

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Honorable R. Brooke Jackson

Civil Action No. 10-cv-03003-RBJ-CBS

MARK HAMILTON,

Plaintiff,

v.

MERIT ENERGY COMPANY,

Defendant.

**ORDER ADOPTING AND AFFIRMING SEPTEMBER 6, 2011 RECOMMENDATIONS
OF UNITED STATES MAGISTRATE JUDGE**

This matter is before the Court on the September 6, 2011 Recommendations by Magistrate Judge Craig B. Shaffer that defendant Merit Energy Company's Renewed Motion to Dismiss, Doc. # 17, be granted and that all claims asserted by plaintiff against defendant Merit Energy Company in the Complaint be dismissed. Doc. # 1.¹ The Recommendation is incorporated herein by reference. *See* 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b).

The Recommendation advised the parties that specific written objections were due within fourteen (14) days after being served with a copy of the Recommendation. Doc. # 22. Despite this advisement, no objections to Magistrate Judge Shaffer's Recommendation were filed by either party. "In the absence of timely objection, the district court may review a magistrate . . . [judge's] report under any standard it deems appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (citing *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that "[i]t does not

¹ On March 16, 2011 Magistrate Judge Shaffer held a preliminary Rule 16(b) Scheduling Conference during which he suggested to Mr. Hamilton that the original Complaint was problematic. The Magistrate Judge granted plaintiff's oral motion for leave to amend the Complaint. However, no amended complaint was filed.

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”).

The Court has reviewed all the relevant pleadings concerning defendant Merit Energy Company’s Motion to Dismiss and the Recommendation. Based on this review, the Court concludes that the Magistrate Judge’s thorough and comprehensive analyses and recommendations are correct and that “there is no clear error on the face of the record.” Fed. R. Civ. P. 72 advisory committee’s note. Therefore, the Court ADOPTS the Recommendation of The United States Magistrate Judge as the findings and conclusions of this Court.

Accordingly, it is ORDERED that the Recommendation of the United States Magistrate Judge, Doc. # 22, is AFFIRMED and ADOPTED. It is further ORDERED that defendant Merit Energy Company’s Renewed Motion to Dismiss, Doc. # 17, be GRANTED and all claims asserted by plaintiff are DISMISSED WITH PREJUDICE. It is further ordered that plaintiff’s Motion for Continuation of Facts, Doc. # 25, is denied as Moot.

DATED this 4th day of November, 2011.

BY THE COURT:

A handwritten signature in black ink, appearing to read "R. Brooke Jackson", written over a horizontal line.

R. Brooke Jackson
United States District Judge