

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

Before Commissioners: Pat Apple, Chairman  
Shari Feist Albrecht  
Jay Scott Emler

In the matter of the application of Quail Oil & Gas, LC to authorize injection of saltwater into the Arbuckle formation at the Sly 2-6 SWD well, located in Section 6, Township 17S, Range 6E in Morris County, Kansas. ) Docket No: 17-CONS-3484-CUIC  
)  
) CONSERVATION DIVISION  
) License No. 33185  
)

**ORDER ON OBJECTION BY PROTESTANTS TO NOTICE OF APPLICATION**

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 makes the following findings and conclusions:

**I. Background**

1. On January 12, 2017, Quail Oil & Gas, LC (Quail) filed an Application with the Commission seeking a permit to authorize the injection of saltwater into the Sly 2-6 SWD well, located in the NE/4 NE/4 SE/4 of Section 6, Township 17S, Range 6E in Morris County, Kansas.<sup>1</sup> The Application indicated a “Maximum Requested Injection Pressure” of 650 psig.<sup>2</sup>

2. On January 31, 2017, notice of the Application was published in the Council Grove Republican newspaper.<sup>3</sup> The notice stated that Quail filed an Application for a permit to authorize the injection of saltwater into the Arbuckle formation at the Sly 2-

---

<sup>1</sup> Quail Oil & Gas, LC, Application for Injection Well, p. 1 (Jan. 12, 2017) (Application).

<sup>2</sup> Application, pp. 1-2.

<sup>3</sup> Affidavit of Publication (Feb. 1, 2017).

6 SWD “with a maximum injection rate of 5000 bbls per day and *a maximum injection pressure of 500 psi.*”<sup>4</sup>

3. On April 24, 2017, Wray Valentine pre-filed direct testimony on Quail’s behalf, asserting that “the injection of saltwater into the Arbuckle formation . . . at a maximum injection pressure of 650 psig” will not “affect the correlative rights of others in the Camp Creek field or any of the producing wells within ¼ mile radius of the proposed injection well.”<sup>5</sup>

4. On May 22, 2017, Protestants filed an Objection to Notice of Quail’s Application, noting that Quail’s Application “is subject to the notice requirements of K.A.R. 82-3-135a.”<sup>6</sup> The Objection also explained that publication notice of the Application indicated a maximum injection pressure of 500 psi, while the Application itself and Mr. Valentine’s testimony indicated a requested injection pressure of 650 psi.<sup>7</sup> The Objection claimed the difference between 500 and 650 psi is material and that “[a]ctions predicated on a material defect in a legally required notice are void.”<sup>8</sup> Thus, the Objection asked the Commission to find Quail’s publication notice materially defective and dismiss the docket.<sup>9</sup>

5. On June 1, 2017, Quail filed a Response to Protestant’s Objection, asking the Commission to dismiss the Objection as moot and immaterial.<sup>10</sup> Quail’s Response stipulated that it “is seeking approval for a ‘maximum injection pressure of 500 psi’ as set

---

<sup>4</sup> *Id.* (Italics added).

<sup>5</sup> Pre-filed Testimony of Wray Valentine on Behalf of Quail Oil & Gas, LC, p. 3, lines 9-13 (Apr. 24, 2017).

<sup>6</sup> Objection by Protestants to Notice of Application, ¶ 1 (May 22, 2017).

<sup>7</sup> *Id.*, ¶¶ 2-4.

<sup>8</sup> *Id.*, ¶¶ 5-6 (citing *Genesis Health Club, Inc. v. City of Wichita*, 285 Kan. 1021, 1034, 181 P.3d 549 (2008), for the purported rule on “legally required notice”).

<sup>9</sup> *Id.*, ¶ 7.

<sup>10</sup> Applicant’s Response to Objection by Protestants to Notice of Application, p. 2 (June 1, 2017).

forth in the subject Notice.”<sup>11</sup> Further, Quail stated that its actual request of only 500 psi means the initial difference between the Application and notice does not prejudice the Protestants, who “will have a meaningful opportunity to be heard.”<sup>12</sup>

## **II. Findings and Conclusions**

6. K.A.R. 82-3-135a(d) requires that “[n]otice of [Quail’s] application shall be published in at least one issue” of the appropriate newspaper. While not invoked by either party, K.S.A. 55-605(a)’s general notice provision for conservation matters requires that “reasonable notice shall be given by the person initiating the proceedings.” These provisions do not provide any detail about what specific information must be included in the notice for it to be proper. General due process law requires notice to be that which is “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.”<sup>13</sup>

7. The Commission agrees with Quail that its stipulation that it is only seeking approval for a maximum injection pressure of 500 psi means that “[t]he maximum pressure set forth in the Notice and the maximum pressure the Applicant is seeking by stipulation are the same.”<sup>14</sup> The Commission, therefore, finds that Quail’s notice was reasonable, apprised interested parties of the pendency of this matter, afforded them an opportunity to be heard, and is proper. Thus, the Commission dismisses the Protestant’s Objection.

---

<sup>11</sup> *Id.*, ¶ 1.

<sup>12</sup> *Id.*, ¶ 4.

<sup>13</sup> *All. Mortg. Co. v. Pastine*, 281 Kan. 1266, 1275, 136 P.3d 457 (2006).

<sup>14</sup> See Applicant’s Response, ¶ 4.

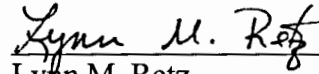
**THEREFORE, THE COMMISSION ORDERS:**

- A. The Objection by Protestants to Notice of Application is dismissed.
- B. The parties have fifteen (15) days from the date this Order was served by electronic mail in which to petition for reconsideration.<sup>15</sup>
- C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: JUN. 08 2017

  
\_\_\_\_\_  
Lynn M. Retz  
Secretary to the Commission

MJD

---

<sup>15</sup> K.S.A. 66-118b; K.S.A. 77-529(a)(1).

## **CERTIFICATE OF SERVICE**

I certify that on June 8, 2017, I caused a complete and accurate copy of this Order to be served electronically and via United States mail, with the postage prepaid and properly addressed to the following:

Joseph A. Schremmer  
Robert J. Vincze  
Depew Gillen Rathbun & McInteer, LC  
8301 East 21<sup>st</sup> St. North, Suite 450  
Wichita, KS 67206-2936  
*Attorneys for Quail Oil & Gas, LC*  
[joe@depewgillen.com](mailto:joe@depewgillen.com)  
[robert@depewgillen.com](mailto:robert@depewgillen.com)

Wray Valentine  
Quail Oil & Gas, LC  
P.O. Box K  
Garden City, KS 67846

Robert V. Eye  
Robert V. Eye Law Office, LLC  
Suite 1010  
4840 Bob Billings Parkway  
Lawrence, Kansas 66049  
*Attorney for Protestants*  
[bob@kauffmaneye.com](mailto:bob@kauffmaneye.com)

Elexa Dawson  
596 EF RD  
Cedar Point, KS 66843  
[elexadawson@gmail.com](mailto:elexadawson@gmail.com)

And delivered electronically to:

Jonathan R. Myers  
KCC Conservation Division  
[j.myers@kcc.ks.gov](mailto:j.myers@kcc.ks.gov)

/s/ Cynthia K. Maine  
Cynthia K. Maine  
Administrative Assistant  
Kansas Corporation Commission

Katherine Kelly  
10024 W. 55<sup>th</sup> St.  
Merriam, KS 66203  
[khkellyks@gmail.com](mailto:khkellyks@gmail.com)

Cindy Hoedel  
205 Mercer St.  
Matfield Green, KS 66862  
[cindyhoedel@gmail.com](mailto:cindyhoedel@gmail.com)

Regina Compernelle  
4141 Joyce Dr.  
Kansas City, KS 66104  
[sacred\\_earth@aol.com](mailto:sacred_earth@aol.com)

Karla Jo Grimmatt  
1577 S 500 Rd.  
Council Grove, KS 66846  
[karlajogrimmett@gmail.com](mailto:karlajogrimmett@gmail.com)

Michael J. Duenes  
Assistant General Counsel  
[m.duenes@kcc.ks.gov](mailto:m.duenes@kcc.ks.gov)