

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

In the Matter of the Application of Virgil)	Docket No.: 18-CONS-3348-CEXC
Stuber ("Operator") for an Exception to K.A.R.)	
82-3-120(k) to Allow Issuance of an)	CONSERVATION DIVISION
Operator's License Less Than One Year)	
Subsequent to Revocation of Previous License.)	License No.: 3930

**MOTION FOR THE DESIGNATION OF A PREHEARING OFFICER AND THE
SCHEDULING OF A PREHEARING CONFERENCE**

The Staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission," respectively) files this Motion seeking the designation of a prehearing officer and the scheduling of a prehearing conference in this matter.

In support of its motion, Staff states as follows:

I. Background

1. Operator was last issued a license to conduct oil and gas operations in Kansas on November 14, 2016. The license expired October 30, 2017.
2. On November 16, 2017, Operator filed a license renewal application.
3. On January 18, 2018, Operator's license was denied by Commission Order in Docket 18-CONS-3263-CMSC, pursuant to K.S.A. 55-155(c)(4), because his license was suspended at that time for non-compliance with the Commission's Penalty Order in Docket 15-CONS-571-CPEN.
4. Operator did not appeal the license denial, so pursuant to statute and regulation Operator's license was revoked on or about February 5, 2018.
5. On February 23, 2018, Operator brought himself into compliance with the Commission's Penalty Order in Docket 15-CONS-571-CPEN.

6. On March 20, 2018, Operator filed an application for an exception to K.A.R. 82-3-120, requesting that Operator be issued an operator's license.

II. Argument

7. Staff believes there are issues with Operator's application that would merit the assignment of a prehearing officer and the scheduling of a prehearing conference.

8. Upon review of the application, Staff notes the following:

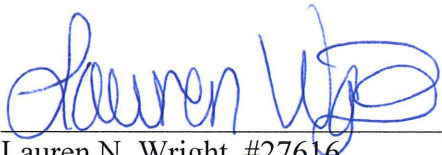
- a. Operator specifically requested an exception to K.A.R. 82-3-120(k). Operator's publication of notice mimics the heading of his application, which refers to a request for an exception to K.A.R. 82-3-120(k), but then the publication of notice states Operator is requesting a license via an exception to K.A.R. 82-3-120(j).
- b. Operator's citations to K.A.R. 82-3-120(k) and K.A.R. 82-3-120(j) are legally problematic. First, K.A.R. 82-3-120(k) only states that the failure to obtain or renew a license before operating shall be punishable by a \$500 penalty; such provision is inapplicable to the present proceeding. Second, K.A.R. 82-3-120(j) essentially says the same thing as K.S.A. 55-155(e), that upon revocation no new license shall be issued to an applicant for one year. While the Commission can grant an exception to its regulations, it cannot grant an exception to a statute. Thus, an exception to K.A.R. 82-3-120(j) would not do Operator any good; Operator would still be barred under K.S.A. 55-155(e) from obtaining a license for a period of one year.
- c. While Staff believes it may be appropriate to interpret Operator's application as a request for an exception to K.A.R. 82-3-120(i), the scheduling of a prehearing conference would help flesh out an appropriate resolution in this matter.

III. Conclusion

9. Based upon the above, Staff believes it would be appropriate for this matter to be set for a prehearing conference.

WHEREFORE, for the reasons described above, Staff respectfully requests an Order designating a prehearing officer and scheduling a prehearing conference.

Respectfully submitted,

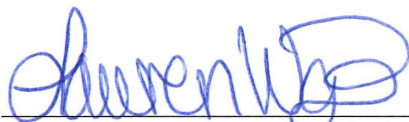


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VERIFICATION

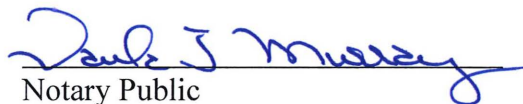
STATE OF KANSAS)
) ss.
COUNTY OF SEDGWICK)

Lauren N. Wright, of lawful age, being duly sworn upon her oath deposes and states that she is Litigation Counsel for the State Corporation Commission of the State of Kansas; that she has read and is familiar with the foregoing *Motion*, and attests that the statements therein are true to the best of her knowledge, information and belief.

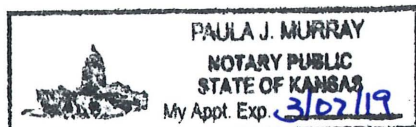


Lauren N. Wright, S. Ct. #27616
Litigation Counsel
State Corporation Commission
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 22 day of June, 2018.


Notary Public

My Appointment Expires: 3/07/19



CERTIFICATE OF SERVICE

18-CONS-3348-CEXC

I, the undersigned, certify that the true copy of the attached Motion has been served to the following parties by means of first class mail and electronic service on June 22, 2018.

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/s/ Paula J. Murray

Paula J. Murray