

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

Before Commissioners:                    Andrew J. French, Chairperson  
   Dwight D. Keen  
   Susan K. Duffy

In the matter of failure of Curtis Clark dba Clark )    Docket No: 21-CONS-3179-CUNI  
Exploration Co. (Operator) to comply with K.A.R. )  
82-3-111 at the Ballet #2, Ballet #3, Ballet #12, Ballet )    CONSERVATION DIVISION  
Ranch #7, Ballet Ranch #8, Ballet Ranch A #11, )  
Ballet Ranch Twin #1, Clark Ranch #1 and Clark )    License No: 9026  
Ranch #2 in Barber and Comanche County, Kansas. )

**ORDER DESIGNATING PRESIDING OFFICER  
AND SETTING PREHEARING CONFERENCE**

The Commission rules as follows:

1.        On March 2, 2021, the Commission issued a Penalty Order against Curtis Clark (Operator) for nine violations of K.A.R. 82-3-111 because nine wells for which Operator is responsible had been inactive in excess of the time allowed by regulation without being plugged, returned to service, or approved for temporary abandonment status.<sup>1</sup>
2.        On March 25, 2021, Kathleen Clark requested a hearing, representing that she was doing so on behalf of Operator via power of attorney.
3.        Under K.S.A. 77-551(c), the Commission finds a Presiding Officer should be designated in this proceeding to determine procedural matters that may arise prior to a hearing on the merits, including but not limited to conducting prehearing conferences.<sup>2</sup>
4.        The Commission finds a Prehearing Conference should be scheduled.
5.        Under K.A.R. 82-1-228(d)(1), any party may either “appear before the Commission and be heard in person on that party’s own behalf,” or appear before the Commission through a

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<sup>1</sup> See Penalty Order, ¶¶ 6, 10 (Mar. 2, 2021).

<sup>2</sup> See also K.S.A. 77-516 and K.S.A. 77-517.

licensed attorney. A non-lawyer may not represent the interests of another before a tribunal; power of attorney is not sufficient to authorize the agent to practice law.<sup>3</sup>

**THEREFORE, THE COMMISSION ORDERS:**

A. The Presiding Officer for prehearing matters in this proceeding shall be Jonathan R. Myers, Assistant General Counsel, Kansas Corporation Commission, 266 N. Main Street, Suite 220, Wichita, Kansas, 67202-1513, telephone number (316) 337-6245, email address j.myers@kcc.ks.gov. The Commission may designate other Staff members to serve in this capacity.

B. A Prehearing Conference is scheduled for **Thursday, May 6, 2021, at 1:30 p.m.** by telephone. The conference call information is: telephone number (866) 620-7326, Conference Code PIN: 3902542751. **Curtis Clark must either: (1) appear and represent himself, or (2) appear through a licensed attorney. Ms. Clark may not represent Mr. Clark. If Mr. Clark is to appear via an attorney, the attorney is directed prior to the prehearing conference to: (1) file an entry of appearance, and (2) submit documentation demonstrating Ms. Clark had sufficient power of attorney to elect to pursue a hearing on Mr. Clark's behalf.**

C. At the Prehearing Conference, parties shall be prepared to discuss deadlines for filing testimony and briefs, discovery procedures, scheduling of a hearing with the Commission, and any other issues that will promote the orderly and prompt resolution of this proceeding. At the Prehearing Conference, without further notice, this proceeding may be converted into a conference hearing or a summary proceeding for disposition of this matter as provided by the Kansas Administrative Procedure Act (KAPA). Any party that fails to attend or participate in the Prehearing Conference, hearing, or other stage of this proceeding may be held in default under the KAPA.<sup>4</sup>

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<sup>3</sup> See, e.g., *Stephan v. Williams*, 246 Kan. 681, 689 (1990); Kan. Atty. Gen. Op. 93-100 (Jul. 26, 1993); see also *Office of Disciplinary Counsel v. Coleman*, 88 Ohio.St.3d 155, 157 (2000) (“Persons holding power of attorney have historically not been considered attorneys who can appear in courts”); *Jones v. Brooks*, 97 A.3d 97, 103 (D.C. 2014) (examining various state laws).

<sup>4</sup> K.S.A. 77-506; K.S.A. 77-516(c)(7)-(8).

D. Although a Presiding Officer is designated, parties are still required to file pleadings with the Commission, and filings shall be made with the Commission's Docket Room. Any filing received after 5:00 p.m. shall be considered filed the next business day. In addition, any late filing shall be accompanied by a Motion to File Out-of-Time. **The Commission directs electronic service of all filings in the docket to include service on the Presiding Officer and mailed service of all filings to be directed to the Presiding Officer's attention.**

E. The attorney designated to appear on behalf of the agency in this proceeding is Kelcey Marsh, Litigation Counsel, telephone number (316) 337-6200, k.marsh@kcc.ks.gov.

**BY THE COMMISSION IT IS SO ORDERED.**

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 04/08/2021



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Lynn M. Retz  
Executive Director

Mailed Date: 04/08/2021

JRM

**CERTIFICATE OF SERVICE**

21-CONS-3179-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of

first class mail and electronic service on 04/08/2021.

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/S/ DeeAnn Shupe

DeeAnn Shupe