

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

Before Commissioners: Pat Apple, Chairman
Shari Feist Albrecht
Jay Scott Emler

IN THE MATTER OF THE APPLICATION)	Docket No. 18-CONS-3240-CWLE
OF TRANS PACIFIC OIL CORPORATION)	
FOR A WELL LOCATION EXCEPTION FOR)	License No. 9408
THE J. WILLIAM UNIT #3-29 WELL IN)	
SECTION 29, TOWNSHIP 14 SOUTH,)	
RANGE 32 WEST, LOGAN COUNTY,)	CONSERVATION DIVISION
<u>KANSAS</u>)	

PROTEST

COME NOW, Ilene Rose, Trustee of the Rose Family Trust UTI 6/29/06, and Ilene Rose, Trustee of the Rose Survivor's Trust UTI 6/29/06 (collectively "Protestants"), and through their legal counsel, file their Protest to the above captioned application for a well location exception and the assignment of a full allowable for the J. William Unit #3-29 well in Logan County, Kansas filed by David E. Bengtson on behalf of Trans Pacific Oil Corporation (hereinafter "TPO"). In support of their Protest, Protestants state as follows:

1. The address of the Protestants as set forth in TPO's application is correct.
2. As set forth in TPO's application, Protestants are the owners of an undivided Fifty Percent (50%) interest in and to the minerals lying beneath the West Half of the West Half (W/2 W/2) of Section Thirty-two (32), Township Fourteen (14) South, Range Thirty-two (32) West of the 6th P.M., Logan County, Kansas, and the owner of the entire surface of the South Half of the Southwest Quarter (S/2 SW/4) of Section Twenty-nine (29), Township Fourteen (14) South, Range Thirty-two (32) West, Logan County, Kansas.

3. As set forth in TPO's Application, TPO proposes to drill the J. William Unit #3-29 well merely 80 feet from the South Line of Section 29, which is only 80 feet from Protestants' unleased mineral interests in the W/2 W/2 of Section 32.

4. The lease covering the S/2 SW/4 of Section 29 was originally granted to Gulf Exploration, LLC. TPO subsequently became an owner and operator of the leases covering said S/2 SW/4 of 29.

5. The standard drilling and spacing unit for oil wells located in Logan County pursuant to K.A.R. 82-3-207 is 10 acres. Further, pursuant to K.A.R. 82-3-108, no oil well shall be drilled nearer than 330 feet from any lease or unit boundary line, without first obtaining a well location exception.

6. Any well drilled in violation of Commission rules shall be considered an unlawful location pursuant to K.A.R. 82-3-110(a), and shall be presumed to be in violation of correlative rights, and to constitute waste. A well location exception may only be granted if it is necessary to prevent waste or protect correlative rights. In granting these exceptions, the acreage attributable to the well and the assigned allowable shall be considered. K.A.R. 82-3-108(c).

7. 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. 32-3-110.

8. Whenever authority is granted to drill a well at a location other than a location specified by this regulation, the allowable shall be determined by the Conservation Division for the protection of the correlative rights of all persons entitled to share in the common source of supply in accordance with K.A.R.82-3-207 and K.A.R. 82-3-312. K.A.R. 82-3-108.

9. TPO's application states that TPO has offered to purchase oil and gas leases from Protestants, but Protestants have refused to accept that offer. Protestants have offered to lease mineral on their acreage, but TPO has rejected the offer made by Protestants.

10. Correlative rights are defined as the privilege of each **owner** or producer in a common source of supply to produce from that supply only in a manner or amount that will not have the effect of injuring the reservoir to the detriment of others, **taking an undue proportion of the obtainable oil or gas**, or causing undue drainage between the developed leases (emphasis added). Protestants believe that the production of oil from the Subject Well will cause both waste and violate Protestants' correlative rights. Further, Protestants believe that any production from a well merely 80 feet from the lease line will lead to uncompensated drainage of the minerals underlying the unleased acreage. Based upon TPO's stated intention to create a unit that encompasses only a portion of the minerals in Section 32, allowing TPO this location exception will permanently impair Protestants' ability to create an offset well on Section 32 to further develop Protestants' minerals. This inability to produce will cause waste and will further stop Protestants from having the ability to protect its premises against waste.

11. TPO proposes to create a 40-acre unit consisting of 20 acres in the S/2 SW/4 of 29, and 20 acres in the W/2 W/2 of Section 32. TPO does not express any opinion as to why such a large acre unit would be necessary to adequately discover and produce oil in commercial quantities.

12. TPO further failed to include any further information regarding its 'seismic interpretation' and 'mapping' that would prove that a location merely 80 feet from Protestants' lease line would be the most 'desirable location for the discovery and production of oil in commercial quantities.' TPO should be required to provide Protestants with any and all seismic data and mapping that it has in its possession for review by Protestants.

13. If the well location exception is granted by this Commission, there would be no need for TPO to create the unit that it is proposing that encompasses 20 acres from Section 29 and 20 acres from Section 32. It would be able to produce its well without including a portion of the minerals in the W/2 W/2 of Section 32. Without this location exception and the need to drill within 330 feet of the lease line, its Protestants belief that the pooling clause included in the lease covering


½ of the minerals in Section 32 would not allow TPO to create a pooled unit. TPO is attempting to use the authority of this commission to force Protestants to either sign a lease with TPO, or effectively render Protestants' leased ½ mineral interest unusable.

14. TPO's creation of the unit as it proposes would be its attempt to circumvent both the need to lease the entire mineral estate, and the rule created by *Krug v. Krug*, 5 Kan. App. 2d 426 (1980), whereby TPO would be required to pay Protestants for the portion of the oil produced from its leased mineral interests, while at the same time, rendering Protestants' undivided minerals interest essentially unusable for purposes of future production by any other operator. Because TPO has included in its application for a location exception the fact that it will create a unit, although seemingly superfluous for the purposes of granting a location exception and assigning an allowable, Protestants believe it necessary to protest the creation of the unit as well as the location exception being sought by TPO as allowing said exception and the creation of the unit will cause waste.

WHEREFORE, Protestants respectfully request that TPO's application for a well location exception and the assignment of a full allowable for the J. William Unit #3-29 well in Logan county, Kansas, be denied, and for such further relief as the Commission may deem proper.

Respectfully submitted,

THOMPSON, ARTHUR, DAVIDSON & KATZ

By: 

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VERIFICATION

STATE OF KANSAS, COUNTY OF RUSSELL, SS.

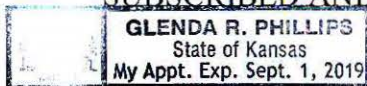
Chasen R. Katz, being of lawful age and being first duly sworn upon his oath,
deposes and says:

That he is the attorney for Ilene Rose, Trustee of the Rose Family Trust UTI 6/29/06,
and Ilene Rose, Trustee of the Rose Survivor's Trust UTI 6/29/06; he has read the above and
foregoing Application and is familiar with the contents and that the statements made therein are true
and correct to the best of his knowledge and belief



Chasen R. Katz

SUBSCRIBED AND SWORN to before me this 13th day of December, 2017.





Notary Public

My appointment expires: Sept 1, 2019

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of December, 2017, I caused the original of the foregoing **Protest** to be electronically filed with the Conservation Division of the State Corporation Commission of the State of Kansas, and caused true and correct copies of the same to be deposited in the United States Mail, first class, postage prepaid, and properly addressed to the following:

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