

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

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

In the Matter of an Order to Show Cause ) Docket No: 18-CONS-3096-CSHO  
issued to CNB Enterprises (“Operator”) )  
regarding responsibility under K.S.A. 55-179 ) CONSERVATION DIVISION  
for unplugged wells on an expired license. )  
\_\_\_\_\_ ) License No. 31394

**DEFAULT ORDER**

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 and concludes as follows:

**I. JURISDICTION**

1. K.S.A. 77-520 provides that if a party fails to attend any stage of an adjudicative proceeding, the agency may issue a default order with a statement of the grounds. The party has seven days to file a written motion to vacate the default order, which shall state the grounds relied upon.

**II. FINDINGS OF FACT**

2. On the Motion of Commission Conservation Staff (Staff), the Commission issued an Order requiring the Operator’s attendance at a Prehearing Conference in anticipation of an evidentiary hearing, due to the presence of unplugged wells on the Operator’s license (“subject wells”).<sup>1</sup>

3. On November 14, 2017, a Prehearing Conference was held. The Operator failed to attend, and Staff indicated its desire for a continuance.

<sup>1</sup> *Order to Show Cause, Designating a Prehearing Officer, and Setting a Prehearing Conference*, Ordering Clauses A & C (Oct. 19, 2017).

4. On November 16, 2017, Staff filed a Motion to Reschedule Prehearing Conference, stating that “[o]ut of an abundance of caution, Staff requests that the prehearing conference be rescheduled for the third week of January 2018 . . . to facilitate further conversation between Staff and Operator regarding how to best resolve this Commission docket, and to determine whether the outcome should be affected by the bankruptcy proceeding” involving one of the Operator’s partners.<sup>2</sup>

5. On November 27, 2017, the Prehearing Officer rescheduled the Prehearing Conference for January 16, 2018.<sup>3</sup> The Prehearing Officer ordered that “[a]ny party that fails to attend or participate in the status conference, hearing, or other stage of this proceeding may be held in default pursuant to the Kansas Administrative Procedure Act.”<sup>4</sup>

6. On January 16, 2018, another Prehearing Conference was held. The Operator again did not appear. Staff indicated that notice of the Prehearing Conference was proper and stated it would file a written motion for a default order.

7. On January 22, 2018, Staff filed a Motion for Default Order, noting that the Operator failed to appear at two Prehearing Conferences, that the Operator had received proper notice to attend a Prehearing Conference, had failed to do so, and thus, default is proper.<sup>5</sup> Staff also asked that the Operator’s license be suspended until compliance is obtained and that Staff be directed to place the subject wells on the appropriate state plugging list, to plug them according to priority and as funds allow, and to assess the plugging costs to the Operator.<sup>6</sup> Staff further asked that any injection authorizations applicable to the subject wells be revoked.<sup>7</sup>

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<sup>2</sup> Motion to Reschedule Prehearing Conference, ¶ 2 (Nov. 16, 2017).

<sup>3</sup> *Prehearing Officer Order Rescheduling Prehearing Conference*, Ordering Clause A (Nov. 27, 2017).

<sup>4</sup> *Id.* at Ordering Clause B.

<sup>5</sup> Motion for Default Order, ¶¶ 2-4 (Jan. 22, 2018).

<sup>6</sup> *Id.* at ¶ 5.

<sup>7</sup> *Id.*

### III. CONCLUSIONS OF LAW

8. The Commission finds the Operator's failure to attend the Prehearing Conference constitutes default.<sup>8</sup> Staff's Motion for a Default Order should be granted.

#### **THEREFORE, THE COMMISSION ORDERS:**

A. Staff's Motion for a Default Order is granted.

B. The Operator's license shall be suspended until such time as compliance is obtained by the Operator plugging the subject wells, reimbursing the Commission for the costs of plugging the subject wells, or transferring the subject wells to a licensed operator.

C. Staff is directed to place the subject wells on the appropriate state plugging list, to plug them according to priority and as funds allow, and to assess the plugging costs to the Operator. This shall not preclude Staff from investigating additional potentially-responsible parties.

D. Staff is directed to revoke any injection authorizations applicable to the subject wells.

E. Pursuant to K.S.A. 77-520(b), any party may file a written motion requesting that this Default Order be vacated and stating the grounds relied upon, within seven calendar days after service of this Order, with three additional days added to account for service by mail.

F. If a motion to vacate is not filed by the deadline, any party may then file a petition for reconsideration pursuant to K.S.A. 77-529(a) within 15 days. The petition shall be addressed to the Commission and sent to 266 N. Main, Suite 220, Wichita, Kansas 67202. Reconsideration is a prerequisite for judicial review.

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

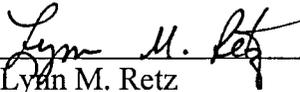
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<sup>8</sup> See K.S.A. 77-516(c)(8); K.S.A. 77-520.

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

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated:           FEB 08 2018          

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

Mailed Date:           FEB 09 2018          

MJD

***EMAILED***

FEB 08 2018

**CERTIFICATE OF SERVICE**

I certify that on FEB 08 2018, I caused a complete and accurate copy of this Order to be served via United States mail, with the postage prepaid and properly addressed to the following:

Harve Newlin  
CNB Enterprises  
PO Box 207  
Yates Center, KS 66783

David Prella Eron  
Eron Law  
229 E. William, Suite 100  
Wichita, KS 67202

and delivered by e-mail to:

Jonathan R. Myers, Litigation Counsel  
KCC Wichita Central Office

Michael J. Duenes, Assistant General Counsel  
KCC Topeka Office

/s/ DeeAnn Shupe  
DeeAnn Shupe, KCC Docket Room

**EMAILED**

FEB 08 2018