

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

Before Commissioners:                     Dwight D. Keen, Chair  
  Shari Feist Albrecht  
  Susan K. Duffy

In the Matter of the Application of TDR ) Docket No: 20-CONS-3043-CUIC  
Construction, Inc. for a permit to authorize the )  
enhanced recovery of saltwater into the ) CONSERVATION DIVISION  
Moldenhauer #W-42 well, located in Franklin )  
County, Kansas. ) License No: 32218

In the Matter of the Application of TDR ) Docket No: 20-CONS-3079-CUIC  
Construction, Inc. for a permit to authorize the )  
enhanced recovery of saltwater into the ) CONSERVATION DIVISION  
Moldenhauer #30 and Moldenhauer #45 wells, )  
located in Franklin County, Kansas. ) License No: 32218

**PREHEARING OFFICER ORDER CONSOLIDATING DOCKETS,  
REGARDING ELECTRONIC SERVICE,  
AND SETTING PROCEDURAL SCHEDULE**

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having reviewed the pleadings and record, the Prehearing Officer makes the following findings:

**I. Background**

1. Commission Docket 20-CONS-3043-CUIC. On July 10, 2019, TDR Construction, Inc. (Operator) filed an application seeking authorization for injection of saltwater into the Moldenhauer #W-42 well in Franklin County.<sup>1</sup> On August 5, 2019, Scott Yeargain and Polly Shteamer (Protesters) filed a protest.<sup>2</sup> On October 1, 2019, the Commission scheduled a prehearing conference in this matter for October 15, 2019, at 1:30 p.m.<sup>3</sup>

<sup>1</sup> See Docket 20-CONS-3043-CUIC, Application, pp. 1, 3 (Jul. 10, 2019).

<sup>2</sup> See Docket 20-CONS-3043-CUIC, Protest of TDR Construction, Inc.'s Application – Scott Yeargain and Polly Shteamer (Aug. 5, 2019).

<sup>3</sup> Docket 20-CONS-3043-CUIC, *Order Rescheduling Prehearing Conference and Partially Denying Motion to Dismiss Protests*, Ordering Clause C (Oct. 1, 2019).

2. Commission Docket 20-CONS-3079-CUIC. On August 30, 2019, Operator filed an application seeking authorization for injection of saltwater into the Moldenhauer #30 and Moldenhauer #45 wells in Franklin County.<sup>4</sup> On September 5, 2019, Protesters filed a protest.<sup>5</sup> On October 1, 2019, the Commission scheduled a prehearing conference in this matter for October 15, 2019, at 1:45 p.m.<sup>6</sup>

3. On October 15, 2019, the Prehearing Officer, with the permission of all parties, called both scheduled prehearing conferences to order at approximately 1:30 p.m.

## **II. Findings of Fact**

### Consolidation of Dockets

4. The Prehearing Officer finds that ruling upon the consolidation of Commission dockets to which he is assigned is within the ambit of things the Prehearing Officer is allowed to rule upon.<sup>7</sup> The Prehearing Officer further finds that at the October 15, 2019, prehearing conference, all parties agreed to consolidate these dockets. The Prehearing Officer further finds, for the sake of judicial efficiency, that it is in the public interest to consolidate Dockets 20-CONS-3043-CUIC and 20-CONS-3079-CUIC for hearing on a common record.<sup>8</sup>

### Electronic Service

5. The Prehearing Officer finds that at the October 15, 2019, prehearing conference, all parties agreed to the electronic service of pleadings and orders for these consolidated dockets, under the same terms described in the September 11, 2019, *Prehearing Officer Order Regarding*

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<sup>4</sup> See Docket 20-CONS-3079-CUIC, Application, p. 1 (Aug. 30, 2019).

<sup>5</sup> Docket 20-CONS-3079-CUIC, Protest of TDR Construction, Inc.'s Application – Scott Yeargain and Polly Shteamer (Sep. 5, 2019).

<sup>6</sup> Docket 20-CONS-3079-CUIC, Order Designating Prehearing Officer and Setting Prehearing Conference, Ordering Clause B (Oct. 1, 2019).

<sup>7</sup> See the *Order Designating Prehearing Officer and Setting Prehearing Conference* issued in both dockets (“[A] Prehearing Officer should be designated in this proceeding to address any matters listed in K.S.A. 77-517(b)...”); see also K.S.A. 77-517(b) (listing, among other things, “such other matters as will promote the orderly and prompt conduct of the hearing”); K.S.A. 77-551(c).

<sup>8</sup> See K.A.R. 82-1-224(b).

*Electronic Service* in Docket 20-CONS-3043-CUIC. The Prehearing Officer further finds that such terms would be appropriate for this consolidated matter.

Procedural Schedule

6. The Prehearing Officer finds that at the October 15, 2019, prehearing conference, all parties agreed to the following procedural schedule:

Operator Pre-Filed Direct Testimony	Due: November 12, 2019
Protestor Pre-Filed Direct Testimony	Due: December 2, 2019
Commission Staff Pre-Filed Direct Testimony	Due: December 9, 2019
Rebuttal Testimony	Due: December 13, 2019
<u>Evidentiary Hearing before the Commission</u> 266 N. Main, Suite 220, Wichita, Kansas 67202	December 19, 2019, 10:00 a.m.

7. The Prehearing Officer also makes the following findings:
- a. Any settlement agreement the parties wish to present for Commission consideration shall be due by December 9, 2019;
  - b. Failure to timely submit pre-filed testimony may result in the Commission restricting the right to testify and present evidence at the evidentiary hearing. At the hearing, the Commission may limit the parties' direct and rebuttal testimony to the pre-filed testimony; and
  - c. Any person requiring special accommodations under the Americans with Disabilities Act should notify the Commission at least 10 days before the scheduled hearing date.

**THEREFORE, THE PREHEARING OFFICER ORDERS:**

A. The captioned dockets are consolidated. Each subsequent filing submitted for either of these consolidated dockets shall carry the caption of both dockets, and shall be filed only in Docket 20-CONS-3043-CUIC, which shall serve as the primary docket. Commission employees shall then then populate the filing in Docket 20-CONS-3079-CUIC.

B. Electronic service is authorized in this consolidated matter under the same terms described in the September 11, 2019, *Prehearing Officer Order Regarding Electronic Service* issued in Docket 20-CONS-3043-CUIC.

C. The procedural schedule set forth in Paragraphs 6 through 7 above is adopted and shall govern this consolidated proceeding.

**BY THE PREHEARING OFFICER IT IS SO ORDERED.**

Dated: October 16, 2019

/s/ Jonathan R. Myers  
Jonathan R. Myers  
Prehearing Officer

JRM

**CERTIFICATE OF SERVICE**

20-CONS-3043-CUIC, 20-CONS-3079 CUIC

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 10/16/2019.

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/S/ DeeAnn Shupe

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