

DECISION SHEET OF THE OIL & GAS APPELLATE REFEREE

APPLICANT: ROYAL RESOURCES)
COMPANY, LLC)
RELIEF SOUGHT: POOLING)
LEGAL DESCRIPTION: NE/4 NW/4 OF SECTION 9,)
TOWNSHIP 14 NORTH, RANGE)
11 EAST, OKMULGEE)
COUNTY, OKLAHOMA)

CAUSE CD NO.
201300660-T

FILED
MAY 09 2014

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CORPORATION COMMISSION
OF OKLAHOMA

APPLICANT: ROYAL RESOURCES)
COMPANY, LLC)
RELIEF SOUGHT: POOLING)
LEGAL DESCRIPTION: SE/4 NW/4 OF SECTION 9,)
TOWNSHIP 14 NORTH, RANGE)
11 EAST, OKMULGEE)
COUNTY, OKLAHOMA)

CAUSE CD NO.
201300661-T

**REPORT OF THE OIL AND GAS APPELLATE REFEREE ON
AN ORAL APPEAL OF MOTIONS TO STAY**

These Motions to Stay in the above listed causes came on for hearing before **Curtis M. Johnson**, Deputy Administrative Law Judge for the Oklahoma Corporation Commission, in the Commission's Courtroom, at 9 a.m. on the 6th day of May, 2014, in the Commission's Courtroom, Kerr Building, Tulsa, Oklahoma, pursuant to notice given as required by law and the rules of the Commission for purpose of taking testimony and reporting to the Commission.

APPEARANCES: **Ron M. Barnes** and **Grayson Barnes**, attorneys, appeared for applicant, Royal Resources Company, LLC ("Royal") and Prosperous Oil and Gas, Inc.; **Edward J. Clarke**, attorney, appeared for Rose Rock Resources, Inc. and the heirs of William Gladstone Green and the Estate of William Gladstone Green (collectively "Rose Rock"); and **Jim Hamilton**, Deputy General Counsel for the Deliberations, filed notice of appearance.

The Administrative Law Judge ("ALJ") issued his Oral Ruling on the Motions to Stay on May 6, 2014 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 6th day of May, 2014. After considering the arguments of counsel and the record contained within these Causes, the Referee finds as follows:

REPORT OF THE ADMINISTRATIVE LAW JUDGE

1) Originally there were three causes filed in this matter, Cause CD 201300659-T, Cause CD 201300660-T and Cause CD 201300661-T. All three of these causes are set to be heard in a protested hearing on May 7, 2014. **ALJ Curtis M. Johnson** stated that he was informed by Rose Rock that they were filing motions to stay in all three causes, including Cause CD 201300659-T. These three causes were set for a protested hearing by Order Nos. 623911, 623913 and 623912 on the May 7, 8 and 9, 2014 protest docket. However, Rose Rock only filed Motions to Stay in Cause CD 201300660-T and Cause CD 201300661-T. Further, in the Rose Rock Motions to Stay they do not accurately describe the legal description in either motion and in the Cause CD 201300660-T they misstate the relief sought as "DRILLING AND SPACING UNIT", wherein the relief sought in that cause was for "'POOLING". The ALJ recommended denying the two Motions to Stay. He denied said motions due to the notice requirement and also because the protested hearing was set on May 7, 2014, the day after the hearing was held on the two Motions to Stay which was May 6, 2014. Further, the ALJ determined that the reason given by Rose Rock in their Motions to Stay was:

...As reason therefor, Movants allege that the applicant does not own the right to explore for oil and gas in the captioned lands and that an action has been filed in Okmulgee County, styled CV-2013-24 which sought a declaration of Applicant's title in the captioned lands which was dismissed and will be refilled (sic) immediately by the heirs and the estate of William Gladstone Green as well as a probate action for the estate of William Gladstone Green.

2) Currently there has been no district court suit filed by Rose Rock. The ALJ therefore saw no reason why these causes should not proceed on the protest docket on May 7, 8 and 9, 2014. The district court case is a quiet title action. The applicant in the present three causes Royal owns the right to drill in these proceedings and the Oklahoma Corporation Commission does not try

title. All Royal has to show is that they have color of title and a scintilla of interest to proceed in this case. Since the Corporation Commission does not determine title and there is no current case filed concerning quiet title in district court, the ALJ denied the Motions to Stay for the two causes.

DECISION OF THE OIL & GAS APPELLATE REFEREE

1) The Referee would affirm the ALJ's ruling on the two Motions to Stay. The ALJ's ruling to deny the Motions to Stay in the two causes, CD 201300660-T and CD 201300661-T, is supported by the weight of the evidence and free of reversible error. Rose Rock agreed that everything the ALJ stated concerning problems with the caption of the two cases and any procedural problems with the Motions to Stay were accurate. However, Rose Rock argues that the Commission has the power to stay proceedings if there is ultimately going to be an issue concerning title to property. The Referee would point out, however, the related quiet title causes that were pending in the District Court of Okmulgee County were dismissed on February 14, 2014. Rose Rock has had ample time to refile quiet title actions in Okmulgee County and has not done so as of the date these motions were heard by the ALJ on May 6, 2014.

2) A Motion to Set Cause for Hearing was filed by Royal in all three causes on March 25, 2014. Said Motions to Set Cause for Hearing stated:

The captioned cause is currently protested. The related cause that was pending in the District of Okmulgee County has been dismissed, a copy of the Order Dismissing Case Without Prejudice is attached as Exhibit A. The Applicant has been unable to get the protestant to agree on a protest date to hear the cause. Therefore, the Applicant requests this Motion be heard on the Motion Docket on Tuesday, April 1, 2014 and moves the Commission at that time set the cause for hearing on the April 30, May 1 and 2, 2014 Protest Docket or as soon thereafter as can be heard.

The Motions to Set Cause for Hearing came on before the ALJ on April 1, 2014 and Order No. 623911 in Cause CD 201300659-T, and Order No. 623913 in Cause CD 201300661-T, and Order No. 623912 in Cause CD 201300660-T was entered granting these Motions to Set Cause for Hearing and setting the hearing on the May 7, 8 and 9, 2014 Protest docket. All three orders granting Motion to Set Cause for Hearing stated:

Protestants, Rose Rock Resources, Inc. and William Gladstone Green, through their attorney Edward J. Clarke did not appear at hearing.

3) For the reasons stated above, the Referee finds that the ALJ's Oral recommendation to deny Rose Rock's two Motions to Stay should be affirmed as it is according to law and protects correlative rights pursuant to 52 O.S. Section 87.1(e) by allowing timely further development of these units.

4) Oklahoma's Conservation of Oil and Gas Act confers upon the Corporation Commission the authority to order forced pooling to protect correlative rights and mineral interest owners within a spacing unit. See 52 O.S. Section 87.1(e). The Corporation Commission "has the sole authority to adjust the equities and to protect the correlative rights of interested parties." *Woods Petroleum Corporation v. Sledge*, 632 P.2d 393, 396 (Okl. 1981).

5) Any controversy pertaining to a private rights dispute/quiet title action is not within the Commission's jurisdiction. *McDaniel v. Moyer*, 662 P.2d 309 (Okl. 1983). "(D)isputes over private rights are properly brought in the district court...the (C)ommission's jurisdiction is limited to protection of public rights in development and production of oil and gas." *Leck v. Continental Oil Company*, 800 P.2d 224, 226 (Okl. 1989).

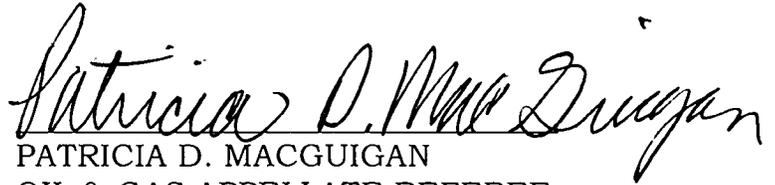
6) Thus, the Oklahoma Corporation Commission has express jurisdiction to pool interests where owners cannot agree on terms regarding voluntary development pursuant to 52 O.S. Section 87.1(e) and the Okmulgee County District Court quiet title action if and when it is filed by Rose Rock does not prevent the Commission from exercising its right and duty to proceed with these two pooling applications.

7) The inherent authority of the Commission to consider a stay of a proceeding is discretionary. *State ex rel. Oklahoma Bar Association v. Gasaway*, 863 P.2d 1189 (Okl. 1993). The Referee would urge that in this instance that the Commission use its discretion to affirm the ALJ and deny the Motions to Stay. See also *Federal Deposit Insurance Corporation v. First National Bank and Trust Company of Oklahoma City*, 496 F.Supp. 291 (W.D.Okl. 1978).

8) The Referee believes that Rose Rock has not made a sufficient showing to justify stays of these actions. For the factual reasons stated above and for the legal reasons stated above, the Referee is not persuaded that Rose Rock has met its burden establishing a need to stay these proceedings before the Commission. *Federal Deposit Insurance Corporation v. First National Bank and Trust Company of Oklahoma City*, *supra*. Therefore the Referee would affirm

the decision of the ALJ concerning the denial of the two Motions to Stay, and these three causes should proceed with the protested hearing. .

RESPECTFULLY SUBMITTED THIS 9th day of May, 2014.



PATRICIA D. MACGUIGAN
OIL & GAS APPELLATE REFEREE

PM:ac

xc: Commissioner Anthony
Commissioner Douglas
Commissioner Murphy
Jim Hamilton
Ron M. Barnes
Grayson Barnes
Edward J. Clarke
ALJ Curtis Johnson
Michael L. Decker, OAP Director
Oil-Law Records