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IN THE DISTRICT COURT OF STEVENS COUNTY, KANSAS

KOLLETT W. WHEELER
CLERK OF THE DIST. COURT
J. W. [Signature]
STEVENS CO. KS

GILBERT H. COULTER and
ELIZABETH S. LEIGHNOR, individually
and as representative plaintiffs on
behalf of persons or companies
similarly situated,

Plaintiffs

vs.

Case No. 98-C-40

ANADARKO PETROLEUM CORPORATION,
Defendant

**JOURNAL ENTRY OF DECISION BY THE COURT ON
PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

The Plaintiffs herein have filed a Motion for Partial Summary Judgment claiming they are entitled to a judgment that would prohibit the Defendant from deducting a proportionate part of the expenses of compression gathering and marketing of gas from royalty payments it is making to the members of the Plaintiff class. The Plaintiffs further claim they are entitled to partial summary judgment granting to them an order that the Defendant account for, and fully disclose the amount of deductions taken from royalty payments for costs of compression and gathering and marketing of the gas that comes from the wells in which the Plaintiff class hold a royalty interest during the period covered by this litigation.

Anadarko Petroleum Corporation is the owner of oil and gas leases of which the Plaintiff class have a royalty interest in the Hugoton Gas Field.

Anadarko Gathering Company is a wholly owned subsidiary of Anadarko Petroleum Corporation. Anadarko Gathering Company owns the equipment which makes up the Anadarko Hugoton gathering system, including the compressors on the gathering system.

All natural gas produced by Anadarko Petroleum Corporation excepting only some small amount sold to irrigation farmers and that taken off by domestic gas taps is sold by Anadarko Petroleum Corporation to another wholly own subsidiary, Anadarko Energy Services Company. To effectuate this sale, gas measuring meters are located near the wells in question on the gathering line after the taps for irrigation and/or domestic gas. This meter is referred to generally by the Defendant as a custody transfer point where the ownership of the gas is transferred to Anadarko Energy Services Company.

The Anadarko Hugoton gathering system comprises more than 100 miles of pipe in three counties and connects in excess of 1,100 wells that are owned by Anadarko Petroleum Corporation.

It is the claim of the Plaintiff class that Anadarko Petroleum Corporation as a producer cannot deduct costs of gathering of the natural gas nor can the Defendant deduct the expenses of compression from the royalty payment due to the Plaintiff.

The Plaintiffs rely upon Gilmore v. Superior Oil Company, 192 Kan. 388, Schupbach v. Continental Oil Company, 193 Kan. 401, and Sternberger v. Marathon Oil Company, 257 Kan. 315, as authority for its proposition.

The Plaintiffs claim that as the wells have been produced, the reservoir pressure of the gas wells connected to Anadarko's Hugoton gathering system have declined and in order to create higher levels of production of natural gas from these wells, the Defendant has caused

compression to be put upon the gathering system lines which would cause a greater amount of gas to flow from the gas wells by lowering the pressure in the gas gathering line at the well head.

In this regard the Plaintiff claims that Sternberger v. Marathon Oil Company, supra, stands for the proposition that no expense for compression costs can be deducted from royalties paid to the Plaintiff class.

This Court does not agree with that proposition of the Plaintiff because this Court does not believe that is the controlling rule of law from Sternberger v. Marathon Oil Company, supra.

Compression, as utilized on a gas gathering line, can act as a two-fold function. On the inlet side of the compressor the pressure is lowered which would have, in some instances, an affect of causing gas to flow at a greater rate from the wellhead into the gas gathering line, and on the outlet side of the compressor the gas is pushed down the gas gathering line.

The Plaintiff class claims that just because a deduction is made from the royalty owner share of the proceeds from the sale of the gas produced for the cost of compression on the gathering system, judgment should be granted to the Plaintiff class.

This Court finds it is always a question of fact as to whether or not compression on a gas gathering line is in place for purposes of production or transportation or for the marketing of the gas.

The Plaintiff further claims it is the obligation of the producer of natural gas to bear the expenses that are incurred in making the gas marketable.

For this proposition the Plaintiffs rely upon Gilmore v. Superior Oil Company, supra, and Sternberger v. Marathon Oil Company, supra.

It is the claim of the Plaintiff class that Anadarko Petroleum Corporation and/or its wholly owned subsidiary, Anadarko Gathering Company are required to dehydrate and strip the gas of free liquids before they can market it to Panhandle Eastern Pipeline Corporation.

There are sales of gas off of the gathering system that are made by Anadarko Energy Services Company to irrigation cooperatives, large industrial users and a utility company supplying a near by town.

It is admitted by Anadarko Petroleum Corporation that this gas is dehydrated before sale and delivery to these customers.

It is claimed by Anadarko Petroleum Corporation that this dehydration is not a requirement of the sales contracts with these buyers.

The dehydration is done on the gas gathering system operated by Anadarko Gathering Company.

It is not clear to this Court whether or not the cost incurred in the dehydration process by Anadarko Gathering Company is a cost passed on to Anadarko Petroleum Corporation.

As to the compression that is on the gas gathering line, it is also a question of fact as to whether or not the compression is utilized to market the gas.

The gas has to reach in excess of 500 pounds per square inch in order to enter into the Panhandle Eastern Pipeline Corporation interstate pipeline and if the compression is being required for the function of flowing the gas into the interstate pipeline, it could then be claimed to be a marketing function. This is again a question of fact which cannot be decided in a motion for summary judgment.

The Defendant, Anadarko Petroleum Corporation, claims that because it sells and transfers the gas at the wellhead to Anadarko Energy Services Company, that event creates the market for the gas and, therefore, the gas produced is marketable at the wellhead.

Whether or not gas is marketable at the well head is not only dependent upon whether there is a sale and/or transfer at the wellhead.

The mere fact that Anadarko Petroleum Corporation sells its gas to its wholly owned subsidiary, Anadarko Energy Company, at the wellhead does not in and of itself determine that the gas is marketable at the wellhead because this is a sale between the producer and its wholly owned subsidiary.

It is a question of fact as to whether or not gas is marketable at the wellhead.

Rogers v. Westerman Farm Company, 99-SC-293, Colorado (July 2, 2001).

As to the ultimate issue raised in the Plaintiffs' Motion for Partial Summary Judgment, that being whether or not the Defendant is wrongfully deducting gathering expenses, a determination of fact as to whether or not the gas is marketable at the wellhead would first have to be made and then the trier of fact would have to determine as a matter of fact from the evidence whether or not compression was being utilized by the Defendant to produce gas from the wells from which the Plaintiff class has a royalty interest or used to market the gas produced or used as transportation or to enhance the value of an already marketable gas.

Since these are all questions are questions of fact that must be determined by preponderance of the evidence by the trier of fact, this Court finds there are controverted issues of material fact existing between the parties and denies the Plaintiffs' Motion for Partial Summary Judgment herein.

IT IS, THEREFORE, the order of this Court that the Plaintiff's Motion for Partial Summary Judgment shall be and is hereby denied.

Dated this 20th day of November, 2001.


Tom R. Smith, District Court Judge

CERTIFICATE OF SERVICE

I, Renata McCulloch, hereby certify that I mailed a true and correct copy of the above Journal Entry by United States mail, postage prepaid and properly addressed on the 20th day of November, 2001 to:

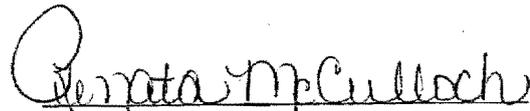
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Renata McCulloch