Allocation Wells - Still No Guidance from the Texas Legislature or Courts

By Garrett S. Martin | September 26, 2019

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The law regarding allocation wells — horizontal wells that cross several tracts and/or leases without pooling such interests — remains an evolving area. While many other jurisdictions, including Pennsylvania and Oklahoma, have passed legislation permitting and regulating allocation wells, the Texas legislature has yet to provide the same guidance to the oil and gas industry in Texas. And, while several cases have been filed challenging the validity of allocation wells, none of those cases has resulted in a decision from a Texas appellate court as of yet.

In 2015 Texas State Representative Tom Craddick introduced House Bill 1552 in an attempt to provide clarity regarding allocation wells. Oil and gas producers were in favor of the bill, which would have legislatively validated allocation wells in Texas and given producers guidance regarding payment of revenue among interest owners. Mineral owners, on the other hand, spoke out against the bill. House Bill 1552 fizzled without being passed, leaving the industry still at odds over the legality of allocation wells.

The failure of House Bill 1552 was followed by a new allocation well lawsuit concerning Barnett Shale acreage in Montague County, Texas, *Spartan Texas Six Capital Partners, Ltd. v. Perryman*. In that suit, mineral owners alleged that EOG Resources improperly unitized and pooled the mineral owners' acreage in violation of their leases. Claims between the mineral owners and EOG Resources were settled before trial.

In 2018, mineral owners filed a challenge to the Railroad Commission of Texas' grant of an allocation well permit to Devon in *Monroe Properties, Inc., SRO Land & Minerals, L.P. and the Lee M. Stratton Living Trust, Mary Elizabeth Stration, Trustee v. Railroad Commission of Texas*. Again, this matter settled before a final resolution. Later that same year, minerals owners filed an allocation well suit in Karnes County in *Opelia v. Enervest Operating, LLC*. That case is still pending.

Industry insiders predicted that a revised version of House Bill 1552 might be introduced in the 2019 legislative session, however, no allocation well bill was filed. The Texas Legislature does not meet again until 2021, leaving producers and mineral owners with legislative uncertainty for at least another two years. Eyes will remain on the *Opelia* case, and undoubtedly, additional allocation well suits will be filed in the interim.

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