

BEFORE THE CORPORATION COMMISSION  
OF THE STATE OF OKLAHOMA

**FILED**  
SEP 28 2016

COURT CLERK'S OFFICE - OKC  
CORPORATION COMMISSION  
OF OKLAHOMA

APPLICANT: NEWFIELD EXPLORATION MID- )  
CONTINENT INC. )  
)  
RELIEF SOUGHT: MULTIUNIT HORIZONTAL WELL ) CAUSE CD NO.  
) 201504154-T  
LANDS COVERED: SECTION 30 AND 31, )  
TOWNSHIP 16 NORTH, RANGE )  
6 WEST, KINGFISHER COUNTY, )  
OKLAHOMA )

APPLICANT: NEWFIELD EXPLORATION MID- )  
CONTINENT INC. )  
)  
RELIEF SOUGHT: MULTIUNIT HORIZONTAL WELL ) CAUSE CD NO.  
LOCATION EXCEPTION ) 201504155-T  
)  
LANDS COVERED: SECTION 30 AND 31, )  
TOWNSHIP 16 NORTH, RANGE )  
6 WEST, KINGFISHER COUNTY, )  
OKLAHOMA )

APPLICANT: NEWFIELD EXPLORATION MID- )  
CONTINENT INC. )  
)  
RELIEF SOUGHT: [POOLING (PART OF A ) CAUSE CD NO.  
MULTIUNIT HORIZONTAL ) 201504156-T  
WELL) )  
)  
LANDS COVERED: SECTION 30, TOWNSHIP 16 )  
NORTH, RANGE 6 WEST, )  
KINGFISHER COUNTY, )  
OKLAHOMA )

APPLICANT: CHAPARRAL ENERGY, L.L.C. )  
)  
RELIEF SOUGHT: POOLING ) CAUSE CD NO.  
) 201505046-O/T  
LANDS COVERED: SECTION 30, TOWNSHIP 16 )  
NORTH, RANGE 6 WESY, )  
KINGFISHER COUNTY, )  
OKLAHOMA )

APPLICANT: CHAPARRAL ENERGY, L.L.C. )  
)  
RELIEF SOUGHT: LOCATION EXCEPTION ) CAUSE CD NO.  
) 201505050  
LANDS COVERED: SECTION 30, TOWNSHIP 16 )  
NORTH, RANGE 6 WEST, )  
KINGFISHER COUNTY, )  
OKLAHOMA )

**REPORT OF THE OIL AND GAS APPELLATE REFEREE**

These Causes came on for hearing before **Curtis M. Johnson**, Deputy Administrative Law Judge for the Corporation Commission of the State of Oklahoma, on the 7<sup>th</sup> day of January, 3<sup>rd</sup> day of February and 1<sup>st</sup> day of March, 2016, at 8:30 a.m. in the Commission's Courtroom, Kerr Building, Tulsa, Oklahoma, pursuant to notice given as required by law and the rules of the Commission for the purpose of taking testimony and reporting to the Commission.

**APPEARANCES:** **Gregory L. Mahaffey**, attorney, appeared on behalf of applicant, Newfield Exploration Mid-Continent Inc. ("Newfield"); **David E. Pepper**, attorney, appeared on behalf of applicant, Chaparral Energy, L.L.C. ("Chaparral"); **Robert A. Miller**, attorney, appeared on behalf of Marathon Oil Company ("Marathon"); **Richard K. Books**, attorney, appeared on behalf of Gastar Exploration, Inc. ("Gastar"); and **James L. Myles**, Deputy General Counsel for Deliberations, filed notice of appearance.

The Administrative Law Judge ("ALJ") filed his Report of the Administrative Law Judge on the 3<sup>rd</sup> day of June, 2016, to which Exceptions were timely filed 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 22<sup>nd</sup> day of July, 2016. After considering the arguments of counsel and the record contained within these Causes, the Referee finds as follows:

### **STATEMENT OF THE CASE**

**CHAPARRAL TAKES EXCEPTION** to the recommendation of the ALJ to grant the applications of Newfield and name Newfield as operator of the multi-unit well.

Newfield is seeking a multi-unit horizontal well, a multi-unit horizontal well location exception, and a pooling for the Mississippian (less Chester) and Woodford. Chaparral is requesting a single unit well for Mississippian in Section 30 only. Chaparral filed a location exception and pooling. Both parties seek to be named operator of the well. Newfield requests multi-unit development, while Chaparral seeks single unit development.

#### **CHAPARRAL TAKES THE POSITION:**

- 1) The ALJ Report is contrary to the law, contrary to the evidence and fails to effect the means of prevention of waste and protection of correlative rights.
- 2) This case was heard over three specific hearing dates with an extensive amount of evidence. The primary issues were who was to operate either the drilling of a single unit well or a multi-unit well. Chaparral proposed drilling a single unit well in Section 30-16N-6W, Kingfisher County, Oklahoma. Newfield proposed drilling a multi-unit well in Sections 30 & 31-16N-6W, Kingfisher County, Oklahoma.
- 3) The focus of Chaparral's case was that they had acquired acreage for the purpose of drilling a single horizontal well in Section 30-16N-6W, Kingfisher County, Oklahoma. The focus of Chaparral's presentation of evidence revolved around the issue that they believed that a single unit well was economically more appropriate in this unit than a multi-unit well, and their acreage position justified their being designated as the operator.
- 4) The ALJ noted that Chaparral had the largest working interest in Section 30, which was the subject of Chaparral's request, however, the ALJ completely ignored the evidence of the various benefits and economic development as a single unit well rather than a multi-unit well. The ALJ

concluded that because Newfield owned the most interest in the two sections, that Newfield should be designated the operator. This, of course, makes absolutely no sense in determining operator of Section 30. Chaparral had the greater ownership, and although the ALJ quoted Charles Nesbitt's article, Primer On Forced Pooling, the ALJ overlooks the fact that the single most important issue was the majority interest. The ALJ fails to even evaluate in his conclusions, which were approximately one page, the evidence regarding the appropriate method of development of Section 30.

5) The ALJ concluded that Newfield is the more experienced operator in this issue. Of course Chaparral obviously has experience in drilling horizontal wells, and the determination of who has drilled more wells plays no bearing on whether this should be a single unit well or a multi-unit well. The ALJ noted that Newfield should be the operator and therefore that it should determine the method of operations. This makes no sense in that in Section 30, Chaparral has the clear majority interest and is prepared to drill a single unit horizontal well.

6) The ALJ failed to consider the effect on the majority interest owner in Section 30 regarding a multi-unit well. The ALJ's conclusions do not even cite the overwhelming evidence from Chaparral that a single unit well would be more economically suitable for this area, and that Chaparral's acquisition of this interest being the majority interest should control the development of Section 30-16N-6W, Kingfisher County, Oklahoma.

7) Chaparral requests that the Referee evaluate the transcripts to at least reach a determination, based on the evidence as to which method would be preferable. In addition, Chaparral requests that the Referee evaluate the transcripts to determine who would be best suited to operate Section 30-16N-6W, Kingfisher County, Oklahoma. If Chaparral is designated the operator of Section 30 and is allowed to drill their proposed well, Newfield can always propose a subsequent well as a multi-unit well covering other sections. Granting Chaparral permission to drill a single unit well in Section 30 as operator would not preclude Newfield from having the opportunity to drill multi-unit wells at a later date. The ALJ simply did not provide to the Commission a reason to designate Newfield as operator of Section 30-16N-6W. The ALJ did not provide sufficient reasoning to justify a multi-unit well. The ALJ's report does not denote to the Commission any reasoning for a multi-unit well based on the evidence presented.

8) Chaparral requests that the Report of the ALJ be reversed, and that Chaparral be designated the operator of Section 30-16N-6W, Kingfisher County, Oklahoma, based upon their majority interest and their proposal to commence operations.

**THE ALJ FOUND:**

1) The ALJ recommends the applications of Newfield be recommended and Newfield be named operator of the proposed well. The ALJ relies upon Mr. Charles Nesbitt's article on pooling orders and operations to reach this recommendation. (See The Oklahoma Bar Journal, Vol. 50, No. 13, Page 648 through 656)

2) Mr. Nesbitt considers several factors in selecting an operator. He considers working interest ownership the most important. His reasoning for this conclusion is if "...[a]ll other things are equal,..." a party owning the majority interest in the unit will incur the most financial risk and should generally be named as operator. Even though Chaparral has the largest interest in Section 30, Newfield holds a larger interest in Section 31 and in the multi-unit, consisting of Sections 30 and 31.

3) The ALJ would emphasize Mr. Nesbitt's statements that " ...[a]ll other things being equal..." and " ... [h]owever, this is not always true and other factors can outweigh majority ownership..." (See The Oklahoma Bar Journal, Vol. 50, No. 13, Page 648 through 656). The undisputed testimony in this case established that things are not equal and there are a number of factors that weigh in Newfield's favor.

4) First, Newfield is the moving party to develop the subject well. Newfield filed their multi-unit horizontal well, multi-unit horizontal well location exception, and pooling before Chaparral filed their applications. Newfield proposed to drill the subject well first. Newfield's proposal letter is dated July 21, 2015 (See Exhibit #2, Newfield's Proposal Letter dated July 21, 2015), while Chaparral's proposal letter was not prepared until October 7, 2015 (See Exhibit #5, Chaparral's Proposal Letter to Newfield dated October 7, 2015).

5) Second, Newfield drilled the first well to the Meramec in this area and has acquired a substantial amount of acreage, and dedicated a great amount of resources, in this play. Newfield has drilled a number of wells in this area and has more experience in this area than does Chaparral.

6) Third, Newfield has settled surface damages and built a location for the proposed well. The ALJ contends taking in all these factors which weigh in the favor of Newfield and comparing against the fact Chaparral has not drilled any Meramec wells in the "D" interval in this area, this ALJ must conclude these factors clearly outweigh Chaparral's slight majority interest in Section 30.

7) The ALJ concludes the issue of which development method is appropriate for the subject well should be left to the decision of the operator, Newfield. From the evidence provided above, this ALJ contends Newfield is clearly the

more experienced operator in this issue. Accordingly, since Newfield has determined that drilling a two mile lateral is the best method to develop the reservoir, and since Newfield owns a majority of the ownership in the multi-unit, they will bear more cost, thus this ALJ contends Newfield as operator should be allowed to choose the best method to develop the reserves. Therefore Newfield's multi-unit horizontal well, multi-unit horizontal well location exception, and pooling should be granted and Newfield should be named operator of the proposed well.

## **POSITIONS OF THE PARTIES**

### **CHAPARRAL**

1) **David E. Pepper**, attorney, appearing on behalf of Chaparral, contends the ALJ incorrectly held the formation of a multi-unit well was the more proper method in developing Section 30-16N-6W, Kingfisher County, Oklahoma, as opposed to a single unit well.

2) Chaparral claims that the most effective wells in the area are single-unit wells drilled by Payrock, and indicated that three of the single-unit wells would recover more than Newfield's multi-unit wells for less cost. As evidence, Chaparral referred to testimony from one of Chaparral's reservoir engineers, claiming that a one-mile well gets 25% to 30% more reserves on an efficiency rate, and further noted that with a two-mile lateral, oil in the toe cannot be recovered due to friction.

3) Chaparral contends that for promotion of recovery efficiency, a total of eight single-unit wells would have to be drilled. Chaparral notes that their eight single-unit wells would cost \$29.6 million, as opposed to Newfield's six multi-unit wells costing \$41.4 million.

4) Furthermore, Chaparral contends the ALJ incorrectly held that because Newfield owned the most interest in Sections 30 and 31-16N-6W, Kingfisher County, Oklahoma, Chaparral should be designated the operator of Section 30. Chaparral argues that the ALJ incorrectly analyzed Charles Nesbitt's article concerning forced pooling, because Chaparral, holding 51% ownership to Newfield's 49%, has a greater interest in the area.

5) Chaparral notes that they have done more research in the area, as Chaparral met with Payrock multiple times to discuss methodology in drilling and completing the single-unit wells, whereas Newfield only had one meeting with Payrock.

6) Chaparral does not contest that Newfield filed to drill first.

7) Chaparral asserts that single unit wells are the more appropriate way to develop Section 30, and that because their ownership exceeds Newfield's, Chaparral should be given control of the development, ultimately requesting the Referee reverse the Report of the ALJ.

### **NEWFIELD**

1) **Gregory L. Mahaffey**, attorney, appearing on behalf of Newfield, asserts that the ALJ was correct in granting Newfield operation of Section 30. Newfield notes they were the leader of development in the area, they drilled the first well in the Meramac play, and at the time the well in Section 30 was proposed by Newfield in August, Chaparral owned no interest in Section 30.

2) Newfield concedes that Chaparral now has the larger proportion of land in Section 30. Newfield points out, however, that the difference in ownership is 1%—Chaparral owns 50.66%, and Newfield owns 49.34% with other working interest owners supporting Newfield. Newfield claims that a 1% difference isn't enough to mitigate Newfield's 63% of the interest in the multi-unit and Newfield's overall financial risk and majority ownership of both Sections 30 and 31. Chaparral only owns 25.33% in the multi-unit.

3) Newfield further asserts that Chaparral is still on the learning curve, as they have never drilled a well to the target formation. Newfield, however, points out that it has drilled 115 wells in this play, with 100 being multi-unit Meramac wells. Newfield has settled surface damages and built the well location.

4) Newfield claims that the use of single-unit wells would lead to waste, as there would be orphan acreage containing around 50,000 barrels per well between the two sections. Moreover, whereas Chaparral's two single-unit wells in another location wielded an average of 12 BO per foot, Newfield's average recovery was 36 BO per foot. Additionally, in Newfield's experience, the average of the nineteen 10,000 foot laterals they drilled in this play is 39,000 barrels more than the ultimate recoveries of their two 5,000-foot wells combined.

5) Newfield further believes Chaparral is underestimating their budget, as for a typical Newfield 5,000-foot lateral, costs are \$4.5 million as opposed to the \$3.9 million Chaparral proposes.

6) Newfield refutes Chaparral's estimate that they would need to build six 10,000-foot laterals, as Newfield believes they would only need to build four, costing \$27.96 million. To build eight 5,000-foot laterals, the cost would be

\$33.7 million. Additionally, Newfield notes that Chaparral's finding cost at \$62 a barrel is higher than the current market rate, whereas Newfield's cost is \$19 a barrel, falling well below the current market rate of \$30 a barrel.

7) Newfield asks that the ALJ Report be affirmed and Newfield be designated operator of Section 30. Newfield has already issued pooling orders in Section 31 and Newfield is the unit operator in Section 31.

### **RESPONSE OF CHAPARRAL**

1) Chaparral notes that there are three Payrock single-unit wells that have more estimated ultimate recovery than the Reheman #1-H-25X well, Newfield's self-proclaimed best well. The Reheman #1-H-25X well has EUR of oil at 339.69 MBO. The Eve 15061-17MH well, which is a Payrock Energy LLC well, has 100,000 BO more estimated EUR. The Cerny #16073-35MH well is a Payrock Energy LLC well and has 40,000 BO more estimated EUR. The Hansens #16071-12MH Payrock Energy LLC well has also 40,000 BO more estimated EUR. These three wells are single unit wells.

2) Chaparral contends that if friction in the toe did not affect recovery rates, 13 of Newfield's wells, including the Reheman, would not be recovering less than Payrock wells.

3) Chaparral concedes that while they may not have drilled wells in this immediate area, they have a lot of experience with drilling wells in general.

### **RESPONSE OF NEWFIELD**

1) Newfield disagrees that Payrock's wells were the best in the area, noting that Chaparral did not mention three Payrock wells in the area that produced less than 200,000 barrels each. Some Newfield wells in the area, however, produced 500,000 BO. Newfield points out that one, the Maybel #1H-13X, produced 717,000 BO, almost twice as much as the best Payrock wells.

2) Newfield admits that 13 of their wells recover less than the Payrock wells, but points out that more than 50% of Newfield multi-unit wells recover more than 200,000 BO, and at least 50% of the Payrock wells recover less than 200,000 BO.

## **CONCLUSIONS**

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

1) The Referee finds the ALJ's recommendation to grant the Newfield applications for a multiunit horizontal well in Sections 30 and 31 in CD 201504154-T, a multiunit horizontal well location exception in CD 201504155-T and pooling (part of a multiunit horizontal well) in CD 201504156-T and appoint Newfield as operator is supported by the weight of the evidence and free of reversible error. The ALJ's Report was reasoned and balanced the normal factors considered by the Commission in the award of operations under a pooling application.

2) As the initial finder of fact, it is the ALJ's duty to observe the demeanor of the witnesses, assess their credibility, and assign the appropriate weight to their opinions. *Grison Oil v. Corp. Commission*, 99 P.2d 134 (Okl. 1940); *Palmer Oil Corporation v. Phillips Petroleum Company*, 231 P.2d 997 (Okl. 1951); *Application of Choctaw Express Company*, 253 P.2d 822 (Okl. 1953).

3) The Supreme Court in *Texas Oil and Gas Corporation v. Rein*, 534 P.2d 1277 (Okl. 1974) states:

We have previously held that the Commission has considerable discretion in determining which owner is entitled to drill and operate the unit well. *Superior Oil Company v. Oklahoma Corporation Commission*, 206 Okl. 213, 242 P.2d 454.

4) There are certain factors used to determine who shall be the proper operator of a well within a drilling and spacing unit. Charles Nesbitt in his Oklahoma Bar Journal article entitled *A Primer on Forced Pooling of Oil and Gas Interests in Oklahoma*, 50 Okl.B.J. 648 (1979), set forth a good review of the factors considered and the importance the Commission attaches to them:

### DESIGNATION OF OPERATOR

A deceptively important provision of the pooling order is the designation of the operator of the proposed well. In most cases the applicant already owns the majority interest in the spacing unit, and is routinely named operator. However, there are notable exceptions where a spirited battle occurs between

lessees over operations. The working interest ownership of non-participating pooled owners inures to the operator, at least in absence of a claim by other participants to share therein. A lessee who is promoting the proposed well for a carried interest, or similar remuneration, has a significant financial stake in being designated operator.

Several factors are considered in the selection of the operator, the most important being working interest ownership. All other things being equal, the owner of the largest share of the working interest has the best claim to operations. However, this is not always true, and other factors can outweigh majority ownership.

Second in importance is actual bona fide exploration activity. This is not a simple race to the courthouse, with the earliest applicant getting the nod, but involves such matters as when a well was first proposed and by whom, whether the proposed well is part of a multi-well exploration program, whether a rig has been contracted for, and so on.

Other factors having a bearing on the final selection include the number of wells operated in the vicinity, the extent of developed and undeveloped lease ownership, the availability of operating personnel and facilities, a comparison of proposed costs of drilling and operating the well, and, rarely, the relative experience and competence of the contenders for operating rights.

5) As noted in Nesbitt's article, the ownership position of the parties and the actual bonafide exploration activity are two important factors and were given consideration by the ALJ.

6) The ALJ stated in his Report:

2. The ALJ would emphasize Mr. Nesbitt's statements that "...[a]ll other things being equal..." and "... [h]owever, this is not always true and other factors can outweigh majority ownership..." (See The Oklahoma Bar Journal, Vol. 50 No. 13, Page 648 through 656) the undisputed testimony in this case established that things are not equal and there are a

number of factors that weigh in Newfield's favor. First, Newfield is the moving party to develop the subject Well. Newfield filed their Multiunit Horizontal Well, Multiunit Horizontal Well Location Exception, and Pooling before Chaparral filed their Applications. Newfield proposed to drill the subject Well first. Newfield's proposal letter is dated July 21, 2015 (See Exhibit #2, Newfield's Proposal Letter Dated July 21, 2015), while Chaparral's proposal letter was not prepared until October 7, 2015 (See Exhibit #5, Chaparral's Proposal Letter to Newfield Dated October 7, 2015). Second, Newfield drilled the first well to the Meramec in this area and has acquired a substantial amount of acreage, and dedicated a great amount of resources, in this play. Newfield has drilled a number of wells in this area and has more experience in this area than does Chaparral. Third, Newfield has settled surface damages and built a location for the proposed Well. The ALJ contends taking in all these factors which weigh in the favor of Newfield and comparing against the fact Chaparral has not drilled any Meramec wells in the D interval in this area, this ALJ must conclude these factors clearly outweigh Chaparral's slight majority interest in Section 30.

7) Newfield was the first to propose a well on July 21, 2015 and to file the spacing, multiunit horizontal well, horizontal location exception and pooling applications for Sections 30 and 31. Chaparral acquired their interest after Newfield proposed their well on July 21, 2015 from Marathon who had signed a letter agreement with Newfield prior to Chaparral acquiring Marathon's interest in Section 30. After you add the interest of the parties supporting Newfield for operator to Newfield's interest in Section 30 Newfield has 318.15 total acres. Chaparral's interest in Section 30 was 326.65 acres or 50.6595%. Newfield's ownership of 49.35% would be about 1% less than Chaparral's interest in Section 30. Newfield has a 63% interest in the multiunit, a majority ownership of both Sections 30 and 31 whereas Chaparral owns only 25.33% in the multiunit. Newfield has drilled 115 wells in this play with 100 being multiunit Meramec wells whereas Chaparral has never drilled a well to the target formation. The testimony also reflects that single unit wells would be wasteful as there would be orphan acreage containing around 50,000 barrels per well between the two sections. The evidence reflected that Chaparral's two single unit wells in another location had an average of 12 barrels of oil per foot while Newfield's average recovery was 36 barrels of oil per foot. The evidence also reflected that the average of the nineteen 10,000 foot laterals Newfield has drilled in this Meramec play is 39,000 BO more than the ultimate recoveries of

Chaparral's two 5,000 foot wells combined. The evidence further reflected that Chaparral's estimate that Newfield would need to built six 10,000 foot laterals is incorrect as Newfield believes they would only need to build four 10,000 foot laterals costing \$27.9 million. The evidence reflected that to build eight 5,000 foot laterals the cost would be \$33.7 million.

8) The Referee points out that the ALJ chose to consider the normal factors in operator fights. After reviewing the transcripts and considering these factors to determine a proper operator of the well within a drilling and spacing unit, the Referee believes that the ALJ has made a determination that should be affirmed.

**RESPECTFULLY SUBMITTED THIS 28<sup>th</sup> day of September, 2016.**



Patricia D. MacGuigan  
OIL & GAS APPELLATE REFEREE

PM:ac

xc: Commissioner Anthony  
Commissioner Murphy  
Commissioner Hiett  
James L. Myles  
ALJ Curtis M. Johnson  
Gregory L. Mahaffey  
David E. Pepper  
Robert A. Miller  
Richard K. Books  
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