



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

OIL & GAS DOCKET NO. 09-0306832

COMPLAINT OF MEDICINE MOUND OIL COMPANY AGAINST ANTICLINE ENERGY, LLC (OPERATOR NO. 026452) REGARDING THE FD/ALLRED-EVANS HEIRS (33576) LEASE, WELL NO. 76-02, CONLEY (CHESTER) FIELD, HARDEMAN COUNTY, TEXAS

PROPOSAL FOR DECISION

HEARD BY: Jennifer Cook – Administrative Law Judge
Paul Dubois, P.E. – Technical Examiner

PROCEDURAL HISTORY:

Hearing Date -	January 11, 2018
Transcript Received and Close of Record -	February 2, 2018
Proposal for Decision Issued -	April 20, 2018

APPEARANCES:

For Complainant Medicine Mound Oil Company -
Mr. James H. Miller
James H. Miller, P.C.

For Respondent Anticline Energy, LLC -
Mr. Tim George
McGinnis Lochridge

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I. Statement of the Case

Medicine Mound Oil Company (“Complainant” or “Medicine Mound”), filed a complaint (“Complaint”) claiming that Anticline Energy, LLC (“Respondent” or “Anticline”) is producing from different strata with its FD/Allred-Evans Heirs Lease (Lease No. 33576), Well No. 76-02, (“Well”) in violation of Statewide Rule 10.¹ Complainant requests that Respondent be limited to producing only from the original zone designated in Respondent’s original completion report.

Complainant claims it has a contractual lease to drill and produce hydrocarbons where the Well is located. Complainant asserts that Respondent’s commingling adversely affects Complainant by producing hydrocarbons that Complainant maintains Complainant—not Respondent—has the right to produce.

Respondent argues the Complaint should be dismissed because it does not have standing because Complainant is not an operator. Respondent further asserts the Complaint should be denied because, if anything, there is some administrative paperwork that needs to be done and Respondent is in the process of completing it. Respondent is not producing the Well.

The Administrative Law Judge and Technical Examiner (collectively “Examiners”) respectfully submit this Proposal for Decision (“PFD”) and recommend the Railroad Commission (“Commission” or “RRC”) dismiss and deny the request for relief in the Complaint.

II. Jurisdiction and Notice²

Sections 81.051 and 81.052 of the Texas Natural Resources Code provide the Commission with jurisdiction over all persons owning or engaged in drilling or operating oil or gas wells in Texas and the authority to adopt all necessary rules for governing and regulating persons and their operations under the jurisdiction of the Commission.

On December 12, 2017, the Hearings Division of the Commission sent a Notice of Hearing (“Notice”) via first-class mail to Complainant and Respondent setting a hearing date of January 11, 2018.³ The Notice contains (1) a statement of the time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and rules involved; and (4) a short and plain statement of the matters asserted.⁴ The hearing was held on January 11, 2018. Consequently, all parties received more than 10 days’ notice. Complainant and Respondent appeared at the hearing.

¹ 16 TEX. ADMIN. CODE § 3.10.

² The hearing transcript in this case is referred to as “Tr. at [pages].” Complainant’s exhibits are referred to as “Complainant Ex. [exhibit nos.].” Respondent’s exhibits are referred to as “Respondent Ex. [exhibit nos.]”

³ See Notice of Hearing issued December 12, 2017.

⁴ See TEX. GOV’T CODE §§ 2001.051, .052; 16 TEX. ADMIN. CODE §§ 1.42, 1.45.

III. Applicable Legal Authority

Complainant alleges commingling in violation of Statewide Rule 10. Statewide Rule 10 provides that oil or gas shall not be produced from different strata through the same string of tubulars except by an applicable exception.⁵

IV. Discussion of Evidence

Complainant offered the testimony of two witnesses and seven exhibits. Respondent offered one witness and 14 exhibits.

A. Summary of Complainant's Evidence and Argument

In this case, Complainant alleges Respondent's Well is producing from multiple strata in violation of Statewide Rule 10. Complainant claims it has a contractual lease to drill and produce hydrocarbons where the Well is located. Complainant requests that Respondent be limited to producing only from the original zone designated in Respondent's original completion report. Complainant asserts that Respondent's commingling adversely affects Complainant by producing hydrocarbons that Complainant maintains Complainant—not Respondent—has the right to produce.⁶ There is a pending court case between Complainant and Respondent regarding who has the right to produce hydrocarbons where the Well is located.⁷

Complainant's first witness was Terry Moore. Mr. Moore has experience drilling wells of the type at issue in this case. He was hired as a consultant regarding drilling the Well by the prior operator, American Patriot. A permit to drill the Well was approved March 25, 2013. He was hired to consult as to where to drill and how to prevent damage when drilling. He says the Well was intended to be drilled into a pinnacle reef in the Chappel Reef formation. He testified that during drilling, the drill pipe was dropped. It was recovered, but he says the "slip dogs" were knocked into the hole. He testified the material in the hole caused significant problems, including significant completion difficulties. They worked on it for months. He stated they eventually got it to flow. The spud date was April 20, 2013, and the date of first production was December 1, 2013.⁸ He said they took samples from the hole during drilling. Based on his experience, the samples looked like Chappel Reef limestone and had a hydrocarbon smell. He said the operator did not consider it a flowing well and decided to perforate other intervals in the Well. Complainant thought they were going to commingle in violation of Commission rules and he did not think American Patriot was accurately determining the perforations for the Well. For these reasons, he disassociated himself with the operation.⁹

⁵ 16 TEX. ADMIN. CODE § 3.10(a); *see also* TEX. NAT RES. CODE §§ 85.046 and 86.012.

⁶ Tr. at 10-13.

⁷ Tr. at 47-50.

⁸ Complainant Ex. 1, 4.

⁹ Tr. at 20-41.

Mr. Moore testified that in 2015, approximately two years later, he, with others, formed Medicine Mound Oil Company (i.e. Complainant). He owns 50% of Complainant, and Mr. Miller, Complainant's attorney, owns the other 50%. Complainant approached some of the mineral interest owners of the property where the Well is located. Some mineral owners executed two oil and gas leases covering the property where the Well is with Complainant as lessee. The only oil and gas leases Complainant has are the two involving the same property where the Well is.¹⁰

Complainant's second witness was Ben Herb. He has a bachelor of science degree in geology. He has been working as a geologist and mud logger for approximately 30 years and estimates he has worked on over 900 wells. He has worked on wells in the Chappel Reef formation. He was the mud logger for the Well. He said that he did get samples from the Chappel Reef formation. He said due to the problems with drilling the Well, he could not get accurate depth information. He provides estimated depths in a log, but estimates they are not accurate by around 10 feet. He opines that the Well was drilled and perforated in the Chappel Reef formation. He further explains that the Chappel Reef has a high-pressure kick to it and should not be commingled with other zones because the high-pressure zone drives fluids into lower pressure zones above it. He stated that American Patriot discussed commingling and that he told them that Texas regulations do not allow it. He said that American Patriot proceeded to add additional perforations and the perforations were inaccurate because American Patriot relied on faulty calculations.¹¹

B. Summary of Respondent's Evidence and Argument

Respondent argues the Complaint should be dismissed because it does not have standing because Complainant is not an operator. Respondent further asserts the Complaint should be denied because, if anything, there is some administrative paperwork that needs to be done and Respondent is in the process of completing it. Respondent is not producing the Well.

Respondent's first witness was Mr. John Miller. Mr. Miller is a consulting petroleum engineer.¹² He prepared a schematic of the Well based on field tickets and other documents he reviewed pertaining to the drilling and completing of the Well. He estimates perforations at the following depths of 7,364-7,400; 8,098-8,126; 8,123-8,138 and 8,150-8,160 feet. It is an open hole well and he estimates an open hole productive depth of 8,309-8,430 feet.¹³

Mr. Miller reviewed workover and production records to determine which perforation zones are productive. It is his opinion that all the perforated intervals in the Well are capable of producing hydrocarbons.¹⁴

¹⁰ Tr. at 41-57, 83-86; Complainant Ex. 6-7.

¹¹ Tr. at 59-82; Complainant Ex. 10.

¹² Tr. at 87-90; Respondent Ex. 1.

¹³ Tr. at 90-96; Respondent Ex. 2.

¹⁴ Tr. at 97-102; Respondent Ex. 3.

Mr. Miller provided documentation showing that the prior operator was involved in an enforcement case regarding the Well. One of the violations was for failing to file completion reports for the Well. He testified the prior operator paid all fines associated with the enforcement case. Anticline became the Commission record operator of the Well on approximately September 14, 2016. The drilling and perforating of the Well occurred while American Patriot was the Commission record operator of the Well.¹⁵

On September 14, 2016, Anticline filed an amended permit application for the Well (Commission Form W-1) to become the operator for the Well and include the Conley (Chester) Field in addition to the Harco (Chappel) Field as the fields of anticipated completion for the Well. As of September 27, 2018, the amended permit was approved.¹⁶ Respondent has an active Commission Form P-5 *Organization Report* with a \$50,000 cash deposit as its financial assurance on file with the Commission.

Mr. Miller testified that he has studied the Commission fields in the area. He looked at 24 fields within a 2 ½ mile radius of the Well. He compared the perforated intervals of the Well with a type log from a well approximately 375 feet from the Well. He opines that the perforated intervals of the Well 8,098 feet and below, and including the open hole, are within the Commission Allred (Mississippi) Field.¹⁷

The only remaining perforated interval for the Well is at a depth of 7,364-7,400 feet. Mr. Miller opines that it would be included in a Wildcat interval or as part of the Corvin (Conglomerate) Field, even though the Well is fault separated from the other wells in the Corvin (Conglomerate) Field.¹⁸ Comparing a structure map to other wells in the Harco (Chappel) Field, he opines that the Harco (Chappel) Field is further away from the Allred (Mississippi) Field and is fault separated from the Well.¹⁹ After considering all the fields in the area, he opines that the Allred (Mississippi) Field is the most relevant for the lower perforated intervals of the Well.²⁰

It is undisputed that Complainant is not a Commission operator and has no Commission Form P-5 *Organization Report* on file with the Commission.

V. Examiners' Analysis

The Examiners recommend the Commission dismiss and deny Complainant's requested relief.

¹⁵ Tr. at 103-105; Respondent Ex. 4.

¹⁶ Tr. at 106-110; Respondent Ex. 5-7.

¹⁷ Tr. at 110-126; Respondent Ex. 8-10.

¹⁸ Tr. at 126-129; Respondent Ex. 11.

¹⁹ Tr. at 129-133; Respondent Ex. 12.

²⁰ Tr. at 133-140; Respondent Ex. 13-14.

A. The Examiners recommend the Complaint be dismissed because Complainant is not an “affected operator” under Statewide Rule 10 and has no standing regarding the issues alleged in the Complaint.

Complainant alleges that Respondent is in violation of Statewide Rule 10. Rule 10 does allow operators to file applications for an exception to the prohibition against commingling. Rule 10 requires “affected operators” to be provided notice of a proposed Rule 10 exception. The exception can be granted administratively unless an “affected operator” requests a hearing.²¹ Affected operators are operators with wells in the Commission fields to be commingled, and if the commingling will involve a reservoir that is not a Commission designated field, affected operators would also include operators in close proximity to the well to be commingled. The rule further provides that the commission or its delegate can determine an operator is not affected—even though the operator falls within the definition of an affected operator—if the commission determines the applicant will not interfere with the hydrocarbon production of that operator.²²

Respondent is in the process of determining what fields to produce in and how to fill out the completion paperwork for the Commission. In this case Complainant is not a Commission operator and even if Respondent were to apply for a commingling exception, Complainant would not be able to require a hearing. Complainant has no standing to complain about commingling.

The Examiners recommend the Commission dismiss the Application. See 16 TEX. ADMIN. CODE § 1.107(4).

B. The Examiners recommend the requested relief in the Complaint be denied because there is insufficient evidence that Respondent is in violation of Statewide Rule 10.

Complainant alleges that Respondent is producing hydrocarbons from different strata from the Well in violation of Rule 10. However, Complainant provided no evidence of current production or any production of hydrocarbons by Respondent. Because there is no evidence of production, there is no proof of commingling.

The evidence is that Respondent is in the process of filing its completion paperwork and will seek a Rule 10 exception if necessary. Currently the Well is shut-in and not flowing.²³

The Examiners recommend the Commission deny the relief requested in the Complaint.

²¹ See also 21 Tex. Reg. 3791, 3791 (May 3, 1996) (adoption of most recent version of Statewide Rule 10).

²² 16 TEX. ADMIN. CODE § 3.10(a), (b), (c).

²³ See Tr. at 14.

VI. Recommendation, Proposed Findings of Fact and Proposed Conclusions of Law

Based on the record in this case and evidence presented, the Examiners recommend the Commission dismiss the Complaint and deny Complainant's requested relief. The Examiners recommend the Commission adopt the following findings of fact and conclusions of law.

Findings of Fact

1. Medicine Mound Oil Company ("Complainant" or "Medicine Mound"), filed a complaint ("Complaint") claiming that Anticline Energy, LLC ("Respondent" or "Anticline") is producing from different strata with its FD/Allred-Evans Heirs Lease (Lease No. 33576), Well No. 76-02, ("Well") in violation of Statewide Rule 10. Complainant requests that Respondent be limited to producing only from the original zone designated in Respondent's filings with the Commission.
2. On December 12, 2017, the Hearings Division of the Commission sent a Notice of Hearing ("Notice") via first-class mail to Complainant and Respondent setting a hearing date of January 11, 2018. The Notice contains (1) a statement of the time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and rules involved; and (4) a short and plain statement of the matters asserted. The hearing was held on January 11, 2018. Consequently, all parties received more than 10 days' notice. Complainant and Respondent appeared at the hearing.
3. Respondent has an active Commission Form P-5 *Organization Report* with a \$25,000 cash deposit as its financial assurance on file with the Commission.
4. There is no evidence the Well is being produced.
5. There is no evidence that Respondent has ever produced the Well.
6. Complainant does not have an active Commission Form P-5 *Organization Report* on file with the Commission.
7. Some mineral owners executed two oil and gas leases covering the property where the Well is located with Complainant as lessee.
8. The only oil and gas leases Complainant has are the two involving the same property where the Well is.
9. Respondent is in the process of filing its completion paperwork with the Commission and plans to apply for an exception to Statewide Rule 10 if necessary.

Conclusions of Law

1. Proper notice of hearing was timely issued to appropriate persons entitled to notice. *See, e.g.*, TEX. GOV'T CODE §§ 2001.051, 052; 16 TEX. ADMIN. CODE §§ 1.42, 1.45.
2. The Commission has jurisdiction in this case. *See, e.g.*, TEX. NAT. RES. CODE § 81.051.
3. There was insufficient evidence that Respondent is in violation of Statewide Rule 10.
4. Complainant is not an "affected operator" as contemplated in Statewide Rule 10.
5. The Complaint should be dismissed and denied.

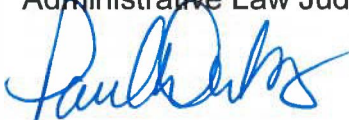
Recommendations

The Examiners recommend the Commission dismiss the Complainant and deny the Complainant's requested relief.

Respectfully,



Jennifer Cook
Administrative Law Judge



Paul Dubois, P.E.
Technical Examiner