## THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

Before Commissioners:

Jay Scott Emler, Chairman

Shari Feist Albrecht

Pat Apple

In the matter of an Order to Show Cause issued	)	Docket No.: 16-CONS-4131-CSHO
to Summer Sun Gas L.L.C. ("Operator")	)	
regarding responsibility under K.S.A. 55-179	)	CONSERVATION DIVISION
for plugging the Brown #2 well in Chautauqua	)	
County, Kansas.	)	License No.: 6880

## RESPONSE TO MOTION TO INTERVENE & FOR DISMISSAL OR REALIGNMENT

In response to the October 11, 2016, motion of Gary D. Cude and Summer Sun Gas, Inc., Commission Staff submits the following:

- 1. Commission Staff is not opposed to Gary D. Cude and Summer Sun Gas, Inc., being joined as parties to this proceeding, as their motion states that Summer Sun Gas, Inc., has assumed the business and assets of Summer Sun Gas, L.L.C. Until such time as Summer Sun Gas, Inc., or Gary D. Cude explicitly state that they are willing to assume all obligations of Summer Sun Gas, L.L.C., however, Staff believes that entity should remain a party to these proceedings, as that entity is and was responsible for the Brown #2 well.
- 2. Staff believes it would be inappropriate to join John Brown or Ronald E. Brown as parties to this proceeding without those two individuals being given an opportunity to respond to Summer Sun's motion to join them. It appears from Summer Sun's filing that it did not provide those two individuals with a copy of its motion to join them, which Summer Sun seems to acknowledge by its filing yesterday of a supplemental certificate of mailing. Aside from the notice issue, Staff is generally unopposed to John Brown or Ronald E. Brown being joined, although Staff does not yet take a position regarding whether those two individuals share responsibility for the Brown #2 along with Summer Sun.

denied access to the Brown #2. Further, at no time have Gary D. Cude or Summer Sun sought

the aid of Commission Staff in obtaining access to the well, although Summer Sun has spoken to

Staff regarding eventually seeking such aid if necessary.

4. Staff strongly opposes the substitution of John Brown and Ronald E. Brown for

Staff denies Gary D. Cude's and Summer Sun's statement that Staff has been

Summer Sun in this proceeding. The evidence Staff intends to present will clearly demonstrate

that Summer Sun is responsible for the Brown #2 pursuant to K.S.A. 55-179(b). Multiple parties

may be responsible for abandoned wells, and the question of whether John Brown or Ronald E.

Brown may also be responsible for the well does not absolve Summer Sun of its responsibility

pursuant to statute. At a minimum, the issues in this case provide a mixed question of fact and

law, in a situation where given the current stage of the proceeding, no facts have been presented

to the Commission. Thus, it would be inappropriate to remove Summer Sun from the proceeding.

Staff should be allowed to present its case at hearing, and if Summer Sun disputes responsibility

for the Brown #2, it may present its case as well.

Respectfully submitted,

3.

Jonathan R. Myers #25975

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## **CERTIFICATE OF SERVICE**

I certify that on
Jon R. Viets 201 N. Penn Avenue, Suite 604 P.O. Box 1176 Independence, Kansas 67301 Attorney for Summer Sun Gas & Gary D. Cude
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Ronald R. Brown 409 S. Chautauqua Sedan, Kansas 67361
And delivered by email to:
John McCannon Conservation Division Central Office

Paula Murray
Legal Assistant
Kansas Corporation Commission