

7-19

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

APPLICANT: RIMROCK RESOURCE)
 OPERATING, LLC)
)
RELIEF SOUGHT: HORIZONTAL DRILLING AND)
 SPACING UNIT)
)
LEGAL DESCRIPTION: SECTION 26, TOWNSHIP 2)
 NORTH, RANGE 2 WEST,)
 GARVIN COUNTY, OKLAHOMA)

CAUSE CD NO.
201504603-T

FILED
JUN 22 2016

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

APPLICANT: RIMROCK RESOURCE)
 OPERATING, LLC)
)
RELIEF SOUGHT: HORIZONTAL DRILLING AND)
 SPACING UNIT)
)
LEGAL DESCRIPTION: SECTION 32, TOWNSHIP 2)
 NORTH, RANGE 2 WEST,)
 GARVIN COUNTY, OKLAHOMA)

CAUSE CD NO.
201505268-T

APPLICANT: RIMROCK RESOURCE)
 OPERATING, LLC)
)
RELIEF SOUGHT: HORIZONTAL DRILLING AND)
 SPACING UNIT)
)
LEGAL DESCRIPTION: SECTION 33, TOWNSHIP 2)
 NORTH, RANGE 2 WEST,)
 GARVIN COUNTY, OKLAHOMA)

CAUSE CD NO.
201505617-T

APPLICANT: RIMROCK RESOURCE)
 OPERATING, LLC)
)
RELIEF SOUGHT: EXCEPTION TO OAC 165:5-7-)
 6(h))
)
LEGAL DESCRIPTION: SECTION 33, TOWNSHIP 2)
 NORTH, RANGE 2 WEST,)
 GARVIN COUNTY, OKLAHOMA)

CAUSE CD NO.
201505618-T

APPLICANT: RIMROCK RESOURCE)
OPERATING, LLC)
)
RELIEF SOUGHT: EXCEPTION TO OAC 165:5-7-) CAUSE CD NO.
6(h)) 201505638-T
)
LEGAL DESCRIPTION: SECTION 32, TOWNSHIP 2)
NORTH, RANGE 2 WEST,)
GARVIN COUNTY, OKLAHOMA)

APPLICANT: RIMROCK RESOURCE)
OPERATING, LLC)
)
RELIEF SOUGHT: HORIZONTAL DRILLING AND) CAUSE CD NO.
SPACING UNIT) 201505639-T
)
LEGAL DESCRIPTION: SECTION 28, TOWNSHIP 2)
NORTH, RANGE 2 WEST,)
GARVIN COUNTY, OKLAHOMA)

APPLICANT: RIMROCK RESOURCE)
OPERATING, LLC)
)
RELIEF SOUGHT: EXCEPTION TO OAC 165:5-7-) CAUSE CD NO.
6(h)) 201505640-T
)
LEGAL DESCRIPTION: SECTION 28, TOWNSHIP 2)
NORTH, RANGE 2 WEST,)
GARVIN COUNTY, OKLAHOMA)

APPLICANT: RIMROCK RESOURCE)
OPERATING, LLC)
)
RELIEF SOUGHT: HORIZONTAL DRILLING AND) CAUSE CD NO.
SPACING UNIT) 201505685-T
)
LEGAL DESCRIPTION: SECTION 19, TOWNSHIP 2)
NORTH, RANGE 2 WEST,)
GARVIN COUNTY, OKLAHOMA)

APPLICANT: RIMROCK RESOURCE)
OPERATING, LLC)
)
RELIEF SOUGHT: EXCEPTION TO OAC 165:5-7-) CAUSE CD NO.
6(h)) 201505686-T
)
LEGAL DESCRIPTION: SECTION 19, TOWNSHIP 2)
NORTH, RANGE 2 WEST,)
GARVIN COUNTY, OKLAHOMA)

APPLICANT: RIMROCK RESOURCE)
OPERATING, LLC)
)
RELIEF SOUGHT: HORIZONTAL DRILLING AND) CAUSE CD NO.
SPACING UNIT) 201505772-T
)
LEGAL DESCRIPTION: SECTION 30, TOWNSHIP 2)
NORTH, RANGE 2 WEST,)
GARVIN COUNTY, OKLAHOMA)

APPLICANT: RIMROCK RESOURCE)
OPERATING, LLC)
)
RELIEF SOUGHT: EXCEPTION TO OAC 165:5-7-) CAUSE CD NO.
6(h)) 201505773-T
)
LEGAL DESCRIPTION: SECTION 30, TOWNSHIP 2)
NORTH, RANGE 2 WEST,)
GARVIN 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 4th day of February, 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: **Ron M. Barnes**, attorney, appeared on behalf of applicant, Rimrock Resource Operating, LLC ("Rimrock"); **David E. Pepper**,

attorney, appeared on behalf of Continental Resources, Inc. ("Continental"); **Gregory L. Mahaffey**, attorney, appeared on behalf of Newfield Exploration Mid-Continent Inc. ("Newfield"); **Charles B. Davis**, attorney, appeared on behalf of Don Moore ("Mr. Moore") and R.L. Clampitt and Associates, Inc. (collectively "Clampitt"); **Russell J. Walker**, attorney, appeared on behalf of Triad Energy, Inc. ("Triad"); 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 25th day of March, 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 9th day of May, 2016. After considering the arguments of counsel and the record contained within these Causes, the Referee finds as follows:

STATEMENT OF THE CASE

TRIAD AND CLAMPITT TAKE EXCEPTION to the recommendation of the ALJ to grant the Rimrock spacing applications and exceptions to OCC-OAC 165:5-7-6(h).

Cause CD Nos. 201504603-T, 201505268-T, 201505617-T, 201505639-T, 201505685-T, 201505772-T are the applications of Rimrock seeking to space the Sycamore, Woodford and Hunton common sources of supply in Sections 19, 26, 28, 30, 32 and 33, T2N, R2W, Garvin County, Oklahoma. Cause CD Nos. 201505618-T, 201505638-T, 201505640-T, 201505686-T and 201505773-T are the applications of Rimrock seeking an exception to the 50% approval of ownership requirement to a horizontal well unit as stated in OCC-OAC 165:5-7-6(h) for the Sycamore, Woodford and Hunton common sources of supply in Sections 19, 28, 30, 32 and 33, T2N, R2W, Garvin County, Oklahoma.

TRIAD TAKES THE POSITION:

- 1) The ALJ Report is contrary to the evidence, contrary to law and if adopted, will result in injustice.
- 2) The application in CD No. 201505617-T requests the creation of drilling and spacing units pursuant to the Oil and Gas Conservation Act, 52 O.S. Section 87.1 No evidence was introduced to demonstrate that one well will adequately, efficiently, and economically drain the recoverable oil and gas from the subject geologic formations in Section 33.

3) Triad owns at least 80% of the oil and gas leasehold estate in Section 33, and Rimrock owns approximately 2%. Beginning in 2008, Triad has drilled, completed, and produced three wells from some or all of the Hoxbar, Pharoah, Gibson, Hart (a/k/a/ 2nd, 3rd and 4["] Deese), and Sycamore common sources of supply. No waiver of consent should be granted.

CLAMPITT TAKES THE POSITION:

1) The ALJ Report is contrary to the law, contrary to the evidence and fails to prevent waste and protect correlative rights as required by statute.

2) The ALJ erred in ruling that Clampitt lacked standing to protest the relief requested in Sections 19 and 30. The ALJ ruled that "because the Clampitts owned no interest in Section 19 and 30, and therefore the Clampitts lacked standing to protest those causes."

3) Section 19 was the subject of CD Nos. 201505685-T and 201505686-T, and filed on November 23, 2015. Section 30 was the subject of CD Nos. 201505772-T and 201505773-T and filed on November 30, 2015. Mineral deeds covering Clampitt's fee minerals in Sections 19 and 20, T2N, R2W, were filed of record August 24, 1015, at Book 2110/Page 648 and on December 14, 2015, at Book 2122/Page 426. In addition, Clampitt's lease covering Section 19, T2N, R2W, dated November 12, 2015, was recorded at Book 2122/Page 427, long before the hearing date of these cases (on February 4, 2016).

4) A check of the record after August 24, 2015 would have confirmed Clampitt's ownership in Section 19. As a matter of public record, at the time of the merit hearing Clampitt was an owner of fee minerals in Section 19 as well as approximately 60 acres of leasehold.

5) 52 O.S. Section 87.2 addresses the "protest" of applications relating to spacing units. The statute specifically provides that persons or their agents who are mineral owners or owners of the right to drill within the subject area of an application, i.e. "Owners of correlative rights within the common source of supply or supplies embraced within an application to the extent such owners are directly affected by such application shall be proper parties to protest."

6) Based on Rimrock's land testimony, Rimrock moved to dismiss Clampitt's protest in CD Nos. 201505685-T and 201505686-T (for Section 19) and also CD Nos. 201505772-T and 201505773-T (for Section 30), with the Motion to Dismiss being granted over the objection of Clampitt.

7) The testimony of the geological witness was that the formations subject to the applications--Sycamore, Woodford, and Hunton--underlie substantially

all of the sections involved and are part of the same common sources of supply throughout the area at issue in these causes. (See ALJ Report, ¶ 11)

8) Clampitt is a record owner of minerals and leasehold in Section 19 and throughout T2N-R2W. The granting of the Motion to Dismiss for lack of standing in Section 19 was clearly improper and should be reversed.

9) In addition, the Sycamore, Woodford, and Hunton common sources of supply are blanket formations which underlie all of T2N-R2W. As an owner of interests, within these common sources of supply which will be directly affected by the relief sought, Clampitt is a proper party to protest.

10) Clampitt believes that prevention of waste is an economic consideration which must be addressed by the Commission.

11) As of the merit hearing date, Rimrock has filed a number of applications, all of which affect the Sycamore, Woodford, and Hunton common sources of supply which underlie all of T2N-R2W. The spacing applications will completely reorder the plan of development for these formations and have a major impact on any development or operational plans by Clampitt or any other current operators of vertical wells in the area covered by the applications.

12) At the time of the hearing, the following uncontested testimony was presented: (1) No horizontal wells produce in the area covered by the exhibits or in T2N-R2W; (2) The Woodford was known for many years to be hydrocarbon bearing but was too tight to produce; (3) As much flexibility as possible is desired for placement of wells to establish the most efficient pattern for wells; (4) Until initial drilling has occurred and sufficient production is taken, Rimrock's engineering witness could not confidently state the number of wells necessary to drain the subject area; (5) Rimrock's witness testified on cross examination that it would take at least three wells, up to nine parallel wells from east to west, all drilled in a north/south pattern to drain a 640 acre unit; and (6) Rimrock's expert engineering witness prepared Exhibit 5, which showed an estimated cost to drill and complete an 8600 foot interval of \$7,059,080.

13) The ALJ concluded the issue is "only one of economics" and that it is not proper for the Commission to consider economics in a spacing application. (See ALJ Report, page 11, ¶ 2)

14) The first sentence of 52 O.S. Section 87.1(a) states "to prevent or assist in preventing the various type of waste". It has long been held and is unquestioned that the Commission may use its authority to prevent waste. *Miller v. Corporation Commission*, 635 P.2d 1006 (Okl. 1981).

15) The ALJ supports his contention that "Economic considerations are business decisions that should not be taken into consideration by the Commission" by citing *Public Service Co. of Okla. v. State ex rel. Okla. Corp. Comm'n*, 115 P.3d 861 (Okla. 2005). This case cited in part and vacated in part a Commission order and remanded the case with instructions to conduct a further inquiry and make additional findings. This case resulted from a utility rate hearing at the Commission which was appealed to the Supreme Court, resulting in a 6/3 decision. A reading of the case fails to reveal any authority for the proposition that economics cannot be considered in an oil and gas case. The case affirmed in part, vacated in part, and remanded the case with directions to conduct further inquiry and make additional findings with a separate Concurrence and Dissent by three of the nine justices. Whatever else the case stands for, it does not stand for the proposition that the Commission is not "to prevent or assist in the prevention of the various types of waste".

16) As testified to by Clampitt's expert witnesses, the creation of the requested spacing as a precursor for development of this township in the present economic environment will create waste both physical and economic, which the Commission is mandated to prevent. After testimony from all of the witnesses, the ALJ concluded, based on question and answer with Judd McDonald (the Triad witness) that "Triad does not want to develop the subject section right now because of the oil prices."

17) The plan being pursued by Rimrock will require an expenditure of between \$21 to \$63 million, according to their expert witness testimony, to fully develop each of the units. If the spacing applications are approved, Rimrock will have tied up enormous amounts of acreage in T2N-R2W with a scheme which relies for its success on a dramatic reversal of the economics of production and sale of hydrocarbons in Oklahoma and worldwide. In a depressed market, such as exists at the present, Rimrock's plan serves only to hold acreage without a reasonable opportunity to prudently develop with a measured reasonable approach by drilling wells in an area where no horizontal wells have been drilled to date.

18) If the Rimrock applications are granted, the Commission will be approving a new operator venturing into an unknown area to drill some number of wells, the anticipated number of which is unknown at best. The situation is ripe for self-inflicted problems. If problems develop while drilling high risk wells in an unknown area, as may be expected, the end result will be premature development, waste of resources, spoliation of an area by imprudent uneconomic development not consistent with the existing economics of the present oil and gas industry.

19) The situation created by the granting of the Rimrock applications will, by definition, fall into the category of, and constitute physical and economic waste which the Commission is mandated to prevent, to the extent possible.

20) It is clear from the statutes and the ownership position of Clampitt that standing clearly existed to protest one or all of Rimrock's spacing applications. Likewise, the Commission's duty to prevent physical and economic waste is the same yesterday, today and tomorrow. The requested spacings by Rimrock, a blind shot in the new area in the present economic climate, is the epitome of physical and economic waste.

21) For the reasons stated above, the Report of the ALJ should be reversed and the applications to establish spacing denied.

THE ALJ FOUND:

1) The engineers that testified for Rimrock and Clampitt were in agreement that the spacing size for the Woodford horizontal units should be 640 acres. The two engineers disagreed on whether a Woodford horizontal well would be economic. The two engineers also agreed that the associated common sources of supply (Sycamore and Hunton) should also be spaced 640. They disagreed as to the timing based upon economic considerations resulting from depressed commodity prices. Rimrock's engineer, Mr. McNulty, testified the Sycamore and Hunton should be spaced 640-acres now with the Woodford. Clampitt's engineer, Mr. Stromberg, testified it should be 640 acres, but at a later date when oil prices increase.

2) Therefore, the only issues for consideration in this case is that of economics and, if economics is a proper issue to consider in a spacing application. The ALJ contends that it is not proper to consider economics in determining unit size. First, the ALJ contends economic considerations are business decisions that should not be taken into consideration by the Commission. *Public Service Co. of Okla. v. State ex rel. Okla. Corp. Comm'n*, 115 P.3d 861 (Okl. 2005). Furthermore, economic criteria change from company to company. The Commission's jurisdiction is limited to the protection of correlative rights and the prevention of waste [See 52 O.S. Section 87.1(a)], not the speed at which a well will payout or a well's profitability. Second, consideration to determine the proper unit size is based upon the size of the area that will be drained by the proposed well, or what is necessary for proper development of the reservoir. *Hiadik v. Lee*, 541 P.2d 196 (Okl. 1975). 52 O.S. Section 87.1(c) provides in pertinent part the spacing unit "...shape thereof shall be determined by the Commission for the evidence introduced at the hearing, and the following facts, among other things, shall be material: (1) The lands embraced in the actual or prospective common source of supply; (2) The plan of well spacing then being employed or contemplated in said source of

supply; (3) the depth at which production from said common source of supply has been or is expected to be found; (4) the nature and character of the producing or prospective producing formation or formations ; and (5) any other available geological or scientific data pertaining to said actual or prospective source of supply...". The ALJ would note there is no mention of economics or well profitability mentioned in said statute. The ALJ therefore concludes economics, such as commodity price, should not be considered when determining the proper size of spacing unit. The ALJ contends that while economics may determine if a well is eventually drilled, it has nothing to do with what area a wellbore will drain, or the unit size which will best develop the reservoir. For these reasons the ALJ contends the spacing and the exception rules applications should be recommended.

3) Clampitt's second argument that granting of these applications will stifle vertical development of the Sycamore and Hunton is without merit. The Sycamore and Hunton are not primary zones and are currently only included in the event they somehow contribute to the Woodford production. This type of production should have no effect on vertical development if the Sycamore and Hunton are truly prospective by way of vertical development. Furthermore, the vertical spacing of these formations is not being vacated, so parties may continue to develop these formations on a vertical basis.

4) Lastly, the ALJ concludes the spacing requested in CD No. 201504603-T shall not become effective less and until horizontal spacing consents of 50% or more are obtained, an exception to the 50% rule is recommended, or the Hunton is dismissed from this application. The reason for this is, Mr. Fouke testified (and Exhibit 2 illustrates) there is a producing Hunton well located in Section 26. The record does not include any consents or an exception to rules for this well. Therefore, Rimrock must obtain the requisite percent of consents, obtain an exception to the rule, or dismiss the Hunton common source of supply before this horizontal spacing application becomes effective. Therefore, the spacing as requested by Rimrock should be granted.

POSITIONS OF THE PARTIES

CLAMPITT

1) **Charles B. Davis**, attorney, appearing on behalf of Clampitt, protests the horizontal spacing of virtually all of T2N-R2W in Garvin County. Clampitt argues that the ALJ erred in granting the Motion to Dismiss his protests for lack of standing in CD No. 201505685 (Section 19) and CD No. 201505772

(Section 30). The Motion to Dismiss was predicated on inaccurate information. Rimrock's land witness did not identify Clampitt as an owner. Mr. Moore does in fact own some sort of interest in every section of 2N-2W with the possible exception of Section 23.

2) Alternatively, Clampitt submits the language of 52 O.S. Section 87.2: "or owners of correlative rights within the common source of supply or supplies embraced within an application to the extent such owners are directly affected by such application, shall be proper parties to protest." That language, coupled with the order's rearrangement of practically the entire township as it concerns the Sycamore, Woodford, and Hunton common sources of supply, directly affects his clients and are therefore proper parties to the protest.

3) Clampitt concedes that correlative rights are not at issue in this case.

4) The ALJ's conclusion that the issue in this case is "only one of economics" and therefore not within the purview of the commission to consider in a spacing application is contrary to law. A well will cost \$7 million to drill and complete. Given the present economic climate is anyone willing to spend \$21 million to as much as \$64 million per unit to drill and complete now?

5) The Commission's jurisdiction over the prevention of waste includes economic considerations.

TRIAD

1) **Russell J. Walker**, attorney, appearing on behalf of Triad, is interested only in Section 33-2N-2W. In that section, Triad owns 89.73% whereas Rimrock owns approximately 1.6%.

2) Rimrock made its horizontal drilling and spacing unit request to the Commission under 52 O.S. Section 87.1. In order to create a drilling and spacing unit pursuant to that statute, applicants must prove that one well will adequately, efficiently, and economically drain the recoverable hydrocarbons from the subject geologic formations.

3) Rimrock admits that it will take more than one well to drain that tract, and the application must be denied for that that reason.

4) Triad further argues that no waiver of consent should be granted to Rimrock, highlighting the gross unfairness presented by the minority of 1.6% forcing an owner of 89.73% to go along with a particular plan of development. Triad has been developing this section for over ten years. They have three wells

in Section 33. Triad believes Rimrock is trying to take operations away from Triad and Triad doesn't think Rimrock's plan of development makes sense and Triad won't consent to it.

RIMROCK

- 1) **Ron M. Barnes**, attorney, appeared on behalf of Rimrock, notes that what is in front of the Commission is a spacing, and not a pooling request. No operations have been taken nor can operations be taken away from anyone in a spacing. The issues presented below were so obvious that the ALJ ruled from the bench.
- 2) No testimony or statements of testimony were presented to challenge the propriety of the 640 acre spacing for the Woodford on technical grounds. The engineers were in agreement that a 640 acre horizontal spacing was appropriate.
- 3) There is an experience and knowledge gap between the engineers from Rimrock and Clampitt. Rimrock's engineer has a Master in Engineering and been involved in over 100 units for the Woodford and has done evaluations of wells and reservoir studies in excess of \$2 billion in the Woodford.
- 4) At issue in this case are six sections—Sections 19, 26, 28, 30, 32, and 33— and not an entire township.
- 5) No existing wells are subject to respacing; the order applies only to horizontal wells and to date there are only vertical wells in this township. There is no vertical spacing that is being vacated. It will coexist.
- 6) The unchallenged testimony of Rimrock's engineer, Mr. McNulty, is that the horizontal wells will have no adverse effect on existing production. Mr. McNulty also believes the 640 acre horizontal spacings will be economic.
- 7) The technical argument that the Commission lacks jurisdiction here is a red herring, as this case implicates the Shale Act. So too is the argument about the relative ownership interests in Section 33. This is clearly the normal, typical Woodford and associated common sources of supply spacing application. It is not a pooling.
- 8) Rimrock points to the testimony of Triad's land witness for two reasons. First, Triad does not offer any scientific evidence to oppose the spacing as to Section 33, only that they own 80% and want to be able to control what happens there. Second, and more importantly, Triad is opposed

not to the spacing contained in the ALJ's recommendation, but the timing of the spacing order.

9) The claim that there will be economic waste is unfounded. It is undisputed that the underlying geology is a blanket deposit. It is important to note that there is some faulting in the area, and that is why the associated common sources of supply are properly included in the order.

10) The order at issue is not designating who would be the operator at any of the proposed well locations.

11) As to the argument that one well cannot adequately drain the Woodford unit, Rimrock notes that there is not a well in the state that can effectively drain a 640 acre Woodford formation.

12) Rimrock agrees with the finding of the ALJ that the only issue was one of economics. The decision to drill a well or not will be based on market conditions at the time of a forced pooling.

13) Rimrock requests the Referee to grant the application as requested.

RESPONSE OF CLAMPITT

1) The relative experience of the engineers is a red herring, as no one has experience in 2N-2W. Engineers can and do disagree. The Clampitt engineer estimates half the reserves that the Rimrock engineer estimates. Apart from some proprietary seismic information, both engineers reviewed the same information.

2) Economics has to be a real concern in a major step out operation such as this one. If Rimrock gets the economics wrong and run out of money mid-development, Rimrock could condemn the area and cause the waste the statute is designed to prevent.

RESPONSE OF TRIAD

1) While any owner of interest has the right to ask for the creation of a spacing unit and for waivers of consent, the Commission is not obligated to grant that request.

- 2) This is about how Section 33 is going to be developed. The establishment of 640 acre spacing will push an unconsenting majority into a path of development they do not agree with.
- 3) While Rimrock stated that both engineers thought there should be 640 acre spacing, no evidence presented to prove that one well could effectively drain the unit. They merely agreed to each other's assessment that 640 acre spacing was correct.
- 4) There are other alternatives available. The section could be spaced into four elongated 160 acre tracts. It would not violate the established one-well rule and it would have a greater chance of adequate drainage.
- 5) The Shale Act requires evidence of the number of wells to be drilled in a 640 acre unit. No such evidence was presented; Rimrock does not know how many wells it will take.
- 6) Triad rejects the assertion of Rimrock that Triad assents to the spacing request. The need for a waiver of consent proves that Triad does not agree with what is being requested here.
- 7) Triad disagrees with the ALJ's conclusion that the only issue here is of economics. There is a question of law present. The application should be denied.

CONCLUSIONS

The Referee finds the Report of the Administrative Law Judge should be affirmed in part and reversed in part.

- 1) Triad takes exception to the Report of the ALJ concerning only the Rimrock application in Cause CD 201505617-T requesting a horizontal drilling and spacing unit and the Rimrock application in Cause CD 201505618-T requesting exception to OCC-OAC 165:5-7-6(h) in Section 33, T2N, R2W, Garvin County, Oklahoma. Clampitt takes exception to the Report of the ALJ concerning the Rimrock application for horizontal drilling and spacing in Cause CD 201505685-T and Rimrock's application in Cause CD 201505686-T for exception to OCC-OAC 165:5-7-6(h) in Section 19, T2N, R2W, Garvin County, Oklahoma and Rimrock's application in Cause CD 201505772-T for horizontal drilling and spacing unit and Rimrock's application in Cause CD 201505773-T for exception to OCC-OAC 165:5-7-6(h) in Section 30, T2N, R2W, Garvin County.

CLAMPITT'S STANDING TO PROTEST RIMROCK'S RELIEF
REQUESTED IN SECTIONS 19 AND 30

1) As stated by Clampitt, Section 19 was the subject of CD Nos. 201505685-T and 201505686-T, and filed on November 23, 2015. Section 30 was the subject of CD Nos. 201505772-T and 201505773-T and filed on November 30, 2015. Clampitt asserts that mineral deeds covering Clampitt's fee minerals in Sections 19 and 20, T2N, R2W, were filed of record on August 24, 2015 at Book #2210/pg 648 and on December 14, 2015 at Book #2122/pg 426. In addition, Clampitt asserts that it had a lease covering Section 19, T2N, R2W, dated November 12, 2015 which was recorded at Book #2122/pg 427, before the hearing date of these cases on February 4, 2016. Clampitt asserts that a record check after August 24, 2015 would have confirmed Clampitt's ownership in Section 19. At the time of the merit hearing, as a matter of public record, Clampitt was an owner of fee minerals in Section 19 as well as approximately 60 acres of leasehold.

2) Further, 52 O.S. Section 87.2 states:

A. Except as provided as in subsection B of this section, only those persons, or the duly authorized agent, representative or attorney of those persons, who are mineral owners or owners of the right to drill a well for oil and gas on the lands embraced within the subject area of an application or the owners of correlative rights within the common source of supply or supplies embraced within an application to the extent such owners are directly affected by such application, shall be proper parties to:

1. protest any application to establish, reestablish, or reform a spacing unit,

* * *

3. present testimony or evidence at any hearing arising thereunder or relating thereto.

3) The testimony at the hearing was that the Sycamore, Woodford and Hunton common sources of supply underlie substantially all of the sections involved and are blanket formations which underlie all of T2N-2W. Clampitt as an owner of interest within these common sources of supply and was "directly affected" by Rimrock's applications are therefore proper parties to protest in these two sections. The Referee would therefore recommend that the ALJ's ruling concerning the standing matter be reversed.

**CLAMPITT AND TRIADS' EXCEPTIONS TO THE REPORT OF
THE ALJ WHICH RECOMMENDED GRANTING RIMROCK'S
HORIZONTAL DRILLING AND SPACING UNIT AND EXCEPTION
TO OCC-OAC 165:5-7-6(h) FOR SECTION 33 AND RIMROCK'S
HORIZONTAL DRILLING AND SPACING UNIT AND EXCEPTION
TO OCC-OAC 165:5-7-6(h) FOR SECTION 19 AND SECTION 30**

1) The Referee finds that the ALJ's determination to grant the Rimrock applications for 640 acre drilling and spacing units for the Sycamore, Woodford and Hunton common sources of supply for Sections 26, 32, 33, 28, 19, and 30, T2N, R2W, Garvin County, Oklahoma, prevents waste and is supported by the weight of the evidence, and by the law. The Referee also finds that the ALJ's recommendation to waive the requirements for written consent of the requested horizontal spacing units, which requirement is set forth in Oklahoma Corporation Commission rule OCC-OAC 165:5-7-6 should be granted. The Hunton and the Sycamore are associated common sources of supply that may contribute to the production in these horizontal wells. There are significant faults in this area and the Woodford is a blanket deposit, but due to the faulting in the area the associated common sources of supply are properly included in the requested order. The evidence presented by Rimrock's engineer was that the horizontal wells would have no adverse affect on existing production and no existing wells are subject to the spacing. The order applies only to horizontal wells and to date there are only vertical wells in this township. There is no vertical spacing that is being vacated. It will coexist.

2) Rimrock has two burdens: the burden of persuasion (that if the evidence is evenly balanced, the party that bares the burden of persuasion must lose); and the burden of production (a party's' obligation to come forth with evidence to support its claims). *Director, Office of Workers Compensation Program, Department of Labor v. Meher Terminals, Inc.*, 512 U.S. 267, 272, 275 (U.S. 1994).

3) Rimrock presented evidence that its proposed 640 acre horizontal spacings and waivers of consent requirements under OCC-OAC 165:5-7-6 in Sections 26, 32, 33, 28, 19 and 30 will allow orderly development of this area and prevent waste and protect correlative rights. 52 O.S. Section 87.1; *Corporation Commission v. Union Oil Company of California*, 591 P.2d 711 (Okl. 1979); *Kuykendall v. Corporation Commission*, 634 P.2d 711 (Okl. 1981); *Union Texas Petroleum, a Division of Allied Chemical Corporation v. Corporation Commission of State of Oklahoma*, 651 P.2d 652 (Okl. 1981).

4) 52 O.S. Section 87.1 states in pertinent part:

(a) To prevent or to assist in preventing the various types of waste of oil or gas prohibited by statute, or any wastes, or to protect or assist in protecting the correlative rights of interested parties, the Corporation Commission, upon a proper application and notice given as hereinafter provided, and after a hearing as provided in the notice, shall have the power to establish well spacing and drilling units as specified and approximately uniform size and shape covering any common source of supply, or perspective common source of supply, of oil or gas within the State of Oklahoma; provided, that the Commission may authorize the drilling of an additional well or wells on any spacing and drilling unit or units or any portion or portions thereof or may establish, reestablish, or reform well spacing and drilling units of different sizes and shapes when the Commission determines that a common source of supply contains predominantly oil underlying an area or areas and contains predominantly gas underlying a different area or areas;

* * *

(c) ...the shape thereof shall be determined by the Commission from the evidence introduced at the hearing, and the following facts, among other things, shall be material: (1) The lands embraced in the actual or prospective common source of supply; (2) the plan of well spacing then being employed or contemplated in the source of supply; (3) the depth at which production from the common source of supply has been or is expected to be found; (4) the nature and character of the producing or prospective producing formation or formations; and (5) any other available geological or scientific data pertaining to said actual or

prospective source of supply which may be of probative value to the Commission in determining the proper spacing and well drilling unit therefor, with due and relative allowance for the correlative rights and obligations of the producers and royalty owners interested therein.

* * *

(f) Notwithstanding any provision of this section to the contrary, the Corporation Commission shall have jurisdiction upon the filing of a proper application therefor, and upon notice given as provided in subsection (a) of this section, to establish spacing rules for horizontally drilled oil wells whereby horizontally drilled oil wells may have well spacing units established of up to six hundred forty (640) acres plus tolerances and variances allowed for gas wells pursuant to subsection (c) of this section.

The Commission therefore has authority to create units up to 640 acres for oil in order to provide for the proper development of oil producing common sources of supply utilizing the horizontal drilling technology. The Commission rules also recognize that there could be the necessity for multiple wells even at the time the horizontal well is being established.

OCC-OAC rule 165:10-3-28(e)(3) provides:

(3) The Commission may create a non-standard horizontal well unit covering contiguous lands and any configuration or shape deemed by the Commission to be necessary for the development of a conventional reservoir or an unconventional reservoir by the drilling or one or more horizontal wells. A non-standard horizontal well unit may not exceed 640 acres plus the tolerances and variances allowed pursuant to 52 O.S. Section 87.1

5) The engineer's testimony for both Rimrock and Clampitt were in agreement that a 640 acre horizontal spacing was appropriate. Triad did not offer any scientific evidence to oppose the spacing as to Section 33, only stating that they own 80%. As noted by Rimrock the request by Rimrock in the present cause is for spacing and it is not a pooling request. Operations, therefore, are not in question and this particular 640 acre spacing for these

sections will not affect operations, nor will any operations be taken away or implemented.

6) The Rimrock engineer stated that the wells would be economical and he did not know how many wells would be required. The testimony also reflected that the Shale Act would be involved when the locations of the wells were determined as there would be multi-units after this spacing is granted and multi-units will be formed when locations are determined. See 52 O.S. Sections 87.6 through 87.9 which is cited as the "2011 Shale Reservoir Development Act".

7) *Winter v. Corporation Commission of State of Oklahoma*, 660 P.2d 145 (Okl.Civ.App. 1983) provided:

Having been given a choice of remedies, it is incumbent upon the Commission to use the remedy which will best prevent waste and protect correlative rights.

The Supreme Court in *Denver Producing & Refining Company v. State*, 184 P.2d 961 (Okl. 1947) stated:

In most instances it is impossible to use a formula that will apply equally to all persons producing from a common source of supply. 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.

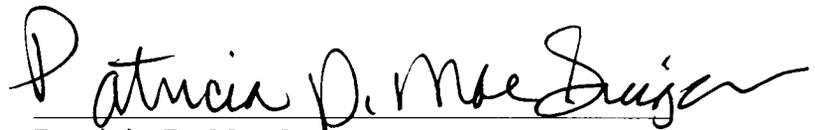
8) The Commission has found that when multiple horizontal wells are needed to develop a 640 acre unit the larger unit is necessary to provide the necessary flexibility to properly locate the horizontal wells to develop the common sources of supply. The 640 acre horizontal spacing requested by Rimrock for oil better affords the necessary flexibility in drilling the horizontal wells in these units.

9) The four requirements under OCC-OAC 165:5-7-6(i) the Referee believes were meant by Rimrock. Requirement one is that due diligence must be used to locate parties. No evidence was presented by any party that this requirement of due diligence was not met. The second requirement under the rule is that a bonafide effort has to be made to obtain the required percentage of consent. There has been no evidence presented that Rimrock has not made such a bonafide effort. The third element of this rule is that there is no alternative for developments which are adequate to prevent waste and to

protect correlative rights. Vertical wells do not efficiently drain and therefore are not the alternatives to a horizontal well. In the Woodford, horizontal development would be more successful and would obtain an economic amount of oil. In a tight hydrocarbon reservoir improved economics are achieved by drilling the formation horizontally because a horizontal well is exposed to more surface area. Exhibit 5 by Rimrock reflects that a 2,310 foot completion interval in a 80 acre drilling and spacing unit would only recover 81,313 BO at a development cost per barrel of \$47.90. An 8,600 foot completion interval in a 640 acre drilling and spacing unit would be estimated at an ultimate oil recovery of 302,720 BO with the development cost per barrel being \$23.32. The fourth criteria is that correlative rights will be adequately protected. As stated previously, the evidence reflected that horizontal wells will not harm the existing vertical wells.

10) For the above stated reasons and law, the Referee would recommend that the Report of the ALJ be affirmed in part and reversed in part.

RESPECTFULLY SUBMITTED THIS 22nd day of June, 2016.



Patricia D. MacGuigan
OIL & GAS APPELLATE REFEREE

PM:ac

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Commissioner Hiett
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