

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of an Order to Show Cause)	Docket No.: 18-CONS-3338-CSHO
issued to Viva International, Inc.)	
("Operator") for its failure to comply with)	CONSERVATION DIVISION
K.A.R. 82-3-603 at the Mitchell lease and)	
<u>Wright lease in Linn County, Kansas.</u>)	License No.: 5556

PROPOSED 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, which shall state the grounds relied upon.

II. FINDINGS OF FACT

2. On June 7, 2018, the Commission issued the Order to Show Cause, Designating a Prehearing Officer, and Setting a Prehearing Conference. The Commission found reasonable cause existed that the Operator violated Commission regulations regarding Staff's allegations the Operator committed eighteen violations of K.A.R. 82-3-603(b)(2) for failure to notify the appropriate Commission District Office of spills and eighteen violations of K.A.R. 82-3-603(e)(1)

for failure to timely remediate spills on the Wright and Mitchell leases in Linn county, Kansas.¹

The Commission set the Prehearing Conference for July 3, 2018.²

3. On July 3, 2018, the Prehearing Officer convened the Prehearing Conference. The Operator failed to attend and Staff verbally moved for default.

III. CONCLUSIONS OF LAW

4. 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. Within seven days after service of a proposed default order, the party against whom it was issued has seven days to file a written motion to vacate, which shall state the grounds relied upon.

5. Pursuant to K.S.A. 77-520(a), the Commission finds the Operator's failure to attend the Prehearing Conference constitutes default.

THEREFORE, THE COMMISSION ORDERS:

A. The Operator, Viva International, Inc., is found to be in default.

B. 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. If no request to vacate is received the default order becomes effective and the Commission may conduct further proceedings necessary without participation of the defaulted party.

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it may deem necessary.

¹ Order to Show Cause, Designating a Prehearing Officer, and Setting a Prehearing Conference at 2-3(Jun. 7, 2018).

² Order to Show Cause, Designating a Prehearing Officer, and Setting a Prehearing Conference (Jun. 7, 2018).

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 07/12/2018



Lynn M. Retz
Secretary to the Commission

Mailed Date: 07/13/2018

DLK/sc

CERTIFICATE OF SERVICE

18-CONS-3338-CSHO

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of
electronic service on 07/12/2018.

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/S/ DeeAnn Shupe

DeeAnn Shupe