

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of the Application of Brian L.) Docket No. 19-CONS-3107-CUIC
Birk dba Birk Petroleum to Amend the)
Injection Permit for the Merritt #5, located in) CONSERVATION DIVISION
Section 7, Township 23 South, Range 15)
East, Coffey County, Kansas.) License No. 31280
_____)

**ORDER DESIGNATING PREHEARING OFFICER
AND SETTING PREHEARING CONFERENCE**

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds the following:

1. On August 31, 2018, Brian L. Birk dba Birk Petroleum (Operator) filed an Application to amend the injection permit for the Merritt #5 well in Coffey County, Kansas.¹ Notice of the Operator’s Application was published in The Coffey County Republican newspaper on August 23, 2018.²

2. On August 27, 2018, Susan Royd-Sykes filed a letter of protest, and on September 13, 2018, Ms. Royd-Sykes filed a letter requesting a hearing.

3. The Commission finds that a Prehearing Officer should be designated in this proceeding to address any matters listed in K.S.A. 77-517(b), and a Prehearing Conference should be scheduled.

4. Although a Prehearing Officer is designated, parties are still required to file pleadings with the Commission, and filings shall be made with the Commission’s Docket Room before 5:00

¹ Application, p. 1 (Aug. 31, 2018).

² Affidavit of Publication (Sept. 14, 2018).

p.m. on the date scheduled for service. Any electronic service received after the deadline set forth in the procedural schedule, or any filing made after 5:00 p.m. on the date scheduled for service, shall be accompanied by a Motion to File Out-of-Time.

THEREFORE, THE COMMISSION ORDERS:

A. The Prehearing Officer in this proceeding shall be Michael J. Duenes, Assistant General Counsel, Kansas Corporation Commission, 1500 SW Arrowhead Road, Topeka, Kansas, 66604-4027, telephone number (785) 271-3181, email address m.duenes@kcc.ks.gov. The Commission may designate other Staff members to serve in this capacity. **The Commission directs electronic service of all filings in the docket to include service on the Prehearing Officer and mailed service of all filings to be directed to the Prehearing Officer's attention.**

B. A Prehearing Conference is scheduled for **Thursday, October 25, 2018, at 10:30 a.m.** by telephone. The conference call information is: telephone number (866) 620-7326, Conference Code PIN: 7632914771#.

C. At the Prehearing Conference, parties shall be prepared to discuss deadlines for filing testimony and briefs, discovery procedures, scheduling of a hearing with the Commission, and any other issues that will promote the orderly and prompt resolution of this proceeding.

D. At the Prehearing Conference, without further notice, this proceeding may be converted into a conference hearing or a summary proceeding for disposition of this matter as provided by the Kansas Administrative Procedure Act (KAPA). Any party that fails to attend or participate in the Prehearing Conference, hearing, or other stage of this proceeding may be held in default under the KAPA.³

E. A corporation shall appear before the Commission by a Kansas licensed attorney.⁴

³ K.S.A. 77-506; K.S.A. 77-516(c)(7)-(8).

⁴ K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

F. The attorney designated to appear on behalf of the agency in this proceeding is Lauren Wright, Litigation Counsel, telephone number (316) 337-6200, l.wright@kcc.ks.gov.

G. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 10/02/2018



Lynn M. Retz
Secretary to the Commission

Mailed Date: 10/03/2018

MJD

CERTIFICATE OF SERVICE

19-CONS-3107-CUIC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail and electronic service on 10/02/2018.

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/S/ DeeAnn Shupe

DeeAnn Shupe