

The Appellate argument concerning the Oral Exceptions was referred to **Patricia D. MacGuigan**, Oil and Gas Appellate Referee ("Referee"), on the 31th day of May, 2013. After considering the arguments of counsel and the record contained within this Cause, the Referee finds as follows:

STATEMENT OF THE CASE

TITLEY TAKES EXCEPTION to the ALJ' s recommendation to deny the drilling and spacing application to change the spacing from a regular 640 acre spaced unit to a 160 acre unit because there was not established a change in condition or change in knowledge of conditions sufficient to modify the current spacing of 640 acres.

Titley requests that the Commission vacate the provisions of Order No. 570796 which created 640 acre drilling and spacing units for the Permian, Cisco, Hoxbar, First Deese Sands, Upper Fusilinid, Lower Fusilinid, Tussy, Carpenter, Morris, Dornick Hills, Springer, Caney, Sycamore, Woodford, Hunton, Sylvan, Viola, Simpson and Arbuckle common sources of supply underlying Section 31, T3S, R2W, Carter County, Oklahoma.

Titley requests that 80 acre standup drilling and spacing units be established for the Deese Sands and Viola separate common sources of supply underlying Section 31, T3S, R2W, Carter County, Oklahoma. Said 80 acre units established shall be formed by a line running north and south through the center of each governmental quarter section under Section 31, T3S, R2W, Carter County, Oklahoma, with the permitted well to be located in the NE/4 and the SW/4 of each quarter section, not closer than 330 feet from the boundary of the appropriate governmental quarter section.

Titley requests that the 160 acre drilling and spacing units be established for the Permian, Cisco, Hoxbar, Dornick Hills, Springer, Caney, Sycamore, Woodford, Hunton, Sylvan, Simpson and Arbuckle, underlying Section 31, T3S, R2W, Carter County, Oklahoma. Said 160 acre units established shall consist of a governmental quarter section with the permitted well to be located in the appropriate quarter section, not closer than 660 feet from the boundary of said quarter section.

TITLEY TAKES THE POSITION:

1) The ALJ' s Report is contrary to the facts and evidence presented in this cause, is contrary to the law, and is arbitrary, unreasonable and discriminatory

and fails to achieve the goals of the State of Oklahoma and the Commission for the protection of correlative rights.

2) The ALJ in denying the application based his recommendation upon a finding that "While there have been some changes in knowledge and condition, they are not enough to disturb the current (640 acre) spacing in this section." Titley's evidence established both a change of conditions and a change of knowledge of conditions. Titley's evidence established that the Commission by Order No. 221542, issued on the 27th day of July, 1982, established 160 acres drilling and spacing units for, among other lands, Section 31, T3S, R2W, Carter County, Oklahoma as follows:

<u>Common Source Of Supply</u>	<u>Classification & Depth (feet)</u>	<u>Unit Size (acres)</u>	<u>Well Location</u>
Permian	Gas - 1800	160	Not closer than 660 feet to the unit boundary
Upper Fusilinid	Gas - 5800	160	
Lower Fusilinid	Gas - 6375	160	
Tussy	Gas - 6650	160	" " "
Springer	Gas - 7250	160	" " "
Sycamore	Gas - 7500	160	" " "
Hunton	Gas - 7800	160	" " "
Sylvan	Gas - 8000	160	" " "
Fernvale	Gas - 8200	160	" " "
Viola	Gas - 8400	160	" " "

In 2009 Charter Oak sought and received Order No. 570796 which vacated OCC Order No. 221542 and created 640 acre drilling and spacing units underlying Section 31, T3S, R2W, Carter County, Oklahoma as follows:

<u>Common Source Of Supply</u>	<u>Depth (feet)</u>	<u>Classification</u>	<u>Unit Size (acres)</u>
Permian	500	Gas	640
Cisco	1200	Gas	640
Hoxbar	1950	Gas	640
First Deese Sand	5000	Gas	640
Upper Fusilinid	6550	Gas	640
Lower Fusilinid	7100	Gas	640
Tussy	7400	Gas	640
Carpenter	8100	Gas	640
Morris	8300	Gas	640
Dornick Hills	8650	Gas	640
Springer	8700	Gas	640
Caney	9000	Gas	640

Sycamore	9300	Gas	640
Woodford	9600	Gas	640
Hunton	9800	Gas	640
Sylvan	10300	Gas	640
Viola	10450	Gas	640
Simpson	10700	Gas	640
Arbuckle	12700	Gas	640

As of the date of Order No. 570796 no well exploring for oil and gas had yet been drilled in Section 31. Thereafter, in October 2010, Charter Oak spud the Buffalo Springfield well #1-31 in the NE/4 NE/4 of Section 31 and completed said well as an oil well in the Morris and Carpenter formations as reflected on its 1002(a) filed with the Commission on February 24, 2011.

On the 6th day of May, 2011, in an application filed by Charter Oak, the Commission issued Order No. 585149 granting an increased density well for the Morris and Carpenter formations finding that the Buffalo Springfield #1-31 was an oil well and would only drain approximately 134 acres. A location exception was subsequently granted permitting said well at a location 1500' FSL and 1080' FEL of Section 31, T3S, R2W, Carter County, Oklahoma. Charter Oak allowed increased density Order No. 585149 to expire without commencing said well.

Titley's expert testified that the evidence obtained from the drilling of the Buffalo Springfield #1-31 provides substantial evidence showing a change of condition or knowledge of condition since the entry of spacing Order No. 570796. The new information included the following:

- a) The Deese formation, which includes the Morris and Carpenter formations, is an oil reservoir;
- b) That the Buffalo Springfield #1-31 well is an oil well;
- c) That the Buffalo Springfield #1-31 well will not drain more than 50 acres;
- d) That the reservoir encountered was a black oil reservoir and was performing as such;
- e) That the reservoir will not change. However, the gas which is in solution with the oil will increase as production occurs and the reservoir pressure drops;
- f) That the oil gas ratio for the well reflects it is an oil well;

g) Many of the zones spaced by Order No. 570796 if present at all were nonproductive; and

h) That the 640 acre spacing established by Order No. 570796 for Section 31 is inappropriate and should be vacated and re-spaced as sought by Titley.

The ALJ's finding that there has not been a change of condition or knowledge of condition is inconsistent with and contrary to the evidence, nor is there credible evidence to support this finding.

3) The ALJ erred in finding that the "evidence was clear and undisputed that the unit well has become, by definition, a gas well." The evidence reflects the unit well to be an oil well and that the reservoir remains an oil reservoir underlying the unit.

4) The comments made by the ALJ that the Woodford was not tested or produced because of the need to protect the rights of the owners in Section 31 is not supported by the evidence. There is no evidence to show the Woodford would be productive, or that the action of completing the Buffalo Springfield #1-31 in the Morris and Carpenter zones protected Section 31.

5) The comment by the ALJ that the increased density well was not drilled because Charter Oak recognized there were limited locations in which to place a horizontal well and vertical well placement could prevent proper Woodford development assumes facts not in evidence. The ALJ specifically erred in this finding if it can be considered a finding. Further, there is nothing that would prevent the Commission upon application from establishing a 640 acre horizontal drilling and spacing unit for the Woodford underlying Section 31.

6) The ALJ's Report comments contained in the first and second full paragraphs on Page 11 are vague, incomplete, inaccurate and misleading and raise issues concerning the objectivity of the ALJ, i.e., his statement "The requested spacing could have an impact on the future". Titley testified they sought to correct the spacing to reflect actual reservoir conditions based upon performance of the Buffalo Springfield #1-31 well. Certainly, Titley acknowledged his family was not involved in the oil and gas industry when the oil and gas leases were executed. However, since his retirement from the music industry, he has assumed responsibility for managing the family's oil and gas interests and has become active in the leasing and development of their acreage. Further, although not relevant to the issue of the appropriate size drilling and spacing unit for Section 31, what options and/or terms could be negotiated for a future oil and gas lease are speculative, irrelevant and cannot provide a basis for the Commission to render a fair and reasonable ruling on Titley's Application.

7) The third full paragraph appearing on page 11 of the Report should be disregarded in its entirety. The comments and concerns set forth therein are vague, ambiguous and cannot provide a basis for the Commission to render a fair and reasonable ruling on Titley's application.

8) Titley respectfully requests the recommendation of the ALJ be reversed; that Order No. 570796 establishing 640 acre drilling and spacing units for the formations set forth therein underlying Section 31 be vacated; that 80 acre and 160 acre drilling and spacing units be established according to Titley's request underlying Section 31; and for such further relief as the Commission may deem just and proper.

THE ALJ FOUND:

1) After taking into consideration all the facts, circumstances, testimony, and evidence presented in this cause, the ALJ recommends the application in CD 201203766 be denied. While there have been some changes in knowledge and condition, they are not enough to disturb the current spacing in this section.

2) This spacing cause is unusual in that the mineral interests are owned by one family. Their ownership is unaffected by the particular spacing. The requested spacing could have an impact on the future. Titley desires to have the spacing changed so that they may again lease their mineral estate with better terms and conditions. This was an important aspect of why Titley wanted the unit respaced. Titley admits he and his family were not knowledgeable about the impacts of leasing their interests. Titley has become more knowledgeable since the initial leases. When Titley was leased, there was little activity in the area. That has changed. The value of a lease has gone up as interest has grown in this developing area. Titley noted they have negotiated better leases for surrounding sections. Some of those increases are related to market forces like more interest in an area with resulting higher bonus payments. Some of this is because Titley has become more knowledgeable about the oil business and what their interests are worth.

3) If Titley's request is granted, Titley believes he can negotiate for more control over well timing, participating acreage, royalties, and other considerations. Titley indicated several times this was a primary objective of the requested relief. However, Titley's desire to have another opportunity to negotiate for better cash consideration and other benefits is not the sort of change in conditions that would justify a change in spacing. It is also speculative on Titley's part. The evidence submitted indicated that the primary company Titley wanted to make a deal with would not accept some of

those conditions as a part of a lease. Titley seemed especially interested in the Woodford development in this section.

4) Titley's request to take the spacing down to 80 and 160 acre units would seem to be counter-intuitive as to the Woodford. It is common knowledge in the industry that long laterals are needed to economically produce a Woodford well. If the unit remains as a 640 acre unit, the regulatory work needed to drill the long laterals is a significantly lesser burden. If the units are 80 and 160 acres, any horizontal well would have to be drilled as a multi-unit well, with all its attendant requirements. Granted, because of the common ownership, there likely would not be any protests from the royalty owners. There are other regulatory issues that would need to be addressed. Additionally, with smaller units, flexibility as to where a well may be drilled is reduced. This unit already suffers from restrictions of geography, notably a lake and its water shed. There are limited locations available even with 640 acre spacing. Smaller spacing units could be more restrictive for locations, and could prevent the development of the Woodford.

5) Titley presented knowledge that the current producing reservoir is not a gas reservoir. Titley's expert witness opined this was a "black oil" reservoir. This opinion is based on early production of the Buffalo Springfield well. Mr. Campbell gave an excellent dissertation about how and why oil reservoirs produce more gas over time. While the reservoir may have started out as an oil reservoir, its nature has changed to become a gas reservoir. When the area was spaced in 2009, it was spaced, prospectively, as a 640 acre unit with gas as the main hydrocarbon to be expected. The evidence is clear and undisputed that the unit well has become, by definition, a gas well. This was anticipated when it was re-spaced in 2009. The spacing is appropriate for gas wells.

6) Specifically, the ALJ finds there has not been a change in condition or change in knowledge sufficient to modify the current spacing of 640 acres. It is undisputed the Woodford was penetrated in the Buffalo Springfield well. It was frac' d, but due to an immediate need to protect the rights of the owners in Section 31, it was not tested or produced. In addition, the increased density well was not drilled because the current operator recognizes there are limited locations in which to place a horizontal well, and vertical well placement could prevent proper exploitation of the Woodford common source of supply. This would contribute to waste in the Woodford.

7) Charter Oak recognized it does not have the expertise to fully develop the Woodford, but found a party well versed in drilling horizontal wells. By allowing a competent party to exploit the Woodford, it will prevent waste in the Woodford and the further waste of drilling unnecessary wells.

POSITIONS OF THE PARTIES

TITLEY

- 1) **James M. Peters**, attorney, appeared for Titley, to request the Report of the ALJ be reversed and the application for new drilling and spacing units be granted.
- 2) This application of Titley is to vacate a spacing order. Titley owns 100% of the surface and minerals underlying Section 31, T3S, R2W, Carter County, Oklahoma. Charter Oak was granted a spacing order under the Order No. 570796 in mid-August of 2009. Titley seeks to vacate that order upon the grounds that there has been a change in condition, or change in knowledge of condition since that order was entered.
- 3) In *Phillips Petroleum Company v. The Corporation Commission*, 461 P.2d 597 (Okl. 1969) "the Oklahoma Supreme Court has laid down the rule that a modifying order will be condemned as a prohibitive collateral attack unless a 'substantial change of condition' has intervened between the dates of the existing and the superseding orders." There can be three types of change of condition. The first is designated as an internal change of condition. It is characterized by an actual change in the physical behavior of the reservoir occasioned by development and depletion. The second kind of change may be called an external change of knowledge and condition. This is when the physical behavior of the reservoir remains constant but the information gained through the development changes. The third kind of change is when there is new scientific knowledge or technology that may be added to the dimension of the basic legal concepts of waste and correlative rights gained through such things as development. Titley submits their evidence met all of those three kinds of change of conditions.
- 4) The ALJ's Report said that there had been some change but not enough change for him to recommend the granting of the application. Titley argues that the ALJ's statements are contrary to the record and to the evidence introduced. The evidence is overwhelming in this case that there has been a change in knowledge of condition.
- 5) In 2009, Charter Oak received 640 acre spacing units that vacated the existing 160 acre spacing premised upon the fact that this formation would all be gas. Before this there had been no development on any wells. In 2010, Charter Oak drilled the Buffalo Springfield #1-31 well and it was completed in the Morris and Carpenter and it was productive of oil.
- 6) Mr. Brevetti, the owner of Charter Oak, testified at the hearing on the merits that they had been expecting primarily gas from the completion of the

initial well, the Buffalo Springfield #1-31, but the production was very oily, so Charter Oak now believes that the production will be primarily oil.

7) The ALJ found that this was clearly unquestionably a gas well. There is no evidence in the record to substantiate that. The two engineering reports offered and accepted into evidence show the Buffalo Springfield #1-31 well to be an oil well with an oil/gas ratio of either 4800 to 1 or 12000 to 1.

8) The formations are either not present underlying this area, or it's a completely different reservoir than they anticipated. It's oil and not gas. This is clearly a change in knowledge of condition.

9) Also, they didn't even have to space this on a 640 acre basis because Mr. Brevetti testified that at the time of the spacing, he had already made a deal with Keith Walker and he acquired his acreage and so he had control of the entire 640 acre unit.

10) There's no question there has been a change in knowledge of condition and that in and of itself requires that this report be set aside. We did nothing to interfere with Charter Oak's application. They chose not to drill a well and timely develop the minerals under Titley's Section 31.

CHARTER OAK

1) **Richard A. Grimes**, attorney, appeared for Charter Oak to request the Report of the ALJ be upheld.

2) Charter Oak argues that after the initial testimony by Mr. Titley, who is a mineral owner and not a land man, the case was concluded.

3) Mr. Peters spoke almost exclusively about the concept of a change in knowledge of condition. This is disputed by Charter Oak, but that is not the only requirement before you can change, amend, vacate or modify a final order. Even if Titley did establish that there was a change in knowledge of condition, they would still need to prove that what they want to replace the spacing order with is appropriate from the standpoint of waste and correlative rights. Titley didn't do that here.

4) Titley leased their mineral interests to Keith Walker and Charter Oak. Titley was paid a bonus and given royalty in consideration for relinquishing their working interest rights. There is a relinquishment of rights to working

interest owners when they choose not to develop land, but give others the opportunity to do so. Thereafter, Charter Oak spaced the land.

5) Combining the circumstances of the spacing, which preceded the drilling of the well, and the two leases themselves, the result was that both of those leases were perpetuated beyond their primary terms, and that's where we get to the crux of what is going on here.

6) Mr. Titley said in his testimony that they had "480 acres that were tied up that could be leased to Continental and they were being held by Charter Oak and they were failing to develop the property." During this period of time, one of two leases Mr. Titley is complaining of had not even expired. Mr. Titley has convinced himself that there's no proper development going forward even though a well's been drilled and even though he doesn't know what evaluation is being made for continued development.

7) Mr. Titley wanted to free up the lease so he could lease to Continental for a large bonus. This whole case was simply about Titley having the opportunity to obtain a large bonus.

8) Titley wanted to get their leases back so they could not only get additional bonus and royalty, but also so Titley would be able to give leases with very long primary terms, but, in exchange, Titley would control the number of wells to be drilled, when they would be drilled in accordance with what the product price was as evaluated by Titley at that time. Charter Oak argues and asserts that those types of considerations are for oil companies to make because they invest risk dollars in buying leases. No mineral owner in a lease reserves that right.

9) Even if Titley has shown a change in knowledge of condition, Titley has shown nothing else to establish why the spacing should be changed to protect correlative rights as correctly defined, or prevent waste. All Titley has said is there's a change in knowledge of condition, change the spacing so that they can get more cash bonus.

10) The mere fact that somebody wants to obtain additional bonus and therefore perceives that they are going to do this by changing spacing is not in conformity with the concepts at the Commission. The only thing sought and the only thing that will be gained is the opportunity for Titley to rebargain for \$1,500 per acre and no spacing order should be a predicate on that basis.

CONTINENTAL

- 1) **David E. Pepper**, attorney, appeared for Continental, to concur with Charter Oak and request the Report of the ALJ be upheld.
- 2) Continental will not be able to drill horizontal wells on a 160 acre spacing because it is economic waste.
- 3) What Titley really wants is for the Court to help them create a new private contract where they get some kind of control over the timing and development and additional bonus, and then they want Continental to do it. They want Continental/Charter Oak to lose 480 acres of leases and then come in and lease Titley again.

CARDINAL

- 1) **John R. Reeves**, attorney, appeared for Cardinal, to concur with Charter Oak and requested the Report of the ALJ be upheld.
- 2) In *Winter v. Corporation Commission of State of Oklahoma*, 660 ap.2d 145 (Okl.Civ.App. 1983) there was a question of how many wells were necessary to develop the reservoir there, and the court decided not to change to smaller spacing because that could result in waste. This case raises that exact situation.
- 3) In the *Winter* case, the leases would have terminated if respacing occurred and the court said that would violate the correlative rights of those owners. That is again the exact situation we have in this case.

RESPONSE OF TITLEY

- 1) By Charter Oak's own testimony, by their own records, that 640 acres was improper spacing. It's an oil reservoir. The well won't drain 300, won't drain 160 acres, let alone 640.
- 2) The real problem Charter Oak has in this case is that they've sought and received improper spacing for this unit. Charter Oak voluntarily chose not to carry forward with their development that they were permitted.

3) Titley submits to the Commission that this application should be granted, that there's no basis for the ALJ's denial of it. There's nothing improper about seeking to have this Commission appropriately space the formations and have development based on what the formation is, i.e. oil.

CONCLUSIONS

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

1) In *Mustang Production Company v. Corporation Commission*, 771 P.2d 201, 203 (Okla. 1989) the Oklahoma Supreme Court held:

The standard to be applied by the Corporation Commission when hearing an application to modify or vacate a prior, valid order is well known in Oklahoma. A prior, valid order may only be modified or vacated upon a showing by an applicant that there has been a change in conditions or change in knowledge of conditions. *Phillips Petroleum Company v. Corporation Commission*, Okla., 461 P.2d 597, 599 (1969). The applicant must make this showing by substantial evidence. *Phillips, supra*; *Anderson-Prichard Oil Corporation v. Corporation Commission*, 204 Okla. 672, 241 P.2d 363 (1951); Okla. Const. Art. IX §20. Without this showing, any attempt to vacate or modify a prior, valid order constitutes a prohibited collateral attack on that earlier order. *Application of Bennett*, Okla. 353 P.2d 114, 120 (1960).

2) The author Harris, in *Modification of Corporation Commission Orders Pertaining to a Common Source of Supply*, 11 Okla. L.Rev. 125 (1958), states that the requirements of change of conditions or change in knowledge of conditions are as follows:

What constitutes a change of condition sufficient to satisfy the requirement? As a logical proposition, three kinds of change of condition are theoretically possible. The first may be designated as an internal change of condition. It is characterized by an actual change in the physical behavior of the reservoir

occasioned by development and depletion. Such a change may or may not be predictable in the early states of development....The second kind may be called an external change of condition. In this instance, the physical behavior of the reservoir remains constant, but the information gained through development or depletion experience demonstrates that the conclusions reached originally were incorrect....The third possible kind of change of condition defies tagging with an appropriate label. It can only be described. In this case no actual change in the physical behavior of the reservoir is experienced, and subsequent development and depletion of the reservoir confirm the original predictions so that no external mistake exists. Nevertheless, new scientific knowledge and technology may add new dimensions to the basic legal concepts of waste and correlative rights, or the statutes may be superseded by others which re-define these terms.

Titley argues that the current producing reservoir is not a gas reservoir but is a "black oil" reservoir. Titley argues that the evidence reflected that a well won't drain 160 acres, let alone 640 acres. Charter Oak's evidence, however, was that the wells start with low GORs but will have increasing GORs during their lifetime. The evidence reflected that the Buffalo Springfield #1 well in Section 31 has performed in this manner. The Charter Oak Buffalo Springfield #1-31 according to Charter Oak would be likely to produce 73,000 BO and 352 MMCFG draining 134 acres. Titley's engineer testified that he thought the ultimate oil production would be a little less than 24 MBO and that the gas would be in the range of about 400 MMCF.

3) In *Phillips Petroleum Co. v. Corporation Commission*, 482 P .2d 607 (Okl. 1971) the Court stated:

...The phrase 'change in knowledge of conditions' (as would warrant a change by order) does not encompass a mere change of interpretation on the part of the Commission. Rather, it encompasses an acquisition of additional or new data or the discovery of new scientific or technical knowledge since the date of the original order was entered which requires a reevaluation of the geological opinion concerning the reservoir....

The Supreme Court in *Marlin Oil Corp. v. Corporation Commission*, 569 P.2d 961, 963 (Okla. 1977) further addressed the required showing and stated:

The general rule requiring a change of conditions, or a change in knowledge of conditions as a requisite to modification of an unappealed Commission order has been espoused by a long line of cases. This rule has recently been reiterated by a decision of this court in a case similar to the case at bar, *Corporation Commission v. Phillips Petroleum*, 536 P.2d 1284 (Okla. 1975). In that case Terra Resources applied to Commission to delete the Upper Morrow underlying several sections from the purview of a prior order. It alleged new knowledge of existing conditions, not available at time of prior order, determined the Morrow consisted of two common sources of supply. Commission refused to delete the Upper Morrow from its determination of one common source of supply. Terra appealed and this court affirmed. There was little conflict as to the geological facts, only a conflict as to their interpretation by experts. This court held the same geological facts, although established by different evidence, were known and recognized at the time the entire Morrow was spaced as a single source of supply, despite the fact geologically separate unconnected accumulations of hydrocarbons existed in the area. Evidence presented by Terra merely confirmed the opinion of the Commission established in the earlier order and did not establish the requisite "change of conditions."

However, if Titley was successful in establishing a substantial change in conditions or change in knowledge of conditions, then Titley was required to prove that its particular method of modifying the spacing orders from 640 acres to 80 acres and 160 acres drilling and spacing units would either prevent waste or protect correlative rights. 52 O.S. Section 87.1(d); *Corporation Commission v. Union Oil Company of California*, 591 P.2d 711 (Okla. 1979); *Kuykendall v. Corporation Commission*, 634 P.2d 711 (Okla. 1981); *Union Texas Petroleum, A Div. Of Allied Chemical Corp. v. Corporation Commission of State of Oklahoma*, 651 P.2d 652 (Okla. 1982); and *Winter v. Corporation Commission of State of Oklahoma*, 660 P.2d 145 (Okla. Civ. App. 1983). The Court in *Denver Producing and Refining Company v. State*, 184 P.2d 961 (Okla. 1947) held:

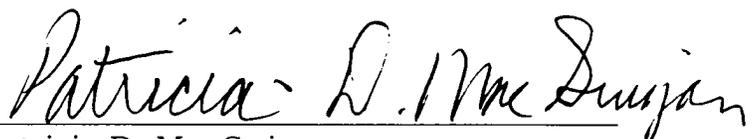
In most instants it is impossible to use a formula which will apply equally to all persons producing from a common source. In striking a balance between conservation of natural resources and protection of correlative rights, the latter is secondary and must yield to a reasonable exercise of the former.

The evidence reflected that Charter Oak would develop the Deese sands in this unit on a vertical basis and the development of the shales through horizontals would be done by Continental. Charter Oak obtained the density and then did not drill its proposed well. Charter Oak had a location issue because of the potential horizontal development of the Woodford. They also had location issues because they were analyzing the FMI information from the Hollingsworth well needing to know which formation should be produced. Smaller units restrict flexibility as to where a well may be drilled and this unit already suffers from restrictions of geography, notably a lake and its watershed. Smaller spacing units therefore would be more restrictive for locations and could prevent the development of the Woodford. Smaller units would also prevent orderly development of the common sources of supply in Oklahoma for the benefit of Oklahoma and its citizens. The Referee believes that Titley has failed to prove that its particular method of modifying the spacing order would either prevent waste or protect correlative rights. Thus, the Report of the ALJ the Referee believes should be affirmed as the ALJ's recommendation is the best method of development of the common sources of supply to assist in the prevention of waste at this particular time.

4) It should also be noted that the evidence reflected that Titley desired to have the spacing changed so that they could again lease their mineral estate with better terms and conditions. It should be noted however that Titley's desire to have another opportunity to negotiate for better cash consideration and other benefits is not the sort of change of conditions that would justify a change in spacing.

5) For the above stated reasons the Referee would recommend that the Report of the ALJ should be affirmed as the best choice considering the totality of the circumstances.

RESPECTFULLY SUBMITTED THIS 26th day of July, 2013.



Patricia D. MacGuigan
OIL & GAS APPELLATE REFEREE

PM:ac

xc: Commissioner Douglas
Commissioner Anthony
Commissioner Murphy
Jim Hamilton
ALJ Michael Porter
James Peters
Richard Grimes
David Pepper
John Reeves
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Michael L. Decker, OAP Director
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