Phillips Petroleum Company ("Phillips") had been the original operator of the Burbank Field and the testimony reflected that the internal records of Phillips indicated that Order No. 27937 was a cooperative water flood process. Costs originally beginning in the 1950s were attributed between the people that owned or formed a cooperative water flood. The records of Phillips indicated that later on in the 1960s and early 1970s they had obviously abandoned whatever distribution of costs that had existed under the cooperative water

flood project because they no longer had leases that were apparently involved. Therefore the records of Phillips indicated that it truly was a cooperative water flood and not an unitization. Chaparral and Gary Davis Oil Company had taken new leases on part of the tracts involved with the 1953 Order No. 27937. The water flood order was done in the past to make sure there was a Commission determination that there was a need for waterflooding in the particular area.

Hallco introduced evidence concerning 1012A forms which were filed in recent times both by Calumet, which is a company that operated the area prior to Chaparral and then Chaparral later on had filed 1012A forms with the Commission and had listed Order No. 27937 as being the authority for the injection.

The ALJ's recommendation therefore was that there wasn't a need to dismiss this case and there was a need for an unitization application. If there was going to be a proposal for tertiary recovery to be determined and ultimately instituted in the Burbank Field, then the Oklahoma Corporation Commission has authority over Chaparral's application and Chaparral should be permitted to go forward with its application. However, Chaparral should file a separate application to clarify the cooperative water flood application so that it is clear that there was not a unitization under the Unitization Act which would pertain to an unitization plan and allocation formulas and all the things that are required by the unitization statute.

MOTION TO CONSOLIDATE

ALJ MICHAEL DECKER recommended the Motion to Consolidate CD 201202483 and CD 201203768 should be granted. The motion proceeding demonstrated the existence of two opposing engineering and geological proposals for secondary recovery operations and possible tertiary recovery operations affecting the Burbank Sand underlying portions of Kay County, Oklahoma, covered by the applications. One essential issue in an unitization application involves determination of the dimensions of the area of the common source of supply to be covered by the fieldwide unitization order approved by the Oklahoma Corporation Commission. The determination of the area of the common source of supply to be covered by the unitization plan is required by 52 O.S. Section 287.4. Because they are competing unitization plans proposing different dimensions of the area of the Burbank Sand and the impacted region of Kay County, Oklahoma, the ALJ recommended it would be

just pursuant to OCC-OAC 165:5-9-5 to consolidate the applications for hearing. Thus, one ALJ would consider the merits of the competing plans and the engineering and geological study supporting them. Consolidation would be in the best interest of judicial economy and avoid the potential for inconsistent ALJ recommendations if separate hearings were to occur.

This is a 3,000 acre area and the S/2 of Section 9 is in the middle of the 3,000 acre area. There apparently is a difference in the water cut, water-oil cut that exists between the wells present in the S/2 of Section 9 and wells in the vicinity. Therefore, there will occur within the vicinity of the Hallco proposal and possibly in other parts of the Field secondary recovery waterflooding to transpire for a period of time before there would be transition to the fieldwide use of the tertiary recover CO_2 injection. Thus, there would be a primary recovery in some areas, then a secondary recovery and then once you reach the miscible pressures circumstances, you would move to the tertiary recovery. Hallco wanted their case separated so that it could be heard completely separate from the proposal that was being made by Chaparral to incorporate the entire 3,000 acres in the same unitization. Chaparral indicated that they would in the 3,000 acre plan do waterflooding in certain places before they did the attempt at the tertiary recovery. And they would take care of the inequities that might be existing by making sure that the allocation formulas that would be applied under the 3,000 acre unitization plan would account for the primary, secondary, and then tertiary recovery that would be proposed. They would have an application formula that would be fair to the owners of the separately owned tracts that are within the 320 acres as compared to the 3,000 acres. Hallco's response to that was that there was not sufficient information from well logs that could measure these factors to be able to determine what the values for the 320 acre area would be for allocation factors for primary and secondary recovery. The Burbank Field has been under development for 60 years plus and there would not be a way to accurately know about these geological engineering factors that could be fairly applied to the 320 acre area. It should therefore be allowed to stand alone and not be heard in conjunction with the proposal for the overall 3,000 acre unitization.

Hallco's witness felt that the tertiary recovery project using CO_2 is never going to happen as it was not supportable from an engineering perspective. It would be years in the future if it ever was done and it would basically cause the unfairness of having this one tract being included in the 3,000 acre area. It would therefore not be possible to accurately calculate the allocation factors. Chaparral on the other hand testified that there was ample technical information to come up with formulas for allocation that would be fair. They

could use the isopach maps to determine the values of the separately owned tracts within the 3,000 acre area.

In the present causes there are competing plans and competing proposals for the way the development should transpire with the same common sources of supply from a geological perspective. There may be some isolated circumstances that may arise with regard to the development of these leases, i.e. the results of the 320 acre area of the wells that have a lower water cut as opposed to the larger field. However, if there's going to be a proposal for a 3,000 acre unitization plan and an engineering plan presented to support that and then there is going to be another unitization plan for the smaller piece of that land and the same common source of supply presented in the same time period, the only fair way to do this would be to have these cases consolidated. By consolidating these cases the two conflicting engineering positions can be presented to the same ALJ and the ALJ could determine if the 3,000 acre proposal should not be approved at all or if there should be smaller pieces of the 3,000 acres developed using water flood plans like the ones that are being proposed for the 320 acre area.

POSITIONS OF THE PARTIES

MOTIONS TO PRODUCE

CHAPARRAL

Hallco Motion to Produce

Background on Hallco Motion to Produce

1) **Gregory Mahaffey**, attorney, appearing on behalf of Chaparral, noted the Burbank Field in this area has been producing since the 1920s. Chaparral said there has been approximately some 318 to 333 MMBO produced via primary and secondary recovery in this Field. Of the above production estimate Chaparral believes that at least 133 MMBO has been produced through secondary recovery, i.e. waterflooding. Chaparral believed an extra 8 to 10% additional recovery could be had in the Burbank Field, with at least 100 MMBO via tertiary recovery.

2) Chaparral notes that of the 25,000 acres in the Burbank Field, 3,000 acres lie in Kay County with the remaining 22,000 acres in Osage County. Chaparral is prepared to spend millions to implement their water flood project. Chaparral notes that Exhibit "B" shows a broad picture of this Burbank Field where a future pipeline has been proposed.

3) Chaparral CO_2 Company, an affiliate of Chaparral, had entered into a contract with a Coffeyville fertilizer plant in order to bring CO_2 into Osage County area. Chaparral notes that Hallco has no interest in Osage County. Chaparral points out that the interests within Osage County in the Burbank Field are within the jurisdiction of the Osage Indian Tribe, not the Corporation Commission. Chaparral notes there are no contracts related to the Kay County Burbank Field. Chaparral did meet with Hallco regarding the PowerPoint presentation in December 2011. Chaparral notes that of the 3,000 acre proposed unit in Kay County that Hallco owns 13% with Chaparral owning 74% and the remainder being smaller interests that may or may not be leased herein.

Hallco Motion to Produce arguments by Chaparral

4) Chaparral believes the Hallco Motion to Produce filed on May 24, 2012 has little to do with Hallco's water flood application filed on April 19, 2012 in CD 201202483. Chaparral was in the process in the fall of 2011 of filing its application in CD 201203768 when Hallco preempted Chaparral by filing their 320 acre water flood in the middle of our unit on April 19, 2012. Chaparral notes that Hallco's 320-acre water flood application will ultimately affect Chaparral's proposed development plan for this area.

5) Chaparral's believes Hallco's Motion serves several purposes. Chaparral informs the Court that Chaparral did agree to all production requests, with some modifications, with the exception of Items #19 and #24. Item #19 related to all documents concerning the previous results from tertiary recovery in the Burbank Field. Chaparral believes though that Hallco is attempting to retrieve the data from the polymer injection process that covered the 1400 acres in Osage County filed in a published paper by the Society of Petroleum Engineers ("SPE"), sponsored by Phillips. This SPE paper ("Study") covered the polymer injection process for the acreage in Osage County Burbank Field.

6) Chaparral notes this study is publically available already to Hallco yet Hallco wishes to see the underlying data supporting the preliminary numbers

of this polymer study. Chaparral has been a leader in the industry regarding CO_2 issues. Chaparral notes that Hallco has participated in several CO_2 projects throughout the State, thus is familiar with how such projects are handled. Chaparral's petroleum engineer (Flinchum) believes this SPE paper's polymer data has nothing to do with either waterflooding or $C0_2$ injection. Chaparral notes that Hallco's witness (Davis) thought such polymer data was relevant to issues at hand.

7) Chaparral notes the Commission has broad discovery rules which allow for any information that could lead to discoverable evidence. However, Chaparral believes the Hallco's data request is too burdensome. Chaparral notes that this SPE published paper was done at the Commission by Phillips, not Chaparral. Chaparral acknowledges that Chaparral has a small pilot project yet nothing like what Phillips had hired to be done.

8) Chaparral notes the ALJ only ruled that Chaparral had to give Hallco a monthly report on a well-by-well basis, not that Chaparral had to furnish all documents related to this SPE paper to Hallco. Chaparral's petroleum engineer had estimated the Phillips' polymer study on polymers consisted of approximately 2,000 to 3,000 documents. Chaparral does not plan on using any of the SPE study covering the lands in Osage County in their current proposed Kay County water flood project. Chaparral believes this study data is irrelevant to the issues of waterflooding and CO_2 injection. Chaparral notes the SPE polymer data on the injection process should be adequate information in which Hallco can make an informative decision about Chaparral's project. Chaparral thinks that Hallco is basically chasing down rabbit trails in order to delay Chaparral from moving forward with its proposed project herein.

9) Chaparral notes the ALJ's decision referenced all versions of the PowerPoint program used in Chaparral's proposed CO_2 flood in the Burbank Field. Chaparral gave this PowerPoint study to all the parties herein, except for the last two pages, pages 14 and 15. Chaparral believes these missing pages are what Hallco is seeking in their discovery. Chaparral points out that in the Fall 2011 tertiary recovery meeting, Chaparral presented most of the PowerPoint to the parties in order to get all the parties on the same page/or on board.

10) Chaparral's petroleum engineer indicated the reason for their objection to giving Hallco these sheets was that the figures were only from a preliminary study, not a final study, and showing only projected estimate recoveries and values. Chaparral notes this data was not based on a final isopach map nor based on current numbers. Chaparral notes this Study was done for the sake of settlement purposes only in an attempt to buyout Hallco's interest. Chaparral notes that Hallco did not accept Chaparral's buyout offer. Chaparral believes that Hallco's filings interfered with Chaparral's negotiations

in process during that time. Chaparral notes that no unitization applications had yet been filed prior to December 2011 when Hallco met with Chaparral. Chaparral asserts that the Study was performed in an attempt to settle and avoid the current ongoing protest of matters herein.

Hallco Second Motion to Produce arguments by Chaparral

11) Chaparral notes this Second Motion to Produce relates to the CO_2 contract previously mentioned, and is the most critical of Chaparral's concerns here. Chaparral opposes being forced to submit such data to Hallco.

12) Chaparral notes their only current CO_2 contract involves a party who is not a party to the current Commission litigation. The affiliated company, Chaparral CO_2, LLC, is a totally separate entity from that of Chaparral. Chaparral notes that 90% of the CO_2 contract is within the public domain and viewable by others, i.e. it was disclosed in a SEC filing. Chaparral knows that Hallco has viewed this SEC filing. Chaparral points out that Chaparral itself is not a party to this SEC filing by Phillips.

13) Chaparral notes per the 3,000 acres in Kay County that there are no CO_2 contracts related to this Chaparral project, though Chaparral is attempting to pull this unit project together. Chaparral wants the Commission to approve and ratify Chaparral's unitization application. Chaparral hopes by that future approval date that the Osage County project will have been implemented by that time and some empirical data will be available.

14) Chaparral notes there are few CO_2 contracts in the oil and gas industry. Chaparral believes this is a highly sensitive and competitive area, which is connected to factors of CO_2 volumes, price of oil and amount of oil production in the area. Chaparral believes the ALJ decision here should be reversed.

15) Chaparral reiterates this CO_2 contract involves an entity that is not a current party to the Commission litigation at hand. Chaparral notes that this $C0_2$ contract involves Osage County lands which are outside the Corporation Commission's jurisdiction. Chaparral believes that due to the highly sensitive and competitive nature of this CO_2 contract that a protective order basically would be a vain and futile action. Chaparral notes that "once the horse is out of the barn", no one will put the horse back inside.

16) Chaparral notes the CO_2 contract likely has a confidentiality agreement with the fertilizer plant. Chaparral believes such would be detrimental to those companies' business dealings.

17) Chaparral notes should the Commission approve Chaparral's application here that it is unknown if Hallco would participate in Chaparral's water flood project. Chaparral is aware that the Commission retains jurisdiction over any dispute in costs should the Commission approve Chaparral's application here.

18) Chaparral wants to have a reasonable cost estimate for the CO_2 component yet notes that this cost estimate could change as the price of oil shifts. Chaparral notes that a participant who believes that Chaparral was charging more than actual costs for the CO_2 always has the option to file at the Commission for a cost redetermination hearing. Chaparral believes basically the Commission only requires that Chaparral give a reasonable cost estimate in order to implement this proposed water flood project in order for the parties to make a proper election whether to participate in the tracts.

19) Chaparral believes this Study data will have no bearing on the relative values of the tracts, rather, it will have a bearing on what the ultimate economics of the whole project is. Chaparral notes some of Chaparral's arguments may overlap on to the other motions to follow. Chaparral's petroleum engineer indicated that approximately 10 MBO could be recovered in this 3,000 acre Kay County Burbank Field. Chaparral projects that 1 MMBO recovery for the S/2 of Section 9 in Kay County.

20) Chaparral believes the Commission's ultimate duty here is to prevent waste. Chaparral notes that Hallco's witness claimed only 400 MBO could be recovered through secondary methods here. However, Chaparral differs in that 10 MMBO at $100 per barrel is nearly $1 billion that could be recovered in the Kay County side, which includes 90 MBO on the Osage County side of the Burbank Field.

21) Chaparral believes that Hallco is entitled to some data regarding Chaparral's water flood project in order for Hallco to determine their own calculations and economics prior to deciding whether to participate with Chaparral. Chaparral notes the Commission has heard many motions to produce that relate to poolings where wells have already been drilled. Chaparral states where a well has been drilled and actual well costs are known on motions to produce, that operators are required to furnish the actual costs to all parties.

22) Chaparral notes there is no CO_2 contract regarding the 3,000 acres within Kay County, thus, Chaparral could only give a cost estimate, not final

costs. Chaparral points out that the affiliate, Chaparral $C0_2$, LLC, does have a contract within Osage County. However, Chaparral does not believe that Hallco is entitled to see that underlying data for reasons stated above.

HALLCO

Hallco Motion to Produce

Background on Hallco Motion to Produce

1) **Dale Cottingham**, attorney, appearing on behalf of Hallco, stated the Hallco proposal for a 320 acre water flood in S/2 of Section 9 is a stand alone project. Hallco believes the S/2 of Section 9 has not been water flooded previously yet believes the other 2700 acres of Chaparral's proposed water flood project here has already been water flooded. Hallco points this out due to the distinction in the oil cut in this area.

2) Hallco believes Chaparral wishes to confiscate a very productive 320 acre area owned by them by way of Chaparral's proposed CO_2 project. Hallco notes the Chaparral's proposed Plan of Unitization ("Plan") has no timeframe. Hallco notes should Chaparral's request be approved by the Commission, Chaparral will have no set time frame in which to timely commence the CO_2 water flood project in Kay County.

3) Hallco notes the Burbank Field is a massive field covering approximately 27,000 acres in both Osage and Kay Counties. Hallco thinks that Chaparral could commence this project in Osage County. Hallco notes once a final order is entered by the Commission approving the Chaparral water flood project that this would allow Chaparral the opportunity to cut into Hallco's production revenues it currently receives. Based on Chaparral's proposal here, Hallco believes this would cut out 80% plus of Hallco's current production. Hallco submits this is not only prejudicial, but it would allow Chaparral to confiscate Hallco's interest here.

4) Hallco says Chaparral indicated there have been approximately 318 BBO produced here so far yet there are no supporting records to support the claim of 318 BBO production. Hallco notes there were not many records kept in the '20s and early '30s. Hallco believes trying to arrive at a tract participation formula where there is a lack of records is a bit difficult. Hallco notes that the

amount produced per tract is necessary in order to calculate volumetrics, yet this data is currently unknown to Chaparral.

Hallco Motion to Produce arguments by Hallco

5) Hallco believes there are two issues concerning the Motion to Produce: 1) the Polymer Study; and 2) the PowerPoint presentation.

Polymer Study

6) Per the polymer Study, Hallco admits it wants the actual data that underlies the preliminary polymer Study and the polymer pilot project that was conducted in the Burbank Field by Phillips in Osage County. Hallco is interested in the whole Burbank Field, which overlaps into both Osage and Kay Counties. Hallco submits by having access to the whole polymer Study Hallco then can properly form its own judgment about the effectiveness of Chaparral's proposed tertiary recovery project in the Burbank Field.

7) Hallco agrees with the ALJ's recommendation that Hallco is entitled to that Study information so Hallco can make its own independent evaluation of such rather than rely on other preliminary studies without underlying supporting data. Hallco notes the ability to make an independent evaluation of data is what discovery is about., i.e. to look under the hood and see with your own eyes rather than take someone else's word for it. Hallco simply wants to look over this data and form their own opinion.

8) Hallco believes this data is highly relevant because it is all in the same formation, i.e. same pressures, same permeability and same porosity. As the ALJ did, Hallco thinks this Study data is highly relevant in order to suggest how a proposed CO_2 water flood could operate in the Burbank Field. Hallco believes there could be internal documents derived by Phillips related to this Study. Hallco notes that Chaparral's petroleum engineer admitted or acknowledged there are 2,000 to 3,000 pages of this study which Hallco has not been allowed to examine. Hallco should be entitled to look this data over.

9) Hallco notes that Chaparral has claimed that providing this unseen data is burdensome. Hallco disagrees as the proposed $C0_2$ project will cost Chaparral millions of dollars in comparison to the cost of providing Hallco with

this unseen data. Hallco notes that Chaparral claims that Hallco's share in this proposed project is only 13% yet this project involves a substantial sum of money. Basically, Hallco does not understand why Chaparral wishes to deny Hallco the opportunity to examine this unseen data and just expect Hallco to accept Chaparral's word on making a determination whether to participate in this expensive water flood project.

10) Hallco firmly believes Hallco is entitled to this data, burdensome or not to Chaparral. Hallco notes that Chaparral created this situation by proposing this water flood project.

PowerPoint Presentation

11) Per the PowerPoint presentation, Hallco notes there was a meeting with Chaparral in December, 2011 wherein Chaparral prepared a PowerPoint slide show and gave copies of all of the presentation to Hallco, except the last two pages. Hallco states these pages deal with reservoir values and economics per the Chaparral water flood project, yet Chaparral believes Hallco is not entitled to view this information.

12) Hallco notes that Chaparral has described these two pages as "preliminary." Hallco believes one purpose of this meeting was to persuade Hallco to sell its 13% interest to Chaparral on the basis of "preliminary" data only. Hallco submits that Chaparral's real reason for denial of the last two pages of this Study basically was that Chaparral wanted to present the Commission with a very rosy picture of the ultimate outcome of Chaparral's proposed CO_2 project, yet on the other side of the coin Chaparral wishes to "poor boy" Hallco.

13) Hallco believes Chaparral is suggesting that there is a chance that Chaparral's CO_2 project may not work; that these economic figures may not be very favorable to Hallco; and that Hallco needs to sell its 13% interest to Chaparral. Hallco however feels it is entitled to that data in order to evaluate Chaparral's own creditability when they hear Chaparral's witnesses on the stand. Hallco notes the ALJ agreed with this in his recommendation.

14) Hallco disagrees that this PowerPoint presentation was a "settlement" effort. Hallco notes that parties who arrange a meeting about acquiring a property interest do not automatically define such meeting as a "settlement" effort. Hallco notes there was no dispute between Chaparral and Hallco at this December, 2011 meeting. Hallco further points out that this December, 2011

meeting occurred many months prior to the parties filing any unitization applications at the Commission. Hallco asserts that meeting was merely an invite by Chaparral in an attempt to persuade Hallco to sell their interest to Chaparral, no more than that. Hallco notes that just because Chaparral is currently calling that meeting a "settlement discussion" does not prevent Hallco from seeking discovery proceedings.

15) Hallco submits Hallco is entitled to those discovery requests. Hallco thinks the ALJ's recommendation on the Motion to Produce was appropriate and should be adopted by the Commission.

Hallco Second Motion to Produce Argument by Hallco

CO_2 Contract

16) Hallco notes that Chaparral and its affiliates have a CO_2 contract. Hallco observes that Chaparral failed to mention that this set of documents—the contract and the attached price schedules—were not accessible by Hallco. Hallco notes in discovery, either a party has the documents or the documents are available to the party. Hallco believes that Chaparral made no indication that this CO_2 contract was not available to Chaparral.

17) Hallco notes when Chaparral filed that polymer Study it indicated to Hallco that a contract did exist. Hallco submits that even if Chaparral CO_2, LLC had entered into a contract with Chaparral, there is an implication in the record that Chaparral would have access to this information. Hallco notes Chaparral made this polymer Study filing earlier this year, attaching a copy of this CO_2 contract except for price schedule information. Hallco asserts this data is vital to all concerned parties—both the Commission and Hallco—as such would assist the Commission in determining the economic feasibility of Chaparral's proposed water flood project. Hallco wonders what is it going to cost and will the cost escalate?

18) Hallco believes that based on the data which Chaparral furnished with the polymer filed Study, it appears to Hallco there would be a take or pay provision in Chaparral's proposed CO_2 project. Hallco would think that if such a provision was included in Chaparral's proposed water flood project such a provision could make the project unfeasible.

19) Hallco has heard Chaparral state that the CO_2 project only involves Osage County, not Kay County. However, Hallco notes that Chaparral's petroleum engineer admitted that this CO_2 project in Osage County is the same contract which Chaparral plans to use for the source of the CO_2 project in Kay County.

20) Hallco notes that Chaparral has referred in Chaparral's motion arguments the term "gleam in the eye." Hallco believes the position that Chaparral is advancing by use of that term amounts to "Well, you know, Chaparral has the CO_2 contract for Osage County and we will see if we get to Kay County." Hallco asserts this specifically relates back to the big picture in the sense that Chaparral will confiscate Hallco's producing property and then Chaparral will do nothing more.

21) Hallco submits that in terms of the CO_2 contract, an evaluation of the economic feasibility of Chaparral's proposed water flood project is critical. Hallco reminds the Court that it is Chaparral who is proposing this massive water flood project, not Hallco. Hallco finds it is strange that Chaparral would decline to allow Hallco to evaluate what is one of the most important economic components of Chaparral's project here.

22) Hallco believes the Commission rules provide for both the Commission and Hallco to examine this CO_2 contract. Hallco reminds the Court there has been a protective order that will cover the various documents requested by Hallco. Hallco reiterates that Chaparral advances the position that a protective order does not mean anything. Hallco disagrees, adding that a protective order at the Commission is effective and will be taken seriously. Hallco would urge that the recommendations of the two ALJs who heard both discovery motions be upheld.

RESPONSE OF CHAPARRAL

Combined Motions to Produce

1) Chaparral notes that Hallco's arguments really go toward the formula to be used in the tract evaluation. Chaparral is unsure how such relates to the filed motions to produce. Chaparral disagrees with Hallco's assumption that the S/2 of Section 9 has never been water flooded. Chaparral's petroleum engineer testified the whole Field has already been water flooded.

2) Chaparral points out Chaparral's plan was to bring the reservoir pressure up to miscible pressure of 1680 pounds prior to injecting any CO_2.

Chaparral notes the effect of this would water flood whatever was there in the formation(s). Chaparral notes their proposed water flood project involves a two-phased formula. Chaparral points out it would be a while before any CO_2 would enter into the ground; that the interest owners in the S/2 of Section 9 would continue to receive revenues based on Phase One formula; and that the remaining oil left regardless whether it's called secondary recovery oil or not, it comes down to a formula issue, rather than a confiscation issue as claimed by Hallco here.

3) Chaparral urges the big issue here for the Commission concerns how much oil is left in place and which party should be allowed permission to go out and spend its money to recover those oil reserves. Chaparral notes the value of the tract issues must be determined by the Commission, not Chaparral.

4) Chaparral disagrees with Hallco in their belief that there is insufficient data in which to determine the amount of original oil-in-place and the amount of oil reserves that have been already produced.

5) Chaparral informed the court that it would provide Hallco with early field production records kept by an older service. Chaparral acknowledges that it used those old production records to arrive at some of these well's cumulative productions. Chaparral believes its data numbers are realistic. Chaparral asserts there was 1 BBO of original recoverable oil-in-place, of which about only 318 MBO has been recovered so far. Chaparral wonders how much more data does a party need to obtain.

6) Chaparral submits it is not going to use the polymer injection data since there is no relevance as to its use. Chaparral believes the success or failure of either a water flood or a $C0_2$ water flood will not have any relevance or be effected by this polymer Study. Chaparral notes the PowerPoint presentation was based on preliminary studies yet also was used by Chaparral in the nature of a settlement negotiation.

7) Chaparral suggests the CO_2 contract is similar to that of a pooling where a party has no idea if an applicant will be the actual operator of the proposed well. Chaparral submits there is a contract in Osage County; that Chaparral is not going to enter into a CO_2 contract for these 3,000 acres in Kay County until the Commission approves Chaparral's water flood project or unless Chaparral gets operations. Chaparral notes that other contingencies can come into play here.

8) Chaparral believes Hallco in order to make its economic evaluation of cost estimates here should rely on the preliminary figures that Chaparral has furnished to them in the polymer Study. Should Hallco differ with Chaparral's

figures, Hallco can provide their own cost estimates to the Commission. Regardless of Hallco's ultimate figures, Chaparral must use what Chaparral believes is a reasonable cost based upon Chaparral's empirical data.

9) Chaparral disagrees that Hallco is entitled to view unrelated contracts to the Kay County proposed water flood unit at this time. Chaparral's petroleum engineer notes that should Chaparral obtain operations that Chaparral may have a gathering system or a pipeline in place and have the CO_2 already coming into Osage County or possibly extend a line over and start feeding there. Chaparral notes that upper management will make the above type decisions, not the petroleum engineer. Chaparral hopes that two years from now that Chaparral will be able to resolve all protests here.

10) Chaparral believes that when a protective order is issued against a competitor and the actual proprietary information is released, the memory of that data cannot be wiped out of the brain nor out of the conversations that party may have with others. Chaparral notes that Hallco, though a smaller company, is still a competitor. Chaparral believes it is highly unfair to invade the proprietary data here in order to gave a party an unfair advantage of delving into Chaparral's competitive contracts.

MOTION TO DISMISS

CHAPARRAL

1) Chaparral believes the ALJ's recommendation speaks for itself. Chaparral disagrees with Hallco's claim that Chaparral's application in CD 201203768 is a collateral attack upon the 1953 non-unitization final Order No. 27937. Chaparral notes that notice was not required to be given to the royalty owners in the case at hand since no ratification of the proposed Plan was necessary. Chaparral's petroleum engineer considered this matter to be more of a co-op thing, however noted the old 1953 Order No. 27937 did allow for injection authority. Chaparral thinks that Hallco admitted albeit reluctantly that this whole situation is no more than just an ordinary injection order.

2) Chaparral notes the Oklahoma Corporation Commission Technical Division has no files on any alleged unitization in this Kay County region

covering the S/2 of Section 9 in the Burbank Field. Chaparral's archived copy of the application in Order No. 27937 indicates in paragraph 5 the applicant was proposing to apply secondary recovery method of waterflooding by drilling input wells and/or converting old wells to input wells. Chaparral notes that both Gulf and Phillips were going to operate (see page 2, paragraph 10) their proposed water flood project with respect to their respective oil and gas held leases. Chaparral points this out to the Court to show this old 1953 Order was not an unitization order; that no lease consolidation was required back then into one formula; that notice was given to all operators within a half mile; and that Gulf/Phillips were going to continue to operate their own separate leases and then disburse the production accordingly.

3) Chaparral further notes in paragraphs 6 and 7 the injection wells approval would have required proper casing and cementing to ensure that injection water would only enter the Burbank Field, thus not harm any other oil and gas bearing zones. Chaparral indicates the salt water there was for wells drilled to the Layton formation/zone.

4) Chaparral believes the ALJ was correct in his denial of the Motion to Dismiss as Chaparral had met all three requirements of jurisdiction.

5) Chaparral notes that evidence from the Phillips files had indicated this past deal had been abandoned with both Gulf/Phillips releasing their leases. Chaparral points out that in an active unitization where revenues must be paid out that operators do not release leases.

6) Chaparral notes the ALJ disagreed with Hallco's claim of a collateral attack as the Commission had jurisdiction over Chaparral's application, resulting in the ALJ recommending that Chaparral file a new application instead. Chaparral notes, that except for the filed protest herein, that the new application would likely have already been heard by now.

7) Chaparral filed its application herein to clarify/construe the issues here in order for Chaparral to proceed further with Chaparral's proposed development plans in the Kay County area. Chaparral feels Hallco would have protested any development plans mentioned by Chaparral, just to throw a roadblock to any future merit hearing.

8) Chaparral's notes their current unitization application is attempting to clean up the record and to seek additional new relief to help develop the oil and gas reserves in this area. Chaparral requests the ALJ's ruling on the denial of the Motion to Dismiss be affirmed as such would be in the interest of judicial economy and result in a consistent ruling.

HALLCO

1) Hallco notes that Chaparral's application indicates it is for a CO_2 water flood yet today Chaparral is saying their filed application is for a water flood enhanced recovery project. Hallco notes that Chaparral's petroleum engineer said that Chaparral's intention was to request a unitization order for a $C0_2$ water flood.

2) Hallco notes that injection relief requires Commission authority. Hallco points out that Chaparral attached a Plan of Unitization ("Plan") to their request for a $C0_2$ water flood project. Hallco notes that under the Plan, page 11, paragraph 16.1.1 the provision states that all wells must be within said Unit Area and completed in the Unitized Formation. Once the final order is signed, Hallco notes the attached Plan by Chaparral becomes a part of the final order.

3) Hallco notes that Chaparral is wanting to inject into the Burbank Field. Further it implies that any injection well here would need to be signed over to the unit operator, Chaparral, under Chaparral's Plan. Hallco sees a conflict with Chaparral's actions here.

4) Hallco notes Order No. 27937 is a copy of a 1953 final order still valid today. Hallco notes Order No. 27937 is not for a field-wide unitization. Hallco points out that no notice was sent to any royalty owners nor was there any pooling done in terms of voting by either royalty or working interest owners here. Hallco clearly sees that Chaparral wants to create a unit in the small 3,000 acre of the 27,000 Burton Field for the purpose of well injection. Order No. 27937 gave authority to Gulf and Phillips to operate a water flood and granted same the right to inject. Hallco further notes that both predecessor Calumet to Chaparral and Chaparral itself cites Order No. 27937 for its authority to inject.

5) Hallco points out in its actual filed application that Chaparral omitted Order No. 27937 from their application.

6) Hallco submits that this resulted in a collateral attack, and cited *Nilsen v. Ports of Call Oil Company,* 711 P.2d 98 (Okl. 1985), case which defined the definition of a collateral attack.

7) Hallco notes since Chaparral had mentioned Order No. 27937 in its arguments that the ALJ was not able to dismiss the cause and gave Chaparral two options—to either vacate or clarify the pre-existing Order No. 27937. Hallco acknowledges that Chaparral has complied with this request.

8) Hallco notes that Chaparral seeks to clarify the prior order to be not a field-wide unit and alternatively Chaparral seeks a determination to vacate Order No. 27937, except for the right to inject. Hallco believes it is this right to inject and/or the authority to inject which creates the collateral attack issue. Hallco adds that should Chaparral's application be granted, the collateral attack issue seen by Hallco will still exist.

9) Hallco agrees with Chaparral that the 1953 Order No. 27937 is an authorization for injection. Hallco notes though there was testimony about lease abandonment by Gulf/Phillips, Chaparral still chose to rely on Order No. 27937.

10) Hallco notes the ALJ's recommendation here suggested rather than have the Chaparral application dismissed that Chaparral instead should be required to file a new application to clarify and amend Order No. 27937 in an attempt to lessen confusion about the impact of the 1953 order on the secondary recovery operations being proposed in these current unitization applications at hand.

11) Hallco notes that Chaparral seeks only to partially vacate Order No. 27937 yet wishes to preserve the right to inject. Hallco believes this in itself creates a collateral attack by the avoidance of the prior injection in Order No. 27937.

12) Hallco referenced paragraph 16.1 of Chaparral's Plan of Unitization to the Court as Chaparral wants all the current wells that intersect this Burbank Field in Kay County turned over to Chaparral, including all the wells that were subject to the 1953 Order No. 27937. Hallco believes the collateral attack affect here will result in two Commission orders controlling Chaparral's Plan.

13) Hallco admits the Commission has jurisdiction over unitization plans yet here the Commission appears to be attempting to create an order that results in a collateral attack on a 1953 prior order. Hallco believes the ALJ has implied such in his recommendations here. Hallco noted the ALJ didn't just request that Chaparral cleanup the 1953 order No. 27937 but required Chaparral to file a brand new application to vacate the older Order No. 27937.

14) Hallco submits that the Chaparral application should be dismissed by the Commission.

MOTION TO CONSOLIDATE

HALLCO

1) Hallco firmly believes the Chaparral application for a CO_2 water flood is a method whereby Chaparral can confiscate, i.e. horn in on Hallco's good production. Hallco believes if the Chaparral application is ultimately dismissed, then the consolidation motion should fail as there would be nothing to consolidate with.

2) Hallco's land needs to be water flooded since the oil cut here is substantially higher. Hallco wants to reap the benefit of that higher oil cut rather than share it as Chaparral wants to do.

3) Hallco notes Chaparral urges the Commission that Hallco's arguments all go toward the tract allocation formula, Chaparral's preference for dealing with this matter. Hallco thinks there is insufficient evidence to arrive at a proper tract value. Hallco's review of the attached Plan to Chaparral's application shows their tract participation is based solely on current production, not on volumetrics. Hallco notes the calculations for how much quantity of oil produced and the amount left to be produced cannot be done by Chaparral's calculations. Hallco finds these referenced records Chaparral hints at here were happenstance at best and kept by what Hallco considers to be an unreliable pumper.

4) Hallco notes Chaparral appears to dodge the confiscation claim by saying Chaparral "is going to take care of that" by use of unsupportable data. Hallco also notes other problems present with Chaparral's application, yet Hallco's application is ready to go on the merits. Hallco notes that Chaparral has no set trial date yet notes that Chaparral has agreed to provide Hallco numerous documents. However, Hallco has not seen a single produced document yet. Hallco was informed by Chaparral several weeks ago at the Motion to Produce hearings that Chaparral was going to create a data room yet nothing has been done there. Hallco's notes to the Court that numerous communications to Chaparral on the 23 agreed items have been ignored by Chaparral. Hallco feels that due to the delay of Chaparral in furnishing these discovery documents that Hallco will not be ready for the late November merit trial date.

5) Hallco notes its lands have not ever had the benefit of a water flood or a CO_2 water flood. Hallco does not agree with Chaparral's move to jump from the

primary production to that of a CO_2 water flood on Hallco's S/2 of Section 9 interest. Hallco notes Chaparral clearly states part of the Chaparral's project will be a water flood, and implying or resulting in a sharing of hydrocarbons and/or revenues. Hallco just believes this sharing aspect to be an unfairness in this consolidation motion.

6) Hallco reminds the Court of Chaparral's "gleam in the eye" as once the Commission approves the Plan there will be no definite timeframe that requires Chaparral to timely commence their water flood operations. Hallco believes that Chaparral is not truly committed to doing the Kay County CO_2 water flood in the foreseeable future, based on the record at hand. Hallco notes that Chaparral's documents indicate the same lack of commitment. Hallco would urge the Court to overturn the ALJ's recommendation on the Motion to Consolidate.

CHAPARRAL

1) Chaparral notes case law demonstrates the Commission has broad discretion in consolidation cases regarding competing applications seeking similar relief. Chaparral reiterates this S/2 of Section 9 is in the middle of Chaparral's proposed water flood project.

2) Chaparral's petroleum engineer noted once CO_2 is injected it will not be possible to build a barrier and/or fence around that 320 acre area; hence, this land can't be excluded from Chaparral's water flood project. Chaparral does not know exactly how this will affect Hallco's interest though.

3) Chaparral acknowledges the parties disagree on whether the disputed 320 acres has ever been effectively water flooded due to the estimated 35% oil reserves produced so far in the S/2 of Section 9. Chaparral's petroleum engineer believes this area has been already water flooded due to this 35% recovery rate. Chaparral thinks this fact would be up to the ALJ to decide on the merits.

4) Chaparral notes Hallco believes the proposed formula shown in Exhibit "B" will confiscate Hallco's current interest held in the S/2 of Section 9 under Phase One of the Plan. Chaparral points out under Phase One until 615 MBO has been recovered there will be a 45% rate based on current production levels. Chaparral observes that even if Hallco's interest had the most productive wells,

that Hallco would still be receiving the biggest portion due to the Plan's formula, 45% on the remaining reserves.

5) Chaparral notes that 90% of Phase One's formula will be going toward Hallco's benefit since it is 45% based on current production and on 45% based on remaining reserves with only 10% based on the surface area. Chaparral notes if Hallco disagrees with Chaparral Plan's formula that Hallco can bring their own formula estimate to the Commission for consideration and put on other evidence concerning Chaparral's Plan. Chaparral notes the Commission has the final say in determining which tract or tracts are more valuable and which deserve more weight.

6) Chaparral notes the Commission's primary duty in unitization cases is to prevent waste of hydrocarbons. Chaparral notes the current merit hearing is set for November 15, 2012 though Hallco has so far refused to agree to this date. Chaparral then rescheduled the merit hearing for the end of November, 2012. Chaparral notes that if the Motion to Consolidate is granted that Chaparral would need to continue the causes to another date in order to prepare properly for the merit hearing. Chaparral notes that Hallco is concerned there would be no time frame for Chaparral to commence operations of their water flood unitization project if the Commission approves Chaparral's application. Chaparral notes a specific date or sunset provision could be placed in the final Commission order to accommodate Hallco's concerns here.

7) Chaparral notes that all plans of unitization involve having completed wells of any type, all placed under one operator so paragraph 16.11 referenced earlier by Hallco as to turning wells over to Chaparral is not unusual. Chaparral notes which plan of development is appropriate for a common source of supply is a question of fact for the determination of the ALJ, the trier of fact.

8) Chaparral notes if the Commission allows a little island of 300 acres to exist, then Chaparral would be forced to terminate Chaparral's proposed unitization project. Chaparral notes one cannot leave a big hole in the doughnut here as pressuring up the other 3,000 acres will affect Hallco's small 320 acre interest.

9) Chaparral requests the ALJ's ruling on the granting of the Motion to Consolidate be affirmed as such would be in the best interest of judicial economy and result in a consistent ruling.

RESPONSE OF HALLCO

1) Hallco believes that if Chaparral's application is dismissed, there would be nothing to consolidate with is a significant issue that the Court needs to consider. Hallco believes the record is clear that should the consolidation motion be allowed that such will prejudice the case of Hallco. Hallco believes that an allocation formula must be based on volumetrics, not on production levels; otherwise, this results in prejudice.

2) Hallco admits the Commission can take judicial notice of Commission orders yet this in itself does not deal with the issue of collateral attack here.

3) Hallco still believes that should Chaparral get a final order approving their water flood project, that Chaparral will refuse to move forward on Chaparral's water flood project. Hallco's request that the ALJ decision be overturned on the Motion to Consolidate.

CONCLUSIONS

The Referee finds the Oral Reports of the Administrative Law Judges should be affirmed.

I.

MOTION TO PRODUCE AND SECOND MOTION TO PRODUCE

1) The Referee finds that the ALJ's recommendation to grant Hallco's Motion to Produce filed May 24, 2012, Item #19 and Item #24 and the ALJ's recommendation to grant Hallco's Second Motion to Produce filed on August 17, 2012, is in accordance with the weight of the evidence, prior interpretations of the Commission's discovery rules and free of reversible error. The Referee would further affirm the recommendation of the ALJ that Item #19 and Item #24 in the Motion to Produce and Item #1 and Item #2 in the Second Motion to Produce would be subject to protective orders that would prevent the review or use of these documents outside the context of this dispute. Thus, pursuant to Item #24, Chaparral would be required to provide to Hallco the last two pages of the PowerPoint presentation. Those pages regard the economics of what it is that Chaparral is proposing, the expected rates of recovery and rate of return.

Hallco is further requesting in Item #19 the Phillips compiled monthly individual well reports from liquids injected and liquids and gas produced and the Chaparral monthly individual well reports from liquids injected and liquids and gas produced.

2) OCC-OAC 165:5-11-1(b) provides in part:

> (3) An order pursuant to this subsection may require production of any document not privileged which constitutes or contains evidence relevant to the subject matter of the cause, or may reasonably lead to such evidence. Business records shall not be deemed privileged as such; but confidential business records and information will be protected from disclosure except where directly relevant to the issues in the cause.

3) The Supreme Court in *Boswell v. Schultz,* 175 P.3d 390 (Okl. 2007) stated:

> The purpose of modern discovery practice and procedure is to promote the discovery of the true facts and circumstances of the controversy, rather than to aid in their concealment.

4) The Oklahoma Court of Civil Appeals determined in *State ex rel. Protective Health Services v. Billings Fairfield Center, Inc.*, 158 P.3d 484 (Okl. Civ. App. 2007):

> Civil trials no longer are to be conducted in the dark. Discovery, consistent with recognized privileges, provides for the parties to obtain the fullest possible knowledge of the issues and facts before trial. *Rozier v. Ford Motor Co.*, 573 F.2d 1332, 1345 (5th Cir. 1978). The aim of these liberal discovery rules is to "make a trial less a game of blind man's bluff and more a fair contest with the basic issues and facts disclosed to the fullest practicable extent." Id.

5) The Oklahoma Supreme Court has also stated in *Unit Rig and Equipment Company v. East,* 514 P.2d 396 (Okl. 1973):

> Our discovery procedures are broad and, with certain limitations (see *Giles v. Doggett*, Okl., 500 P.2d 574, 516, and cases there cited), it is not necessary that questions be limited to those which would be admissible in court. *State ex. rel. Westerheide, et al. v. Shilling, Judge*, 190 Okl. 305, 123 P.2d 674. Evidence which might lead to the disclosure of admissible evidence is discoverable. *Carmen v. Fishel*, Okl., 418 P.2d 963.

6) Items #19 and #24 in the May 24, 2012 Hallco Motion to Produce and Items #1 and #2 in Hallco's Second Motion to Produce filed on August 17, 2012 are in conformance with the Commission's discovery rule listed above. Therefore, the Referee would affirm the findings and recommendations of the Oral Reports of the ALJs in response to these two motions.

II.

MOTION TO DISMISS

1) The Referee finds that the ALJ's recommendation to deny the Oral Motion to Dismiss should be affirmed.

2) Jurisdiction over the person, jurisdiction over the subject matter, and jurisdiction to render the particular judgment are three separate elements of the jurisdiction of a court. *Abraham v. Homer*, 226 P. 45 (Okl. 1924). The Corporation Commission is a tribunal of limited jurisdiction, *Burmah Oil and Gas Company v. Corporation Commission*, 541 P.2d 834 (Okl. 1975); and *Kingwood Oil Company v. Hall-Jones*, 396 P.2d 510 (Okl. 1964). Pursuant to 52 O.S. Section 287.1 – 287.15, inclusive, and OCC-OAC 165:5-7-20, the Commission has statutory power under these applications by Chaparral and Hallco.

3) Hallco alleges that the application of Chaparral in CD 201203768 is a collateral attack on Order No. 27937 entered on the 22nd day of December, 1953. Therefore, according to Hallco, Chaparral's application should be dismissed, as the application for unitization by Chaparral did not deal with Order No. 27937 or attempt to vacate it. There was evidence, however, presented at the motion hearing that Order No. 27937 was not a unitization

order but was a cooperative water flood order and had been inactive for many years. Chaparral's witness testified that there were numerous areas unaffected by Order No. 27937 where the leases had been released and there had been new leases taken. There were no circumstances where Order No. 27937 was holding leases by production. The testimony also reflected that the records of Phillips which had been the original operator of the Burbank Field had determined that it was a cooperative water flood process. In the 1960s and early 1970s Phillips had abandoned whatever distribution of costs that existed under the cooperative water flood project. Chaparral and Gary Davis Oil Company had taken new leases on part of this project on part of the tracts involved with the 1953 order.

4) Based upon the above stated evidence the Referee would agree with the ALJ that Order No. 27937 was a cooperative waterflooding project between people that owned or formed the cooperative waterflood. The Phillips' records indicated that whatever distribution of costs that had existed under the cooperative water flood project under Order No. 27937 had been abandoned where the leases had been released and there had been new leases taken. Therefore, the records of Phillips indicated that it truly was a cooperative water flood project and not an unitization. The Referee further agrees that Chaparral in order to clarify the record should file a separate application to clarify, and amend if necessary, Order No. 27937 to eliminate any confusion about the impact of the 1953 order on any secondary recovery operation proposed by Chaparral's instant unitization proposals. Chaparral on September 5, 2012, filed an application in Cause CD 201201362 to clarify, construe and/or partially vacate Order No. 27937 concerning portions of the land requested by Chaparral in the present unitization. An amended application was filed on November 1, 2012 in Cause CD 201204362. Said application requested the Commission enter an order clarifying and construing Order No. 27937 to determine that same did not establish a secondary (water flood) recovery unit under 52 O.S. Section 287.1 et seq. <u>or</u> in the <u>alternative</u>, partially vacate Order No. 27937, except for the injection authority under said order for the Bar W-02; the Bar W-06; the Clubb W-02 and the Clubb W-05 wells, which wells continue to be active injection wells operated by Chaparral pursuant to Order No. 27937.

5) The Referee agrees with the conclusion of the ALJ and finds no reason on review to reverse the recommendation of the ALJ concerning Hallco's Motion to Dismiss.

III.

MOTION TO CONSOLIDATE

1) The Referee would affirm the ALJ's recommendation to grant the Motion to Consolidate CD 201202483 and CD 201203768. The testimony of the witnesses by Chaparral and Hallco demonstrated the existence of two opposing engineering and geological proposals for secondary recovery operations and possible tertiary recovery operations affecting the Burbank Sand underlying the portions of Kay County, Oklahoma covered by the applications. An essential issue in an unitization application involves determination of the dimensions of the area of the common source of supply to be covered by the fieldwide unitization order approved by the Oklahoma Corporation Commission. This is required by 52 O.S. Section 287.1. Hallco and Chaparral have two competing unitization plans proposing different dimensions of the area of the Burbank Sand in the impacted region of Kay County. This is a 3,000 acre area with the S/2 of Section 9 in the middle of the 3,000 acre area. In the 320 acre area the evidence reflected there is a difference in the water-oil cut that exists between the wells present in the S/2 of Section 9 and wells in the vicinity. The water cut of the wells that are in the Hallco proposed area are basically 10.1 as opposed to the offset area in the Burbank Field where the water cut ranges from 180.1 to 300.1. The testimony also reflected that the secondary recovery waterflooding would need to transpire for a period of time before there would be transition to the fieldwide use of the tertiary recovery CO_2 injection. Thus there would be a primary recovery in some areas, then a secondary recovery and then once you would reach the miscible pressure circumstances you would move to the tertiary recovery.

2) Hallco's objection was that the tertiary recovery project using CO_2 was never going to happen. The engineer for Hallco stated that it was not supportable from an engineering perspective, and that it would be years in the future if it was ever done. This would cause unfairness of having this one 320 acre tract of Hallco being included in the 3,000 acre area. It would not be possible therefore to accurately calculate the allocation factors. The technical information testified to by Chaparral was that formulas for allocation could be determined that would be fair. They could use isopach maps to determine the values of the separately owned tracts within the 3,000 acre area. In the present cases there are competing plans and competing proposals for the way the development should transpire in the 320 acre area of wells that have a lower water oil cut as opposed to the 3,000 acre unitization proposal. It is the same common source of supply from a geological perspective however. If

there's going to be a proposal for a 3,000 acre unitization plan and an engineering plan presented to support that and then there is going to be another proposal for another unitization plan for the smaller piece of 320 acres that is presented in the same time period, the only fair way to do this would be to have these cases consolidated. By having these ideas presented in the same hearing with conflicting engineering positions presented to the same ALJ, the ALJ can then determine whether the 3,000 acre unitization would be warranted or whether the 3,000 acres should be developed using water flood plans that are being proposed for the 320 acre area. The Unitization Statute 52 O.S. Section 287.1 et seq requires that there be a determination made by the Commission as to the size and actual well control information being utilized to determine these factors.

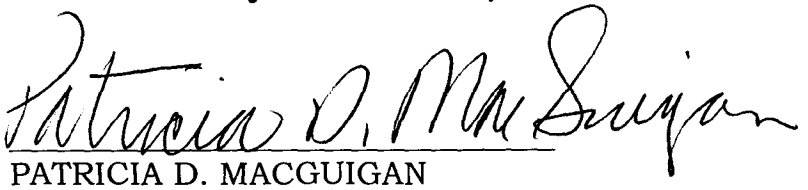
3) The Referee finds that the ALJ's recommendation to grant the Motion to Consolidate the two competing applications is supported by the weight of the evidence and free of reversible error. The consideration of the two applications together will result in more orderly development of the unit in question.

4) OCC-OAC 165:5-9-5(d) provides:

> The Commission or Administrative Law Judge may consolidate two or more causes for hearing where such action would be just.

5) For the above stated reasons, the Referee believes that there is no question the consolidation of the causes is just. In addition, the granting of the Motion to Consolidate would serve judicial economy as the same evidence would not have to be heard twice and would lead to a more reasoned decision on the two cases. See *Liberty National Bank and Trust Company of Oklahoma City v. Garcia*, 776 P.2d 1265 (Okl. 1989); *Gettler v. City Service Company*, 739 P.2d 515 (Okl. 1987); *Christian v. Gray*, 65 P.3rd 591 (Okl. 2003); and *Patel v. OMH Medical Center, Inc.*, 987 P.2d 1185 (Okl. 1999). For the above stated reasons, the Motion to Consolidate by Chaparral should be granted.

RESPECTFULLY SUBMITTED THIS 13th day of November, 2012.



PATRICIA D. MACGUIGAN
OIL & GAS APPELLATE REFEREE

PM:ac

xc: Commissioner Douglas
Commissioner Anthony
Commissioner Murphy
Jim Hamilton
ALJ/Director Michael L. Decker
ALJ Paul Porter
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