

SEP 15 2015

DECISION SHEET OF THE OIL AND GAS APPELLATE REFEREE

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CORPORATION COMMISSION
OF OKLAHOMA

<u>APPLICANT:</u>	AMERICAN ENERGY -)	
	WOODFORD, LLC)	
)	
<u>RELIEF SOUGHT:</u>	DISPOSAL WELL AMENDMENT)	CAUSE PD NO.
	TO PERMIT NO. 1403710056)	201500006
)	
<u>LEGAL DESCRIPTION:</u>	NW/4 SW/4 SW/4 SE/4 OF)	
	SECTION 7, TOWNSHIP 19)	
	NORTH, RANGE 2 EAST, PAYNE)	
	COUNTY, OKLAHOMA)	
)	
<u>WELL NAME:</u>	B&W WEATHERS SWD 1-7)	

ORAL APPEAL OF THE ADMINISTRATIVE LAW JUDGE'S RULING ON AN APPLICATION FOR EMERGENCY ORDER

This Application for an Emergency Order came on for hearing before **Michael D. Norris**, Administrative Law Judge for the Oklahoma Corporation Commission, at 9 a.m. on the 2nd day of September, 2015, 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: **Charles L. Helm**, attorney, appeared for applicant, American Energy - Woodford, LLC ("AEW"); **Susan Conrad**, Deputy General Counsel, appeared on behalf of the Underground Injection Control department of the Commission ("UIC"); and **James L. Myles**, Deputy General Counsel for Deliberations, filed notice of appearance.

The Administrative Law Judge ("ALJ") issued his Oral Ruling on the Application for Emergency Order 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 8th day of September, 2015. After considering the arguments of counsel and the record contained within this Cause, the Referee finds as follows:

STATEMENT OF THE CASE

AEW has heretofore filed in this cause an application for disposal well amendment to permit #1403710056 for the B&W Weathers SWD #1-7 well located in the NW/4 SW/4 SW/4 SE/4 of Section 7, T19N, R2E, Payne County, Oklahoma. AEW was notified by the Oklahoma Corporation Commission Technical department that seismicity in the area required a hearing in this matter. The cause came on for hearing the 6th day of February, and reopened on the 10th day of April, 2015. Both AEW and the Technical department presented evidence regarding the application to increase rates. There were no protests announced by any party, however, at the conclusion of the hearing, the cause was taken under advisement. The ALJ filed his Report of the Administrative Law Judge and the Amended Report of the Administrative Law Judge on the 11th day of May, 2015. Exceptions were timely filed by AEW. The Report of the Oil and Gas Appellate Referee was filed on August 13, 2015. The ALJ and the Appellate Referee recommended that the cause be reopened for additional evidence. In the present emergency cause AEW alleges that an emergency exists which will cause them to suffer economic loss unless an emergency order is entered allowing authority to increase injection rates in the B&W Weathers SWD #1-7 well prior to an order issuing in this cause. AEW requested an emergency order granting authority to commence increased injection rates prior to a final determination in this cause and requested a temporary emergency rate which is less than is being requested in the pending cause.

REPORT OF THE ADMINISTRATIVE LAW JUDGE

1) **ALJ Michael D. Norris** recommended denying AEW's Application for Emergency Order stating it was premature procedurally, because there is a pending Appellate Referee Report before the Commission. AEW did show and present evidence that there was a financial loss/emergency in this case if they cannot obtain an emergency order for the subject well. The deliberating attorney for the Commission, Mr. James Myles, informed the ALJ that the decision by the Commissioners would be given concerning the Appellate Referee's Report very shortly. Since the granting of the emergency application might be in contravention to what the Commission ultimately decided concerning the Appellate Referee's Report, then the decision on the emergency order would be premature. The ALJ therefore denied AEW's application for an emergency order.

DECISION OF THE OIL & GAS APPELLATE REFEREE

- 1) The Referee finds the ALJ should be affirmed. The Referee believes that the ALJ's decision to deny AEW's application for an emergency order as being premature is correct.
- 2) The Commission on September 11, 2015, issued its Oil and Gas Deliberation Decision Sheet stating the following:

The deliberation by the Commissioners is on AEW's exceptions to the Report of the Administrative Law Judge ("ALJ") filed on May 11, 2015, and the resulting Report of the Oil and Gas Appellate Referee ("Referee") filed August 13, 2015.

After deliberating the above referenced Reports of the ALJ and the Referee, Commissioners Anthony, Murphy and Hiett determine that:

The hearing on the applications in these causes was held on February 5, 2015. Since that time, the area of interest defined by the Commission's Oil and Gas Conservation Division regarding seismic activity and the permitting of disposal wells therein has increased in size. In addition, the data as to seismic activity and disposal wells' injection volumes in the vicinity of the proposed disposal wells in these causes is now seven months old.

Therefore, these causes should be remanded to the ALJ for further proceedings to incorporate into the record the information from the Environmental Protection Agency's Underground Injection Control National Technical Workgroup referenced by the ALJ in his report at paragraph 24 and elsewhere; and, to supplement the record with updated data as to the above indicated seismic activity and injection volumes as well as any other

pertinent information at the discretion of the ALJ.

- 3) This cause has now been remanded to ALJ David Leavitt who heard the protested hearing for further proceedings to incorporate into the record information required by the Environmental Protection Agency's Underground Injection Control National Technical Workgroup ("NTW") and also to supplement the record with additional updated data concerning seismic activity and injection volumes and other pertinent data at the ALJ's discretion.
- 4) Since the Commission has issued this decision for AEW to provide further testimony and information as required by the ALJ concerning the NTW's Report, the Referee believes the ALJ was correct in determining that AEW's application for emergency order was premature. The Commission's required information should be provided to ALJ Leavitt before a decision can be made whether an emergency order is appropriate.
- 5) For the above stated reasons the Referee finds that the ALJ's recommendation to deny AEW's application for an emergency order should be affirmed.

RESPECTFULLY SUBMITTED THIS 15th day of September, 2015.


PATRICIA D. MACGUIGAN
OIL & GAS APPELLATE REFEREE

PM:ac

xc: Commissioner Anthony
Commissioner Murphy
Commissioner Hiett
James L. Myles
ALJ Michael D. Norris
Charles L. Helm
Susan Conrad
Michael L. Decker, OAP Director
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