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ANADARKO E&P ONSHORE LLC

STATE OF WYOMING)
) ss
COUNTY OF CAMPBELL)

IN THE DISTRICT COURT
SIXTH JUDICIAL DISTRICT

KENNETH B. GEER,)
)
Plaintiff,)
)
vs.)
)
ANADARKO E&P ONSHORE LLC,)
Successor to Lance Oil & Gas Company,)
Inc., a Delaware Corporation,)
)
Defendant.)

Civil Action No. 32940

**DEFENDANT'S RULE 56.1 STATEMENT OF FACTS RELATING TO ITS
MOTION FOR SUMMARY JUDGMENT ON PLAINTIFF'S IMPROPER
TAX CALCULATION CLAIM**

Defendant Anadarko E&P Onshore LLC, formerly known as Lance Oil & Gas Company, Inc. (Lance), by and through its counsel, and pursuant to Rule 56.1 of the Wyoming Rules of Civil Procedure, submits its statement of material facts.

STATEMENT OF FACTS

The Coal Bed Methane Industry

1. Lance is a producer of coal bed methane (CBM) in Wyoming's Powder River Basin (PRB) and is the operator of numerous CBM wells in Campbell County, Wyoming. Ex. 1, Wallner ¶1.¹

2. Unlike conventional gas production from deep formations, CBM flows from shallow wells at very low pressures and volumes per well. It takes numerous wells to generate significant gas and the production from these low pressure wells has to be collected and aggregated to provide enough volume to pressurize the gas sufficiently to flow down hundreds of miles of pipelines. Ex. 2, Chris Wilson ¶¶ 4, 5.²

3. As a consequence, getting CBM out of Wyoming to sales markets requires a substantial investment in compression, dehydration, processing, and eventually transportation to markets out of the PRB. Ex. 2, Chris Wilson ¶¶ 6, 7.

4. To accomplish this, the CBM industry is organized into five segments, each of which performs a different function and each of which is performed by different companies. Ex. 2, Chris Wilson ¶¶ 1, 3; *see also* Map, Ex. 3.³

5. The segments can be broken down into: (1) production of gas at the wells (the Producing Segment); (2) collection of gas at compressor and dehydration stations that aggregate

¹ Affidavit of Janis Wallner, Accounting Manager at Anadarko Petroleum Corporation (Anadarko), dated July 1, 2013, attached as Ex. 1 (Wallner).

² Affidavit of Christopher L. Wilson, Commercial Development Manager at Anadarko, dated October 4, 2012, attached as Ex. 2 (Chris Wilson).

³ Powder River Basin Pipeline Map attached as Ex. 3 (Map).

and pressurize gas flowing from hundreds of different wells (the Gathering Segment); (3) processing (also known as “treating”) some of the gas to remove carbon dioxide (CO₂) to meet the chemical specifications of high pressure pipelines (the Processing Segment); (4) delivery of the pressurized, processed, and dehydrated gas into high pressure transportation pipelines that transport the gas out of the PRB and towards the sales markets, including Fort Union and MIGC (the High Pressure Transportation Pipelines); and (5) downstream FERC-regulated transportation to take the gas completely out of Wyoming to the distant market hubs where it is sold (the Downstream Pipelines). Ex. 2, Chris Wilson ¶ 3.

The Producing Segment

6. The gas from each well is transported a short distance by low-pressure pipe to meters at pod buildings generally located on the lease. Gas from several wells on the lease is aggregated in the pod building, and the aggregated gas passes through a separation header to drop out water that is commonly produced with the gas at the well. The wells, the pipe from the wells, the pod buildings, and the separation headers are typically owned by the producers, in this case Lance. Ex. 2, Chris Wilson ¶ 4.

7. The gas then flows out of the pod building a short distance to a custody transfer meter and screw compression station owned by the mid-stream gathering segment. The initial screw compressor station is commonly known as the “Central Delivery Point” (CDP). Ex. 2, Chris Wilson ¶ 4.

8. At the CDP, the producer, in this case Lance, transfers custody and control of its gas to the mid-stream gathering sector, owned and operated by different companies. Ex. 2, Chris Wilson ¶ 4.

The Gathering Segment

9. The mid-stream gathering sector collects gas from hundreds of different wells and from many different producers to prepare the gas for entry into the high pressure transportation pipelines. Once the producer delivers its gas to the CDP, the producing segment of the CBM industry ends and the mid-stream gathering segment begins. There are a number of different mid-stream companies that take gas from the producer and prepare it for entry into the high pressure pipelines that carry gas out of the PRB. Western Gas Resources, Inc. (WGR), an affiliate of Lance, provides mid-stream transportation of all gas produced by Lance in the PRB. Ex. 2, Chris Wilson ¶¶ 1, 3-5.

10. WGR receives gas from thousands of different CBM wells, from many different producers, and compresses the gas to move it off of the leases and towards the high pressure pipelines. Ex. 2, Chris Wilson ¶¶ 5-6.

11. WGR first places temporary screw compressor stations (the CDP) near the lease boundaries where gas from the leases can flow into custody transfer meters and then into screw compressors. These compressors boost the gas to approximately 100 pounds of pressure, which allows the gas to continue flowing downstream until the gas encounters another reciprocating booster compression and dehydration station. These stations aggregate gas flowing into them from multiple different screw compressors (often now the commingled gas of many different

producers) and boost the pressure of the CBM to 1100-1400 psig, the pressures necessary to deliver the gas into the high pressure transportation pipelines to be delivered to markets downstream. Ex. 2, Chris Wilson ¶ 5.

12. The reciprocating compressor stations also provide tri-ethylene glycol dehydration to the gas stream to make the gas suitably dry for movement on the high pressure transportation pipelines. When the gas finally leaves the reciprocating compression stations it is typically at the pressure and quality specifications required of large volume transportation pipelines, subject to some additional CO₂ processing for some of the gas. Ex. 2, Chris Wilson ¶ 5.

The Processing Segment

13. Some, but not all, CBM production contains amounts of CO₂ that exceed pipeline specifications. Most transportation pipelines that carry gas to market at high pressure impose CO₂ restrictions on gas delivered into them. As a result, there are several CO₂ removal facilities in the PRB whose primary purpose is to use amine solutions to strip carbon dioxide out of the CBM gas stream before transport on high pressure pipelines. Ex. 2, Chris Wilson ¶ 8; Ex. 14, Enick Report 4.⁴

14. Three facilities process portions of Lance's gas: Medicine Bow, Bison, and Little Thunder. Ex. 2, Chris Wilson ¶ 8; Ex. 14, Enick Report, 1.

⁴ Expert Report of Dr. Robert Enick dated June 19, 2013, attached as Ex. 14 (Enick).

15. The Little Thunder and Bison processing plants are located upstream, or before, the high pressure transportation pipelines of Fort Union and MIGC. The Medicine Bow facility is located at the end of the Fort Union pipeline. Ex. 2, Chris Wilson ¶¶ 10-12; Ex. 3, Map.

The High Pressure Transportation Pipelines

16. Once mid-stream gathering, compression, dehydration and processing ends, WGR delivers the gas into one of several different high pressure pipelines that take CBM out of the PRB toward the markets. Lance's gas moves primarily on two pipelines, MIGC and Fort Union. Ex. 2, Chris Wilson ¶¶ 1, 3.

17. MIGC is a federally-regulated transportation pipeline and its fees and tariffs are regulated by the Federal Regulatory Energy Commission (FERC). The MIGC pipeline is a 256-mile pipeline that transports CBM gas out of the PRB. *See* Ex. 2, Chris Wilson ¶ 3; Ex. 3, Map.

18. Fort Union is an intra-state pipeline, not an inter-state pipeline, and is therefore "non-jurisdictional," meaning that it is not regulated by FERC although it performs the same function as MIGC. Fort Union consists of three parallel 24-inch, 106-mile lines running south from the DeadHorse area of Wyoming to a terminus near Glenrock, Wyoming (Glenrock Interconnect). *See* Ex. 2, Chris Wilson ¶ 10; Ex. 3, Map.

The Downstream Pipelines

19. The final stage of transportation out of Wyoming involves several additional FERC-regulated interstate pipelines, including Bison Pipeline LLC (Bison Pipeline), an indirect subsidiary of TransCanada. Ex. 2, Chris Wilson ¶ 11; Ex. 3, Map.

20. Each of these pipelines receives CBM gas and moves it further toward the eventual sales markets. Like MIGC and Fort Union, the Bison Pipeline is located in the PRB and takes gas directly out of the producing regions to markets. Ex. 2, Chris Wilson ¶ 3; Ex. 3, Map.

Lance's Payment Obligations

21. As the producer of gas from the CBM wells, Lance pays 100% of the transportation and processing costs to deliver gas to sales markets outside of Wyoming. Ex. 4, Wallner Dep., 59-60⁵; Ex. 2, Chris Wilson ¶¶ 1, 3-4, 7, 10-13.

22. Wyoming law also obligates Lance, as the operator, to pay taxes on 100% of CBM production, including production owned by others. Lance calculates and pays severance and ad valorem taxes on 100% of CBM production, including on behalf of royalty owners and overriding royalty owners, to the Wyoming Department of Revenue (severance), Wyoming Oil & Gas Conservation Commission (conservation), and Campbell County (ad valorem). Ex. 1, Wallner ¶¶ 2, 5, 7.

23. Lance must seek reimbursement from other interest owners for costs it pays to deliver their gas to market and must also deduct from royalty payments interest owners' pro rata share of taxes Lance has paid on their behalf. Ex. 1, Wallner ¶¶ 2-6.

24. Lance is party to thousands of leases and agreements with individual royalty owners and overriding royalty owners in Campbell County, Wyoming, concerning CBM

⁵ Excerpts of Deposition of Janis Wallner attached as Ex. 4 (Wallner Dep.).

production. Ex. 5, Terry Report ¶¶ 27, 45.⁶

25. Pursuant to provisions in the leases or agreements, Lance pays royalty owners and overriding royalty owners royalties on CBM production monthly. Ex. 1, Wallner ¶¶ 2, 5.

26. A royalty is the royalty owner's or overriding royalty owner's share of gross receipts less deductions allowed under the lease or other agreement, or where the lease is silent, the WRPA. Ex. 1, Wallner ¶ 2; Ex. 5, Terry Report ¶¶ 3, 5.

Lance's Deduction Practices

27. Lance deducts each owner's pro rata tax liability from the owner's monthly royalty payment. Ex. 1, Wallner ¶¶ 5-6.

28. For all times material to Plaintiff's claims, Lance has deducted from royalty payments owners' proportionate share of transportation costs and only some processing costs. Ex. 1, Wallner ¶¶ 3-4.

29. Lance has not deducted most processing costs from royalty payments. Ex. 1, Wallner ¶ 4.

30. Lance calculates a royalty owner's pro rata tax liability by applying the combined tax rate for severance, ad valorem, and conservation taxes to the royalty owner's royalty value, an amount which it then deducts from the royalty owner's monthly royalty payment. Ex. 1, Wallner ¶¶ 2, 5-6.⁷

⁶ Expert Report of Kris L. Terry dated June 21, 2013, attached as Ex. 5 (Terry Report).

⁷ While not referenced herein, Exhibits 6-13 as referenced in Defendant's Memorandum in Support of Motion for Summary Judgment on Plaintiff's Improper Tax Calculation Claim are attached to this Statement.

DATED July 31, 2013.



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E&P ONSHORE LLC

CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2013, I served **DEFENDANT'S RULE 56.1**

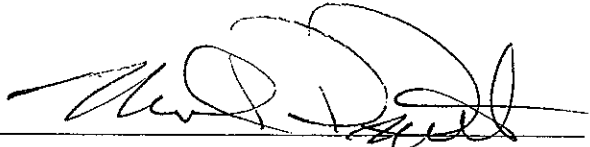
STATEMENT OF FACTS RELATING TO ITS MOTION FOR SUMMARY

JUDGMENT ON PLAINTIFF'S IMPROPER TAX CALCULATION CLAIM by placing a

true and correct copy thereof in the United States mail, postage prepaid and properly addressed to the following:

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A handwritten signature in black ink, appearing to read 'Cathleen D. Parker', is written over a horizontal line.