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April 18, 2017

Kansas Corporation Commission  
Attn: Conservation Division Legal Staff  
266 N Main Street, Suite 220  
Wichita, KS 67202

**Re: Docket No. 17-CONS-3523-CWLE—In the Matter of the Application of TDR Construction, Inc., for Well Location Exceptions for its Duffy #31 and #32 wells located in Section 32-T15S-R21E, Franklin County, Kansas**

To whom it may concern,

Oil Sources Corp. ("OSC") hereby submits its protest to the above-referenced application ("Application"). OSC is a Kansas corporation duly authorized and in good standing with the Kansas Secretary of State. OSC has a mailing address 5128 W 164<sup>th</sup> St., Overland Park, KS, 66085. OSC has been licensed by the Commission to operate oil and gas wells under operator's license # 34585.

### *Background*

OSC is the operator and owner of the Blevins Lease. The Blevins #11 and #12 wells are located upon the Blevins Lease, were drilled in October and November of 2014, respectively, and produce oil from the Squirrel sand formation (approximately 800' TVD).<sup>1</sup> As depicted on Exhibit B to the Application, the Blevins Lease (f/k/a the Two Bros Lease) directly offsets the Duffy Lease to the West.

TDR Construction, Inc. ("TDR"), drilled the Duffy #31 and #32 wells ("Duffy wells") on its Duffy Lease in December of 2010 and July of 2011, respectively. Although TDR obtained

<sup>1</sup> Notably, OSC obtained a well location exception for its Blevins #11 and #12 wells under Docket No. 15-CONS-107-CWLE. The Blevins #11 and #12 wells are not located nearer than 165' from the Duffy Lease line, rather they are drilled nearer than 165' from the West line of the Blevins Lease.

Commission approval to drill the Duffy wells at legal locations, TDR intentionally and maliciously drilled the Duffy wells inside the 165' minimum setback from the Blevins lease line. TDR did this in willful disregard for Commission rules and regulations, and for no other purpose than to unlawfully drain hydrocarbon reserves from beneath the Blevins Lease in a deliberate violation of the correlative rights of OSC and its lessors.

Thereafter, in a calculated effort to conceal its misconduct from the Commission, TDR filed fraudulent well completion reports misrepresenting the location of the Duffy wells as legal. For in excess of 6 years TDR unlawfully produced oil and gas from the Duffy wells in abject and willful violation of the Commission regulations and the correlative rights of OSC and its Lessors.

By letter dated January 17, 2017, OSC notified the Commission that the Duffy wells were unlawfully encroaching upon the Blevins Lease and requested prompt corrective action. By letter dated February 1, 2017, Commission staff requested that TDR shut-in the Duffy wells until a well location exception was granted. Sometime later the wells were shut-in, except that TDR continues to produce gas from the Duffy #32 well.

### *Commission Regulations*

The Duffy wells were drilled in violation of Commission rules, are unlawful, and are presumed to violate the correlative rights of OSC and its lessors, and constitute waste. No well drilled to a total depth of less than 2000' in Franklin County, Kansas, shall be drilled nearer than 165' from a lease boundary line. K.A.R. 82-3-108(b)(1). Any well drilled nearer than 165' from a lease boundary line without a previously obtained well location exception shall be prohibited from producing oil or gas until an appropriate allowable is determined. K.A.R. 82-3-108(h). Further, any well drilled in violation of Commission rules shall be considered unlawful, presumed to be in violation of correlative rights, and to constitute waste. K.A.R. 82-3-110(a). A well location exception may only be granted if it is necessary to prevent waste or protect correlative rights. K.A.R. 82-3-108(c). If good cause cannot be shown for the drilling of the well at an unlawful location, or it is determined that a well location exception should be denied, the Commission may order a well plugged and abandoned or produced at a reduced rate to ensure protection of correlative rights and the prevention of waste. K.A.R. 82-3-110.

There is no question TDR drilled the Duffy wells at a location well inside the prescribed minimum setback from the Blevins Lease. Application ¶¶ 3-4. Under Commission Regulations the Duffy wells are therefore unlawful, and presumed to violate the correlative rights of OSC and its lessors, and constitute waste. Indeed, TDR drilled the Duffy wells at unlawful locations for no purpose other than to drain hydrocarbon reserves from beneath the Blevins Lease.

In its Application, TDR claims the Duffy wells were drilled at these unlawful locations to "avoid surface obstructions" and based upon "geologic evaluations." No further details are offered and no supporting evidence provided. A cursory review of an aerial map belies TDR's statements concerning surface obstructions—the permitted locations were equally suited for drilling as the unlawful locations. OSC is skeptical that there is any legitimate geophysical support for the unlawful locations, and none has been furnished by TDR.



TDR cannot show the Duffy wells were drilled at these unlawful locations to protect against offset drainage, as the Duffy wells predate the drilling of any wells on the Blevins Lease by nearly 4 years. TDR has yet to furnish any geophysical data supporting that the unlawful locations are necessary to prevent waste, and the presumption is that the wells constitute waste. The fact of the matter is that TDR deliberately drilled the Duffy wells inside the setback in order to drain hydrocarbons from beneath the Blevins Lease, then concealed its misconduct from the Commission for a period in excess of 6 years. TDR cannot show good cause for violating the Commission's minimum setback requirements, nor can it show the drilling of the Duffy wells was necessary to prevent waste or protect correlative right, therefore the Application should be denied.

*Relief Requested*

OSC respectfully requests that the Commission deny TDR's Application for well location exceptions, and order the Duffy wells immediately plugged and abandoned. In the alternative, OSC requests that the Commission order the Duffy wells shut-in for a period of time equal to the period of time those wells unlawfully produced oil and gas in violation of the correlative rights of OSC. This will allow for OSC to make up for the uncompensated drainage caused by TDR's misconduct.

Consistent with the mandates of K.A.R. 82-3-108(h), OSC also requests that the Commission immediately order TDR to cease producing gas from the Duffy #32 until a proper allowable, if any, can be determined. Such an order is necessary to prevent TDR from continuing to violate OSC's correlative rights.

Respectfully submitted,



Jonathan A. Schlatter  
For the Firm

*Attorneys for Oil Sources Corp.*

JAS/cda

cc: Thomas M. Rhoads, *Attorney for TDR Construction*  
Jon Myers, *KCC Litigation Counsel*