

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Chief Judge Wiley Y. Daniel

Civil Action No. 09-cv-01226-WYD-KLM

RALPH RIGGS;
H. ALAN DILL;
ROBERT A. DILL;
IRMA DILL;
HENRY E. CARTWRIGHT; and
TERRY A. CARTWRIGHT,

Plaintiffs,

v.

OMNI OIL and GAS, INC., an Illinois corporation;
GORDON H. JOHNSON;
RONALD B. KUBICKI;
JAMES R. RENFRO; and
JOHN BARTON,

Defendants.

**ORDER ADOPTING AND AFFIRMING
MAGISTRATE JUDGE'S RECOMMENDATION**

THIS MATTER is before the Court in connection with Plaintiffs' Motion for Leave to File Second Amended Complaint and Jury Demand, filed March 4, 2010 [#56]. This motion was referred to Magistrate Judge Mix for a recommendation by memorandum dated March 4, 2010. A Recommendation of United States Magistrate Judge was issued on April 27, 2010 [#58], and is incorporated herein by reference. See 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b).

Magistrate Judge Mix recommends therein that Plaintiffs' motion be granted, and

that Plaintiff be permitted to amend the complaint to add Texita Trust as a Defendant.

Magistrate Judge Mix advised the parties that specific written objections were due within fourteen (14) days after service of the Recommendation. Despite this advisement, no objections were filed by any party to the Magistrate Judge's Recommendation. No objections having been filed, I am vested with discretion to review the Recommendation "under any standard [I] deem[] appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings"). Nonetheless, though not required to do so, I review the Recommendation to "satisfy [my]self that there is no clear error on the face of the record."¹ See Fed. R. Civ. P. 72(b) Advisory Committee Notes.

Having reviewed the Recommendation, I am satisfied that there is no clear error on the face of the record. I agree with Magistrate Judge Mix that the proposed amendment is not sought in bad faith, and will not cause undue delay or substantial prejudice, and I agree that the amendment would not be futile. Accordingly, it is hereby

ORDERED that the Recommendation of United States Magistrate Judge dated April 27, 2010 [#58], is **AFFIRMED and ADOPTED**. In accordance therewith, it is

ORDERED that Plaintiffs' Motion for Leave to File Second Amended Complaint and Jury Demand, filed March 4, 2010 [#56], is **GRANTED**. It is

¹ Note, this standard of review is something less than a "clearly erroneous or contrary to law" standard of review, Fed. R. Civ. P. 72(a), which in turn is less than a *de novo* review, Fed. R. Civ. P. 72(b).

FURTHER ORDERED that the Clerk of the Court accept for filing Plaintiff's
Second Amended Complaint and Jury Demand [#56-1].

Dated: May 17, 2010

BY THE COURT:

s/ Wiley Y. Daniel _____
Wiley Y. Daniel
Chief United States District Judge