

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

In the Matter of the Application of Z & L Oil LLC) Docket No.: 24-CONS-3009-CUIC
(Operator) for a Permit to Authorize the Injection)
of Saltwater into the Pfhrem #3A Well Located in) CONSERVATION DIVISION
the NW/4 of Section 18, Township 31 South,)
Range 10 East, Elk County, Kansas.) License No.: 35160

**RESPONSE TO MOTION TO DETERMINE
SUFFICIENCY OF PUBLICATION NOTICE**

Comes now the Staff of the Kansas Corporation Commission (Staff and Commission, respectively) in response to the motion to determine sufficiency of publication notice filed on behalf of Operator. In support of its response, Staff states as follows:

I. BACKGROUND

1. On April 4, 2023, Operator filed pages 1-4 of its application for a permit to authorize the injection of saltwater into the Pfhrem #3A well (Subject Well), API #15-049-22595. On May 24, 2023, Operator completed its application upon filing a signed and notarized page 5 of the application.

2. On July 13, 2023, Operator filed its Affidavit of Publication from the Prairie Star newspaper. Notice of Operator's application was published in the newspaper on June 22, 2023.

3. On July 24, 2023, a Notice of Protest and Request for Hearing was timely filed by Mr. Frank Wilson.

4. On July 27, 2023, the Commission issued an Order Designating Presiding Officer and Setting Prehearing Conference, wherein a prehearing conference was scheduled for August 24, 2023. At the prehearing conference, the parties discussed the potential notice issue which led to Operator's motion.

II. ARGUMENT

5. The Commission's Disposal and Enhanced Recover Well Rules are contained in the K.A.R. 82-3-400 series of the general rules and regulations for the Conservation Division. Specifically, K.A.R. 82-3-402 states that each applicant shall give notice of the application either to those persons listed in K.A.R. 82-3-135a(c). Notice shall be mailed or delivered on or before the date the application is filed with the Conservation Division. Notice of the application shall be published in at least one issue of the official county newspaper of each county in which the lands involved are located.

6. K.A.R. 82-3-135a(c) states that each applicant for an order or permit filed pursuant to K.A.R. 82-3-400 through 82-3-412 and K.A.R. 82-3-600 through 82-3-607 shall give notice of the application on or before the date the application is filed with the Conservation Division by mailing or delivering a copy of the application to: (1) each operator or lessee of record within a one-half mile radius of the well or of the subject acreage; (2) each owner of record of the minerals in unleased acreage within a one-half mile radius of the well or of the subject acreage; and (3) the landowner on whose land the well affected by the application is located.

7. Operator seeks an injection permit for the Subject Well. Commission records indicate that the Subject Well is located in Elk County and that the Prairie Star is the official county newspaper for Elk County. Based on Operator's application, notice of the application was provided to all offset operators, unleased mineral owners, and the landowner prior to the application being completely filed on May 24, 2023.¹

8. While Operator initially published notice prior to the application being filed with the Conservation Division, Operator later republished notice of its application after the application

¹ See Application – Z & L Oil LLC, p. 3, 5 (May 24, 2023).

was completely filed with the Conservation Division. Further, the publication provides: (1) the correct county for the Subject Well, (2) the correct spot location and Section, Township, and Range for the Subject Well, (3) the same rate and pressure as requested on the application, and (4) provides that any interested parties have 30 days to protest the application.

9. Staff’s position is that the notice provided by Operator is sufficient to put a reasonable person on notice regarding the application for injection where the Subject Well is located. As Operator states in its motion, “palpable irregularit[ies in a publication notice] cannot be regarded as a fatal defect.”² While there is a discrepancy in the counties listed on the publication, there is enough information to cause any interested person to further research the impact the application may have. That combined with the correct Section, Township, and Range would lead the interested person to the exact location of the Subject Well. Thus, the palpable irregularity in the publication is not a fatal defect in Staff’s opinion and Staff’s position is that the notice of the application is sufficient.

WHEREFORE, Staff recommends that the Commission find that the notice published in the Prairie Star is sufficient.

Respectfully submitted,

/s/ Kelcey Marsh
Kelcey A. Marsh, #28300
Litigation Counsel | Kansas Corporation Commission
266 N. Main, Suite 220 | Wichita, Kansas 67202-1513
Phone: 316-337-6200 | Email: k.marsh@kcc.ks.gov

² Motion to Determine Sufficiency of Publication Notice, ¶7 (Sept. 1, 2023); *see also* Dumback v. Tarkowski, 195 Kan. 26, 28 (1965).

CERTIFICATE OF SERVICE

24-CONS-3009-CUIC

I, the undersigned, certify that a true and correct copy of the attached Response to Motion to Determine Sufficiency of Publication Notice has been served to the following by means of electronic service on September 12, 2023.

KEITH A. BROCK, ATTORNEY
ANDERSON & BYRD, L.L.P.
216 S HICKORY
PO BOX 17
OTTAWA, KS 66067
kbrock@andersonbyrd.com

TODD BRYANT, GEOLOGIST SPECIALIST
KANSAS CORPORATION COMMISSION
266 N. Main St., Ste. 220
WICHITA, KS 67202-1513
t.bryant@kcc.ks.gov

RYAN COX, UIC DEPARTMENT
KANSAS CORPORATION COMMISSION
266 N. Main St., Ste. 220
WICHITA, KS 67202-1513
r.cox@kcc.ks.gov

KELCEY MARSH, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
CENTRAL OFFICE
266 N. MAIN ST, STE 220
WICHITA, KS 67202-1513
k.marsh@kcc.ks.gov

JONATHAN R. MYERS, ASSISTANT GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
266 N. Main St., Ste. 220
WICHITA, KS 67202-1513
j.myers@kcc.ks.gov

FRANK L. WILSON
1907 MISTYVALE CT
RICHMOND, TX 77406-1363
fwilson1952@hotmail.com

/s/ Paula J. Murray
Paula J. Murray
