

DECISION SHEET OF THE OIL & GAS APPELLATE REFEREE

APPLICANT: 76 DISPOSAL, LLC)
)
)
RELIEF SOUGHT: COMMERCIAL DISPOSAL)
WELL)
)
LEGAL DESCRIPTION: HWY 76 NO. 1, SW/4 NE/4)
NE/4 SE/4 OF SECTION 26,)
TOWNSHIP 4 SOUTH, RANGE)
3 WEST, CARTER COUNTY,)
OKLAHOMA)

CAUSE PD NO.
201400171

FILED
JAN 08 2015

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CORPORATION COMMISSION
OF OKLAHOMA

**ORAL APPEAL OF THE ADMINISTRATIVE LAW JUDGE'S
RULING ON A MOTION TO DISQUALIFY**

Michael L. Decker, Administrative Law Judge, for Corporation Commission of the State of Oklahoma, heard the above motion on the 29th day of December, 2014, at 9 a.m. 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: **Cheri M. Wheeler**, attorney, appeared on behalf of applicant, 76 Disposal, LLC ("76 Disposal"); **Russell James Walker**, attorney, appeared on behalf of Cobalt Environmental Solutions, LLC and Cobalt Tri-City LLC (collectively "Cobalt"); **Sally Shipley**, Deputy General Counsel, appeared on behalf of the Oil and Gas Division of the Oklahoma Corporation Commission; and **James L. Myles**, Deputy General counsel for Deliberations, filed notice of his appearance. .

The Oral arguments on the Oral Appeal/Exceptions were referred to **Patricia D. MacGuigan**, Oil and Gas Appellate Referee ("Referee"), on the 31st day of December, 2014. After considering the arguments of counsel and the record contained within this Cause, the Referee finds as follows:

REPORT OF THE ADMINISTRATIVE LAW JUDGE

1) **ALJ Michael L. Decker** recommended denying Cobalt's Motion to Disqualify.

2) After listening to the arguments of counsel, it was the ALJ's decision that he would recommend that Cobalt's Motion to Disqualify Oscar Goode and bar his testimony, evidence and exhibits as the proposed witness for 76 Disposal should be denied. The ALJ determined that Mr. Goode's potential conflict could be brought out in cross examination and the point could be made that his opinion should not be given any credible weight. Cobalt's opinion concerning Mr. Goode's testimony can be brought out in cross examination which would be presented as a deciding factor to the presiding ALJ concerning whether there was a conflict of interest.

DECISION OF THE OIL & GAS APPELLATE REFEREE

- 1) The Referee finds the ALJ should be affirmed.
- 2) Cobalt apparently owns and operates a commercial saltwater disposal well in Section 23 directly north of the location where 76 Disposal proposes to construct and operate its disposal well in Section 26. The two ten acre tracts that are identified as the locations for those wells are half a mile apart.
- 3) Mr. Oscar Goode, the proposed expert witness for 76 Disposal, does all of Cobalt's work. He was the consultant on Cobalt's commercial disposal well in Section 23 before it was owned by Cobalt and when it was owned by the Brooks Family. Mr. Charles Brooks with 76 Disposal proposed the present application for a commercial disposal well in Section 26. Mr. Oscar Goode has knowledge about the Cobalt well and its operation. Mr. Oscar Goode however has stated apparently that none of the information that would be applicable to the Cobalt well would be relevant to the present Brooks proposed saltwater disposal well in Section 26. Ms. Cheri Wheeler, 76 Disposal's lawyer, stated that they were totally different saltwater disposal wells.
- 4) Mr. Oscar Goode represents several commercial well operators as a consultant. Mr. Goode has been the expert consultant for 76 Disposal since September and the Motion to Disqualify by Cobalt was not filed until December 22, 2014. Mr. Goode has prepared all of the exhibits and is prepared to testify at the protested hearing which is scheduled for January 7, 8, and 9, 2015.
- 5) Most of the experts that testify at the Corporation Commission are consultants for numerous operators and testify concerning numerous contested matters. Mr. Goode has been an expert witness since the 1960s and has represented several entities, all of which could be considered competitors.
- 6) ALJ Decker in his decision stated that Oscar Goode's potential conflict could be brought out in cross examination at the protested hearing and Cobalt could point out that his opinion should not be given significant weight. The

Referee agrees with the ALJ that any bias or conflict of interest by Oscar Goode can be presented to the ALJ at the protested hearing through cross examination by Cobalt. The ALJ then would be aware of Cobalt's opinion concerning Oscar Goode's objectivity and could assess after hearing all of the facts the proper weight to be given Oscar Goode's expert witness opinion.

7) For the above stated reasons the ALJ's recommendation should be affirmed.

RESPECTFULLY SUBMITTED THIS 8th day of January, 2015.


Patricia D. MacGuigan
OIL & GAS APPELLATE REFEREE

PM:ac

xc: Commissioner Anthony
Commissioner Douglas
Commissioner Murphy
Cheri M. Wheeler
Russell James Walker
Sally Shipley
James L. Myles
Michael L. Decker, ALJ/OAP Director
Oil-Law Records