

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

In the Matter of the Application of Neal LaFon)	Docket No.: 22-CONS-3422-CUNI
Realty Inc. dba Meridian Energy Inc. for an)	
Order Authorizing the Unitization and Unit)	CONSERVATION DIVISION
Operation of the Simon Says Unit to be located)	
in Rawlins County, Kansas.)	License No.: 33937

**RESPONSE TO OPERATOR'S FIRST RESPONSE TO
THE COMMISSION'S INFORMATION REQUEST**

Staff of the Kansas Corporation Commission (Staff and Commission, respectively) submits its Response to the First Response to the Commission's Information Request filed on behalf of Neal Lafon Realty Inc. dba Meridian Energy Inc. (Operator) on August 5, 2022. In support of its Response, Staff states the following:

1. On June 30, 2022, the Commission issued an Order Requesting Additional Information. The Commission's Order requested further information demonstrating the formations Operator proposes to unitize upon the lands in question constitute natural reservoirs "in communication so as to constitute a single pressure system so that production from one part of the pool affects the pressure throughout its extent."¹ Specifically, the Commission directed Operator to explain how such information demonstrates the formations proposed to be unitized constitute a pool as defined under K.S.A. 55-1302(b).² To the extent Operator does not believe the formations are in communication, the Commission directed Operator to explain how it believes the Commission has the legal basis to grant its application.³

¹ Docket 22-CONS-3422-CUNI, *Order Requesting Additional Information*, ¶5 (June 30, 2022).

² *Id.* at ¶5(A).

³ *Id.*

2. Kansas statutes define “pool” as an underground accumulation of oil and gas in one or more natural reservoirs in communication so as to constitute a single pressure system so that production from one part of the pool affects the pressure throughout its extent.⁴

3. On August 5, 2022, Operator submitted its First Response to the Commission’s Information Request where Operator appears to take the position that the Commission possesses the legal authority to grant its Application and order the unitization and unit operation of the formations beneath the proposed unit area, regardless of whether there is one pool or several pools that would be unitized.⁵ Operator’s Response does not appear to argue that the formations proposed to be unitized currently constitute a pool, but that a common pool will be created once the proposed plan of unit operations is implemented.⁶

4. Operator, in its Response, claims that the Kansas compulsory unitization statutes do not prohibit the Commission from granting a compulsory unitization application that seeks to unitize multiple pools in a single order.⁷ Operator also claims it would be economic waste if Operator was forced to file numerous largely duplicative applications.⁸ Staff has considered Operator’s application on a formation by formation basis and determined that it would recommend approval of Operator’s applications if Operator was required to file applications for each formation to be a part of the unit.

5. Operator also relies on the *Trees* case in stating that a common “pool” is created through wellbore communication.⁹ In the matter of the application of C12 Kansas Oil, LLC, for an order providing for the unitization and unit operation of the Post Rock Unit in Russell County,

⁴ K.S.A. 55-1302(b).

⁵ Docket 22-CONS-3422-CUNI, *First Response to the Commission’s Information Request*, p. 2 (Aug. 5, 2022).

⁶ *Id.* at p. 5.

⁷ *Id.* at p. 2.

⁸ *Id.* at p. 3-4.

⁹ *First Response to the Commission’s Information Request*, p. 4.

Kansas, the Commission partially based its decision to deny the application based upon the proposed operations resulting in two separate pools.¹⁰ The applicant's plan in that matter would have isolated all other zones from the Lansing-Kansas City, thereby creating separate pools. However, the application in the present docket can be differentiated in that there does not appear to be any plans to isolate any specific formation once a well is drilled. The issue then becomes that there is not a well perforated into each of the formations listed in Operator's Application in the present docket.

6. Operator's Response also addresses the issue of whether wellbore commingling must exist before the filing of an application under the Kansas compulsory unitization statutes.¹¹ In the matter of the application of Lario Oil & Gas Company for an Order Authorizing the Unitization and Unit Operations of the Feiertag Unit in Scott County, Kansas, the Commission issued an Order on Lario's Unitization Application wherein the application was denied because the applicant failed to demonstrate that its proposed unit met the "single pressure system" standard required for unitization approval.¹² Specifically, the Commission found that the "single pressure system" requirement may not be set aside in favor of the Commission fulfilling its statutory policy requirement to prevent waste, conserve oil and gas, and protect correlative rights.¹³ Further, the Commission found that both requirements are statutory requirements and must be met in order to approve a plan of unitization.¹⁴ Additionally, the Kansas Court of Appeals affirmed the Commission's Order in the Lario matter.¹⁵

¹⁰ Docket 15-CONS-009-CUNI, *Order Denying Application*, ¶¶ 40-41 (May 7, 2015).

¹¹ *Id.*

¹² Docket 17-CONS-3516-CUNI, *Order on Lario's Unitization Application*, ¶46 (Nov. 2, 2017).

¹³ *Id.* at ¶32.

¹⁴ *Id.*

¹⁵ *Lario Oil & Gas Company v. Kansas Corporation Commission*, 57 Kan.App.2d. 184, 450 P.3d 353 (Aug. 23, 2019).

7. Based on the Lario decision, Staff believes that the formations at issue need to be in pressure communication with one another prior to granting Operator's Application. However, requiring Operator to perforate and commingle each zone referenced in its application regardless of whether they are productive or not, would cause waste. A potential solution would be to hold Operator's Application in abeyance for a period of time to allow Operator the opportunity to drill a well, determine what zones are productive, perforate the productive zones to form a common pool, and then amend the application, if necessary. This would prevent Operator from unnecessary largely duplicative filings and costs for each formation, and resolve any concerns the Commission may have in making sure the Commission's Order complies with Kansas statutes.

Respectfully submitted,

/s/ Kelcey Marsh

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CERTIFICATE OF SERVICE

22-CONS-3422-CUNI

I, the undersigned, certify that a true and correct copy of the attached Response to Operator's First Response to the Commission's Information Request has been served to the following by means of electronic service on August 19, 2022.

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