

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

APPLICANT: DEVON ENERGY PRODUCTION)
COMPANY, L.P.)
)
RELIEF SOUGHT: POOLING) CAUSE CD NO.
) 201503363
)
LEGAL DESCRIPTION: SECTION 29, TOWNSHIP 14)
NORTH, RANGE 8 WEST,)
CANADIAN COUNTY,)
OKLAHOMA)

FILED
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CORPORATION COMMISSION
OF OKLAHOMA

REPORT OF THE ADMINISTRATIVE LAW JUDGE

This Cause came on for hearing before Michael Norris, Administrative Law Judge for the Corporation Commission of the State of Oklahoma, 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:

1. This cause involves disagreement of fair market value. The applicant, Devon Energy Production Company, L.P. (Devon), established fair market value from the adjoining units. Their values also included a transaction that was apparently consummated after this pooling application was filed. The protestant, Annette Switzer, special administrator to the estate of Lawrence B. Laub, Jr. and Virginia Laub, widow of Lawrence Laub (Laub) disputed the values.

2. There is also an issue questioning if certain interests are subject to a lease and not part of the pooling. The parties understand and agree that jurisdiction for these questions do not lie with the Commission.

RECOMMENDATIONS:

1. The application of Devon Energy Production Company, L.P. should be approved. The values were established and higher values were recommended based upon transactions that occurred after this pooling was filed.

HEARING DATE(S): September 30, 2015

APPEARANCES: David E. Pepper, attorney, appeared on behalf of applicant, Devon Energy Production Company, L.P.

James A. Slayton, attorney, appeared on behalf of protestants, Annette Switzer, Special Administrator of the estate of Lawrence B. Laub., JR., deceased.

FINDINGS AND SUMMARY OF EVIDENCE

1. The following numbered exhibits were accepted into evidence:
 1. There were no exhibits
2. The applicant called Mr. David Swafford, landman. His qualifications as an expert were accepted without objection.
3. Mr. Swafford testified that Devon owns a 58.10% working interest in this section. The proposed well has been drilled and is on production. A proposal was sent to the parties listed on exhibit A.
4. The applicant conducted some title curative work and in the process was told by one of the respondents that he was claiming an interest in the well. The applicant's title opinion did not show this party as an owner. Devon decided they should do something and decided to file a pooling. Mr. Jack Laub is the party claiming an interest. Exhibit A lists the estate of Lawrence Laub, Jack Laub, Stephanie Laub and Virginia Laub. Devon believes these individuals are heirs of Lawrence Laub. They have named everybody that they believe may claim an interest in the estate.
5. These parties are shown as being potential owners according to intestate succession. There is a pending probate case and it is not known what the

outcome may be. The applicant also believes that whoever owns the interest is subject to an existing lease. There are leases taken by a predecessor in title, a corrective oil and gas lease and a subsequent lease taken by Devon. Therefore Devon has listed the parties as curative. Mr. Swafford stated that the applicant has had conversations with two of the parties and they have executed curative documents. Those individuals are Virginia Laub and Stephanie Laub. Jack Laub has not executed any documents. It is Devon's position that Jack Laub is a leased party.

6. As stated, the well has been drilled. It is a Woodford well. Mr. Swafford testified that if these parties own an interest they can participate in the well. He also testified as to the other requisite matters concerning the pooling. He testified that the actual costs of this well as of August 1, 2015 are \$14,002,082.

7. His opinion of fair market value was for two options. The first was \$1,500 for a 1/5 royalty and the 2nd is \$0 and a 1/4 royalty. He based this opinion on four transactions in an offsetting section. These transactions were in section 21 and are transactions that he wouldn't normally consider fair market value because they were taken by what he designated as a pooling chaser. However, he included them in the fair market values for this cause.

8. Mr. Swafford testified that there's been a lot of activity in this area but there has not been much in the last year. There was a pooling in section 18 that was \$1,250 and a 3/16 royalty. In section 20 there was a transaction for \$1,200 and a 3/16 royalty. There was another transaction in section 20 that was also for \$1,200 and a 3/16 royalty. All three of these values were Devon poolings. These transactions were all within the last year. There is also a pending pooling in section 21 filed by Newfield. Mr. Swafford believes that's the reason for the pooling chasers he mentioned. These individuals filed their leases after the poolings were filed. Regardless of that they are recommending these values for this hearing.

9. He is offering the higher values even though he does not believe it is indicative of fair market value. The costs of the initial well were included in the proposal letters.

10. Mr. Swafford testified that the title issue is fairly complicated and goes back approximately eight years. He stated that if the parties that are

respondents in today's case can perfect their title or if they can show they have title Devon does not have a problem with that. They just want to get the interest committed to the well so they can keep going.

11. Upon cross-examination it was clarified that the only address known for Jack Laub was the Johnny's Onion Burger restaurant in El Reno, Oklahoma. It was also substantiated that Mr. Jack Laub is represented by Mr. Fogg.

12. There was additional testimony concerning the lands owned by Gerald and Lawrence Laub. The testimony revealed problems in the documentation and that curative documents were prepared. Not all of them were executed. The parties recognize there is an issue covering these 80 acres. They understand the Commission cannot determine title.

13. Mr. Swafford testified that they are pooling the Emma 29 20 14-8 well. He stated that there are two wells in the section. He did not state the fair market value for both wells is the same. He did say that the protestant would get one bonus if they prove that the acreage is open. He stated the funds are going to escrow and that if title is proven it would be paid.

14. He stated that section 18 was pooled in 2011 and section 21, which is now pending, was in 2015. Sections 20 and 28 were both 2011 Devon poolings. He testified that Newfield is pooling section 21.

15. No one was contacted at Felix because they have not taken any leases in the nine section area. He did not look at any activity in section 22. He is aware of Felix poolings earlier in the year. He did not consider those values because they are not located within the nine section area. There have been no leases taken in the last year, in the nine sections, except by a pooling chaser. His testimony is limited to the one transaction in section 21. The only other pooling in the last 12 months is in section 22 and it is outside the nine section area. In that pooling the values were \$2,000 an acre with a 3/16 royalty and \$1,750 an acre and a 1/5 royalty.

16. During redirect examination Mr. Swafford testified that you do not pool well by well. He further stated that you normally limit your examination to the 8 contiguous sections around your subject unit for fair market value. He understands that is the standard of the Commission. Nothing has occurred that would cause him to change his testimony regarding fair market value. He

believes he has been generous with the \$1,500 and a 1/5 royalty. It is his experience that the Commission does not try title in these cases.

17. During recross examination Mr. Swafford agreed that the stated fair market value should be limited to everything in the nine sections. He also agreed that he brought in values from section 18 and it is not a part of the nine sections.

18. He did not say that they shouldn't worry about the title. There is a respondent claiming an interest in the well. Therefore, they are going to propose a well to that respondent and file a pooling to commit that interest. He does not believe that these respondents own anything that's eligible. He is saying they do not owe a bonus because they do not own any acreage that's available for lease. If they elect to take the bonus the proper amount will be placed in escrow. It was noted for the record that Lawrence and Gerald Laub were cousins and not brothers. The parties did rest.

RECOMMENDATIONS AND CONCLUSIONS

1. After taking into consideration all the facts, circumstances, evidence and testimony presented in this cause, it is my recommendation that the application of Devon Energy Production Company, L.P., should be granted.

2. Fair market value was established from transactions from an adjoining section. Devon included the higher values that occurred after the pooling was filed. They did not argue for the lesser values that were documented. The applicant did reference a Devon pooling outside the nine section area for lower values

3. The higher values shown by Laub were also outside the nine section area.

RESPECTFULLY submitted this 19th day of November, 2015.


Michael Norris
Administrative Law Judge

MN:sm

xc: James A. Slayton
David E. Pepper
Michael L. Decker, OAP Director
Oil Law Records
Court Clerk – 1
Commission Files