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Judicial & Legislative Services Division
Maribeth D. Snapp, Director

Sean Denton
Administrative Law Judge

November 27, 2019

Michael Stack, Esq.
3831 East Memorial Road
Edmond, OK 73013

Subject: CDs 201901752, 201901753 & 201901755 - BCE-Mach

Dear Mr. Stack:

Please find enclosed the Report of the Administrative Law Judge in the above captioned causes.

This report will be filed as of the date of this letter with the Court Clerk's office. Under the provisions of OAC 165:5-13-5(a)(2), you will have ten business days thereafter in which to file any exceptions and notice of hearing with the Court Clerk's office in Tulsa or Oklahoma City if you so desire.

Your attention is invited to the fact that exceptions couched in general disagreement with the Report of the Administrative Law Judge are not acceptable for filing with the Commission. Exceptions must comply specifically with OAC 165:5-13-5(b).

Sincerely,

Sean Denton
Administrative Law Judge

SD:ac

xc: Oil Law Records

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

APPLICANT: BCE-MACH, LLC RELIEF SOUGHT: HORIZONTAL SPACING LEGAL DESCRIPTION: SECTION 34, TOWNSHIP 29 NORTH, RANGE 13 WEST OF THE IM, WOODS COUNTY, OKLAHOMA	) CAUSE CD 201901752
APPLICANT: BCE-MACH, LLC RELIEF SOUGHT: WAIVER OF CONSENT REQUIREMENTS OF OCC RULE 165:5-7-6 LEGAL DESCRIPTION: SECTION 34, TOWNSHIP 29 NORTH, RANGE 13 WEST OF THE IM, WOODS COUNTY, OKLAHOMA	) CAUSE CD 201901753
APPLICANT: BCE-MACH, LLC RELIEF SOUGHT: WELL LOCATION EXCEPTION LEGAL DESCRIPTION: SECTION 34, TOWNSHIP 29 NORTH, RANGE 13 WEST OF THE IM, WOODS COUNTY, OKLAHOMA.	) CAUSE CD 201901755

FILED
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CORPORATION COMMISSION
OF OKLAHOMA

REPORT OF ADMINISTRATIVE LAW JUDGE

This cause came on for hearing before Sean Denton ("ALJ"), Administrative Law Judge for the Corporation Commission for the State of Oklahoma ("Commission"), 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 the purpose of taking testimony and reporting to the Commission.

Case Summary

BCE-Mach filed an application to create a 640-acre horizontal spacing in Section 34, Township 29 North, Range 13 West of the IM, Woods County, Oklahoma. Within the subject section there are four wells currently producing from the requested common source of supply, Mississippi Lime. Of these four wells, one is a horizontal well located in the East Half of Section 34, it is operated by BCE-Mach, and it is producing from a 480-acre conventional spaced unit. Three of the four wells are vertical wells operated by the Protestant, Trans Pacific Oil. These three vertical wells operated by the Protestant are all located in the Southwest Quarter of Section 34, and are producing from a 40-acre conventional spaced unit. After BCE-Mach unsuccessfully

attempted to gain consent from Trans Pacific Oil, it filed a waiver request with the Commission.

BCE-Mach also seeks a Location Exception to drill its proposed well at a location to be no closer than 150 feet from the south line, 150 feet from the north line and no closer than 660 feet from the west line of the proposed unit in Section 34. The location of the proposed well in the West Half of Section 34, would travel in a north to south direction from the Northwest Quarter down through the Southwest Quarter, and between the vertical wells operated by Trans Pacific Oil.

Recommendations

After hearing the testimony and evidence presented by the parties, and in consideration of case law and rules of the Commission, the ALJ recommends that BCE-Mach's Horizontal Spacing Application and its Waiver of Consent Requirements Application be denied. Because the Horizontal Spacing Application is denied herein, the Location Exception Application is rendered moot.

Hearing Date

July 11, and October 3, 2019

Appearances

Emily P. Smith, Attorney, appeared for Applicant, BCE-Mach LLC

Michael D. Stack and Elizabeth Ann George, Attorneys, appeared for Trans Pacific Oil Company.

Exhibits

Exhibit No. 1:	Letter from Lee Mackey to "Whom it may concern"
Exhibit No. 2:	Production Map for Section 34
Exhibit No. 3:	Type Log
Exhibit No. 4:	Type Log
Exhibit No. 5:	Gross Isopach
Exhibit No. 6:	Structure Map: Top Mississippian
Exhibit No. 7:	Well Bore Plot Plan
Exhibit No. 8:	OCC Spacing Order No. 644334
Exhibit No. 9:	Spreadsheet with horizontal wells producing in Mississippian Lime for 9 section area
Exhibit No. 10:	Cumulative Production Map
Exhibit No. 11:	Mississippi Structure Map

Exhibit No. 12: Mississippi Isopach Map
Exhibit No. 13: Trans Pacific Oil AFE

SUMMARY OF TESTIMONY

The above causes came on for hearing before Sean Denton, Administrative Law Judge for the Corporation Commission on the 11th day of July, 2019.

Emily Smith, attorney appeared for the applicant, BCE-Mach, LLC,(BCE) Michael D. Stack and Elizabeth Anne George, attorneys appeared for the protestant, Trans Pacific Oil Corporation (Trans).

Ms. Smith presented as her first witness, Jeremy Mixon, a landman for BCE-Mach. Mr. Mixon testified that BCE owned 480 acres, a 75 percent working interest in the above described lands. Mr. Mixon testified that notice was sent to the respondents named in Exhibit "A" to the applications. He testified as to several address corrections.

Mr. Mixon testified that prior to filing the waiver of consent he attempted to reach an agreement with the parties. He sent a letter on February 21, 2019 and followed it up with phone calls to the parties. However, no agreement was reached with the parties. He identified Exhibit "1" as a letter of support that BCE received from the Mackey Family, LLC. He stated that BCE has a lease with the Mackey Family. He stated that the Mackey Family owns the minerals underlying the North Half of Section 34. Mr. Mixon testified that there was a provision in the lease which indicated that the surface location was required to be on the section lines, either the north or the west section line. Mr. Mixon testified that the new spacing would co-exist with the original spacing in the section. Exhibit "1" was admitted.

On cross-examination by Mr. Stack, Mr. Mixon stated that the 480 spacing and the 640 acre spacing would co-exist. When asked about the payment of the royalty he stated that the royalty would be paid on a 640 acre basis. He also testified that this would result in a conflict between the 480 spacing and the 640 acre spacing. He also testified that he attempted to reach an agreement with Trans Pacific regarding the waiver of consent. He stated that BCE could drill a well in the Northwest Quarter. He also testified that another well could be drilled in the East Half of Section 34.

On redirect examination, Mr. Mixon stated that the Buckshot well drilled by Chesapeake in the East Half was drilled pursuant to a conventional vertical spacing order. Mr. Stack objected to the phrase conventional vertical spacing and requested the term should be conventional spacing.

On direct examination, Ms. Smith presented as her second witness, William Boyd. Mr. Boyd is a consulting petroleum geologist testifying on behalf of BCE-Mach. He identified Exhibit "2" as a typical nine-section production plat centered on Section 34. He testified that

there have been four Mississippian or Mississippi Lime wells drilled in Section 34. There are three vertical wells in the Southwest Quarter and one horizontal well in the East Half of Section 34. The proposed BCE location will be drilled from a surface location off the unit in the South Half, Southwest of Section 27 and will traverse South with a terminus in the South of the Southwest of Section 34. The wellbore path will put the proposed well at 660 feet from any of the existing wells. He stated that the request for an exception to the 600 foot rule could be dismissed from the application. The requested amendment was granted. Mr. Boyd identified Exhibit "3" as a type log from a well in Section 34. He requested that the top of the Mississippian be shown as a true vertical depth of 4,894 feet and the top of the Woodford be shown at 5,310 feet. He identified Exhibit "4" as the same type log which shows the targeted interval for the proposed well. Mr. Boyd identified Exhibit "5" as an isopach map also showing the targeted interval across Section 34. Mr. Boyd identified Exhibit "6" as a structure map which shows a regional dip to the South at approximately 50 feet per mile. This exhibit illustrates that there are no geological impediments that would preclude the 640 acre horizontal spacing. He identified Exhibit "7" showing the planned well path for the proposed well, the Schultz Trust 34-20-13 2h well. He identified Exhibit "8" as a copy of spacing Order number 644334. This established the 40 acre spacing in the Southwest Quarter of Section 34. He stated that the wells drilled by Vaughn Good in the Southwest Quarter were drilled pursuant to this order. These wells are now operated by Trans Pacific. He stated that horizontal spacing was better in Section 34 than the vertical spacing because the vertical wells are not economic. He stated horizontal drilling would allow longer laterals and allow the drilling of wells that would be more commercial. Exhibits 2 through 8 were admitted.

On cross-examination by Mr. Stack, Mr. Boyd testified that the proposed well would be drilled in the upper portion of the Mississippian. He stated that the existing wells in Section 34 all produce from a portion of the Mississippian in perforated intervals from 4,938 feet to 5,060 feet. The new proposed well would be producing from the same reservoir interval as the existing wells in Section 34. He stated that he could not testify as to whether the proposed well would have any effect on the existing wells in the Southwest Quarter. He also stated that he could not testify that the proposed new spacing would protect the correlative rights of the owners in the Southwest Quarter. He said that he had no evidence that the proposed spacing would protect the correlative rights of Trans Pacific in the Southwest Quarter. Mr. Boyd testified that he had looked at the Exhibits exchanged by the geologist for Trans Pacific and stated that he had no major issue with the exhibits exchanged by Trans Pacific. He stated that he could not see any difference with structurally or from a geological reason from drilling a well in the East Half or the West Half of Section 34. He stated that BCE could drill a well at this time in the East Half of Section 34. Mr. Boyd stated that he had done no studies to determine if the wells in the Southwest Quarter were economic. He also testified that he had not conducted any studies to determine whether horizontal wells were economic.

On questioning by Administrative Law Judge Denton, Mr. Boyd testified that the rock in Section 34 is mainly chert. It is described as sponge spicuels. He stated that he had no opinion as to the drainage for the proposed well. He stated that based from a geological standpoint that the vertical wells in the Southwest Quarter would not drain 40 acres. He testified that the spacing

order should classify this as an oil reservoir in Section 34.

On cross examination by Mr. Stack, Mr. Boyd stated that there were no faults separating the three wells geologically from each other. He stated that there were no other reasons that would limit drainage of the wells to less than 40 acres. He stated that his opinion was based on just his knowledge of the rock property descriptions off of the mud log. He said they were calling the reservoir a chert. He said they were calling it good fracturing within the chert. He stated that the wells should not affect each other. He said that if there was evidence that the wells did have an effect on each other, then his geological interpretation would be completely thrown out.

On direct examination, Ms. Smith presented as her next witness, Candace Cantrell, a consulting engineer. She testified that she looked at the production for the three vertical wells, from public production data and also at the production of the horizontal wells in the approximate nine-section area. She stated that she had applied some parameters to a volumetric study of the section and also estimated what these wells would recover and calculated an expected drainage for each of the wells. She testified that based on her study in her opinion the three vertical wells would drain approximately 14 acres each. She testified that she used 8 percent porosity, water saturation of 71 percent, a BO of 1.3., average thickness of 190 feet. She obtained this information based on the type log presented by Bill Boyd. She testified that based on the drainage of 14 acres this would result in a drainage area of approximately 400 feet around each well bore. She identified Exhibit "9" as production data from horizontal wells shown on the exhibits presented by Mr. Boyd. She looked at production data from the wells and forecasted each of those wells to determine their ultimate recoveries to show the range of recovery from horizontal Mississippian wells in the area.

Ms. Cantrell testified that she had conducted a volumetric study of Section 34.. She stated that there was 1,410 MBO underlying Section 34. She testified that additional wells are needed to recover the hydrocarbons underlying Section 34. Exhibit "9" was admitted into evidence. She testified that based on her engineering study of the vertical wells in her opinion the wells were producing economically currently. She stated that she did not know what it cost to drill the wells, whether they are overall economic wells or whether they've paid out or anything to that effect. She said that based on their current production rate they were economical.

On cross examination by Mr. Stack, Ms. Cantrell testified that the 190 feet thickness she testified to does include the entire Mississippian formation. She stated that the vertical wells were perforated in a larger thickness area than the horizontal well would be targeted. She stated that probably not all of the 190 feet thickness would be productive for the horizontal well. She testified that if she had used a thinner thickness then it would change the 14 acre drainage area it would make the drainage area larger. She stated that she used the 8 percent porosity from the logs submitted by Mr. Boyd. She testified that she did not focus much on the actual water production from these particular wells but knew that there was a large volume of water produced in this area. She testified that she did not know if the proposed horizontal well would have any affect on the existing three vertical wells in the Southwest Quarter. She testified that when wells are frac'd nearby, there is an increase in water, but did not know how it would affect the production of the

existing wells. She stated that if the proposed well did affect the existing wells, then Trans Pacific could sue BCE-Mach in District Court.

She testified that the existing three wells will produce approximately 87.44 MBO. It you divide that by three then that would make approximately 29,000 barrels per well. She testified that there was approximately 1.109 BCF gas which would be about 370 MMCF per well. She stated that based on the LOE for the past 12 months, it appears that the three vertical wells are producing economic currently. She stated that she did not know the cost to drill a vertical well in this area. She said the average price for oil for the past 5 years would be about $55.00 a barrel and that gas would be approximately $2.50. She said that by using 29,000 barrels of oil that would be about $1,595,000.00. Also using the $2.50 for gas that would be a total of $925,000.00 for a total of $2,520,000.00. By using an exhibit exchanged by Trans Pacific it shows that it would cost approximately $708,000.00 to drill a vertical well.

On questioning by the Administrative Law Judge, Ms. Cantrell testified that the Buckshot well located in the East Half of Section 34 was an inactive well. She said that it had been inactive for about a year and a half.

On direct examination, Mr. Stack presented as his first witness, Nathan Jiwanlal. Mr. Jiwanlal is a landman and manager of the land department for Trans Pacific Oil Corporation. His qualifications were accepted. Mr. Jiwanlal testified that Trans Pacific owns 100% of the Southwest Quarter of Section 34. He stated that the ownership was divided up among their working interest owners. He stated Trans Pacific owns 36.2 percent of the Southwest Quarter. He stated that 100% of the minerals in the Southwest Quarter are owned by the Clyda K. Roark Trust.

Ms. Smith had no questions of Mr. Jiwanlal.

On direct examination, Mr. Stack presented as his next witness, Beth Isern. Ms. Isern is a petroleum geologist employed by Trans Pacific. Her qualifications were accepted. Ms. Isern presented Exhibit "10". Exhibit "10" is a production map. She testified that the exhibit contains the name of the well, the operator and cumulative production. She indicated that the production information used for the wells located in the Southwest Quarter was obtained from Trans Pacific in-house database. The other production information was obtained from public records. She said that the in-house information was the most current production whereas public information is usually about three months behind. Exhibit "10" was admitted. Ms Isern presented Exhibit "11" a structure map. The structure map was based on the top of the Mississippian. It was contoured in 20-foot intervals. She stated that she had examined the structure map submitted by BCE. She stated that there were no major differences between the two maps. She testified that there were no faults nothing separating east from west, or north from south. Ms Isern presented Exhibit "12" a contour map. The map was based on the top of the Mississippi to the top of the Kinderhook. It is a total Mississippian isopach map. She testified that the production interval on her map was a little thicker than the map presented by BCE. She testified that the production interval found in the Mississippian was in the top 70 to 100 feet. She testified that the wells operated by Trans

Pacific as well as the horizontal well in the East Half all produce out of that top zone. She testified that the rock is a little cherty but it's very much dolomitic and limestone. It is a carbonate, down here. You get porosity stringers and then you get some denser spots as well. She stated that the porosity definitely varies vertically. She testified that Trans Pacific had drilled about 12 vertical wells in this area. She testified that the farthest well was about 12 miles away and the closest well about two miles away from this area. She stated that it was important to drill through the entire Mississippian formation in this area. She testified that by drilling vertical wells you could evaluate sample shows. If you drilled a horizontal well you only drill through the upper portion and could miss any shows in the bottom part. She testified that there were advantages to drilling vertical wells versus horizontal in this type of reservoir. She testified that she had reviewed mud logs from wells in this area. She stated that a mud log is a report that documents several things. It has drilling time on it. The geologist or the mud logger describes the sample shows. You are able to describe the lithology of the rock. It has oil and gas shows and you can see porosity in the rock. She stated that Trans Pacific uses geologists during the drilling of a well they are able to watch the drilling from beginning to end, 27/7. She stated that you cannot determine drainage from the mud log or the economics of a well. Exhibit "12" was admitted. She testified that from a geological standpoint you could drill a vertical well in the Northwest Quarter.

On cross examination by Ms. Smith, Ms. Isern stated that Trans Pacific does not have the right to drill a well in the Northwest Quarter of Section 34.

On direct examination, Mr. Stack presented as his next witness, Kendall Wedman, a petroleum engineer. His qualifications were accepted. Mr. Wedman testified that in his study of Section 34, he looked at the top 70 feet of the Mississippian. He said that they looked for porosity streaks in the top of the formation. He said that there were sections of the Mississippi that are very tight and that do not produce. He stated that the production comes from the porosity streaks in the formation. He stated that he studied these porosity streaks and added them up for a total volume. He stated that he used on average porosity of 15 percent. He stated that BCE used an 8 percent porosity. He said that if he had used 8 percent in his calculations it would have increased the area of drainage. He testified that he used an average of 89 percent water saturation. He said there was a lot of water in this area. He said that he used the B0 of 1.3. He testified that he used 72 feet whereas the witness for BCE used 190 feet thickness. He said that his 72 feet of thickness came from an examination of the logs. He testified that the Roark #1 well had produced 25,382 barrels of oil and 182, 570 MCF gas. The Roark #2 well has produced 25,117 barrels of oil and 154, 536 MCF gas. He stated that the Roark #3 well has produced 20,164 barrels of oil and 211,372 MCF of gas. He testified that the EUR for the #1 well would 50, 911 barrels of oil and 579,730 MCF of gas. He stated that EUR for the #2 would be 51,942 barrels of oil and 532,503 MCF of gas and for the #3 well 44,450 barrels of oil and 396,644 MCF of gas. He stated these type wells produce for a long period of time and it was not uncommon for them to produce 50 years or longer. He stated that based on volumetrics that as to the three wells in the Southwest Quarter they have recovered about 95 percent of the hydrocarbons underlying the Southwest Quarter. He stated that the three wells in the Southwest Quarter affect each other. He testified that when the #3 well went down with gearbox problems, it effected production from the #1 well. He stated that the #3 well was producing about 2,500 MCF per month to 3,500 MCF and when it went down the #1 well

gained almost one thousand in production. So based on this you could assume that the wells were in communication. He identified Exhibit "13' as an AFE for a vertical well. He stated that it would cost approximately $708,000.00 to drill a vertical well. He testified that an average well in this area should produce approximately 49,100 barrels of oil. He said that using the $55.00 per barrel that would be a total of $2,700,500.00. He testified that by using an average of 500,000 MCF gas per $2.50 it would be $1,250,000.00. He then testified the total would be $3,950.500.00 or a return of 5.58. He said that Trans would drill a well based on those figures. Exhibit "13'" was admitted. Mr. Wedman testified that using Exhibit "9" presented by BCE and using EUR of 70,000 barrels of oil times the $55.00 per barrel it would be $3,850,00.00. The gas was .443 BCF times the $2.50 that would be $1,107.500.00 for a total of $4,957,500.00. The cost to drill a horizontal well was $2,252,506.00. That would be return of 2.20. Then an alternative method of development for the Northwest Quarter of Section 3 4 would be to drill a vertical well. He stated that in his opinion, a horizontal well drilled through the Southwest Quarter and into the Northwest Quarter would have an effect on the three wells existing in the Southwest Quarter. Mr. Wedman testified that Trans Pacific did receive by certified mail a letter from BCE requesting a waiver of the 50% rule. Mr. Wedman testified that there was more to the rule than just sending a letter by certified mail. He testified that as stated in Rule in his opinion there was an alternate method of development of Section 34 by drilling a vertical well in the Northwest Quarter of Section 34. He stated that also under the rule which states that any correlative rights or vested rights of both of owners in the existing wells and/or drilling and spacing unit and in the proposed horizontal well unit will be adequately protected if the consent requirement is waived. He stated that in his opinion based on the evidence that horizontal drilling will not protect the wells in the Southwest Quarter.

On cross examination by Ms. Smith, Mr. Wedman stated that although there are actually 164 feet of perforated interval in the #3 well he only used 72 feet. He stated that when Vaughn Good perforated the #3 well they perforated the entire interval because it was easier. He said that 95 percent water saturation was common in this area. He stated that Trans has their own disposal system in this area. He testified that when the #3 well went down because of mechanical problems there was a rise in the production from the #1 well. He said that nothing was done to the wells operationally. He said they monitor pipeline pressures regularly and that they remain constant. He testified that he used a decline rate of between 5 to 10 percent for the three wells. Mr. Wedman testified that using the economics testified to by Ms. Cantrell of $2,520,000.00 per well and the costs of $708,000.00 to drill a vertical well that would be rate of return of 3.56. Mr. Wedman testified that in his opinion the proposed horizontal well would affect the three wells drilled in the Southwest Quarter. He stated that you already see communication between two of the wells that are 1,320 feet apart and if the proposed well would be about half that distance then the wells would be affected.

On redirect examination by Mr. Stack, Mr. Wedman that the average monthly operating expense on the Trans wells was about $2,500.00 per month. He said the LOEs for horizontal wells was approximately $20,000.00 per month.

On rebuttal, Ms. Smith presented Clay Hubbard, manager of the Land Department of BCE-

Mach as a rebuttal witness. His qualifications were accepted. He stated that BCE bought their interest in this area from Chesapeake. He stated that Chesapeake had invested over a billion dollars in the disposal system for this area. He testified that BCE has an agreement with the Mackey Family regarding where surface locations can be located in the Northwest Quarter. He stated that according to the agreement any surface location must be along the north or south sides of the section lines.

On cross examination by Mr. Stack, Mr. Hubbard testified that BCE took the lease from the Mackey Family in January of this year. He said that it was a decision made by BCE to enter into the lease with the Mackey Family with those conditions.

CONCLUSIONS OF LAW AND RECOMMENDATION

After taking into consideration all of the facts, circumstances, evidence, and testimony presented at hearing, it is the ALJ's recommendation that the requested Horizontal Spacing in CD 201901752 be denied by the Commission. Further it is the recommendation of the ALJ that the Waiver of Consent Requirements of OAC 165:5-7-6 also be denied by the Commission in CD 201901753. As a result of the aforementioned recommendations to deny the Horizontal Spacing Application and the Waiver of Consent Requirements Application, the ALJ contends the Location Exception Application is now moot.

In CD 201901752, applicant BCE-Mach is seeking to establish a 640 acre horizontal spacing unit for the Mississippian Common Source of Supply. Within the boundaries for the proposed Unit there already exists non-horizontal drilling and spacing units, with existing wells producing from the same common source of supply. Therefore, in order to receive authorization for the proposed horizontal spacing unit, the Applicant has the burden to show and prove it either has obtained written consent to the formation of the proposed Unit from at least 50% of the owners with a right to drill in each well and spacing units which exist within the boundaries of the proposed Unit, or such consent is waived by the Commission. See OAC Rule 165:5-7-6(h).

As to the first method, to obtain written consent, the Applicant admitted it did not have written consent from at least 50% of the owners with a right to drill. With respect to the alternative method, Applicant filed an application for waiver of consent requirements in Cause CD 201901753. In order to receive waiver of consent by the Commission, the Applicant had the burden of showing good cause for the waiver. See OAC Rule 165:5-7-6(i). This requires that the Applicant must present sufficient testimony and evidence showing that the Applicant has established four things.

1) Due diligence was exercised to locate each owner having the right to drill in the existing wells and existing spacing unit producing from the same common source of supply as the proposed horizontal well unit;

2) A bona fide effort was made to obtain the required percentage of consent;
3) Alternative methods are inadequate to prevent waste and to protect correlative rights unless the consent requirement is waived and the proposed horizontal well unit created
4) Any correlative rights or vested rights, or both, of owners in the existing well(s) and/or drilling and spacing unit(s), and in the proposed horizontal well unit, will be adequately protected if the consent requirement is waived and the proposed horizontal well unit created.

The Court finds that Applicant has failed to satisfy Parts 3 and 4. As to Part 3, Applicant failed to establish by a preponderance of the evidence that "Alternative methods of development are inadequate to prevent waste and to protect correlative rights." In fact, the Protestant established not only that vertical drilling can be done in this area, it has been done in the section at issue, the SW/4 of Section 34. In addition, the ALJ determined the testimony by Protestant's witnesses that Protestant's vertical wells in the SW/4 are economically viable, to be credible. The Court finds that alternative methods of development do exist to prevent waste in the proposed unit, and Applicant could drill vertical wells in the NW/4.

As to Part 4, Applicant failed to establish by a preponderance of the evidence that correlative rights of the existing wells in the proposed unit will be adequately protected. In fact, Applicant's geologist specifically testified that he does not know if the drainage from the proposed well would affect existing wells, and he agreed on cross-examination that he did not present evidence on direct examination that the proposed well would protect correlative rights. Further, Applicant's Engineer admitted in her testimony that she does not know whether Applicant's proposed well will affect Protestant's wells in the proposed unit. The ALJ finds that these statements alone establish that correlative rights in the proposed unit will not be adequately protected. The Court would also note that Protestant gave credible testimony that its volumetrics show that its existing three vertical wells in the 40 acre unit already established for the SW/4 of Section 34 will ultimately recover 95% or more of this existing 40 acre spacing unit. This testimony establishes that the SW/4 of Section 34 already has sufficient wells to drain this existing unit. Since Applicant failed to meet all four mandatory requirements in order to receive a waiver of the consent requirement, the ALJ recommends that the Application in CD 201901753 be denied.

As mentioned above, OAC Rule 165:5-7-6(h) provides that no order of the Commission authorizing a horizontal well unit that overlies and existing well, or portion of any existing drilling and spacing unit with any existing well, producing from the same common source of supply shall be entered until either 50% of the ownership in the proposed drilling and spacing unit consents in writing, or the consent is waived by the Commission. It is undisputed that the proposed well and the three existing vertical wells would be produced from the same common source of supply within

the proposed horizontal spacing unit requested by Applicant. Therefore, since consent has failed, the horizontal spacing application also must be denied pursuant to OAC Rule 165:5-7-6(h).

As a result of the aforementioned recommendation to deny the Spacing Application, the ALJ contends that the Location Exception Application is now rendered moot.

RESPECTFULLY SUBMITTED THIS 27th day of November, 2019.

Sean Denton

Sean Denton
Administrative Law Judge

cc:
Emily P. Smith
Michael D. Stack
Elizabeth Ann George
Maribeth Snapp, DJLS Director
Michael Norris
Mary Candler
Oil Law Records
Court Clerk
Commission Files