

**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 of TDR) Docket No: 17-CONS-3523-CWLE
Construction, Inc. for well location exceptions)
and the assignment of attributed acreage and oil) CONSERVATION DIVISION
allowables for its Duffy 31 and Duffy 32 wells in)
Section 32, Township 15 South, Range 21 East,) License No: 32218
Franklin County, Kansas.)

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

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 makes the following findings and conclusions:

1. On March 29, 2017, TDR Construction, Inc. (Operator or TDR) filed an Application asking the Commission for an order permitting well location exceptions for, and assignment of acreage attribution units and appropriate oil allowables to, Operator's Duffy 31 and Duffy 32 wells in Section 32, Township 15 South, Range 21 East, Franklin County, Kansas.¹
2. On April 3, 2017, Operator filed Affidavits demonstrating that publication notice of the Application was made in the Ottawa Herald on April 1, 2017, and in The Wichita Eagle on April 3, 2017.
3. On April 18, 2017, Oil Sources Corp. (OSC) timely filed a protest in this matter.² OSC stated that it owns the Blevins Lease and alleged that TDR "intentionally and maliciously drilled the Duffy wells inside the 165' minimum setback from the Blevins lease line."³ OSC

¹ Application, p. 1 (Mar. 29, 2017).

² Oil Sources Corp. Protest Letter (Apr. 18, 2017).

³ *Id.*, p. 2.

charged TDR with deliberately attempting to drain reserves from beneath the Blevins Lease, in violation of OSC and its lessors' correlative rights.⁴ OSC claimed that TDR is still producing gas from its Duffy #32 well in disregard of Commission Staff's request that the well be shut-in until a well location exception is granted.⁵ OSC alleged there is no evidence to support TDR's claim that it drilled its wells at their current locations to avoid surface obstructions and based upon geologic evaluations.⁶ OSC requested that "the Commission deny TDR's Application and order the Duffy wells immediately plugged and abandoned;"⁷ alternatively order "the Duffy wells shut-in for a period of time equal to the period of time those wells unlawfully produced oil and gas in violation of the correlative rights of OSC;"⁸ and "order TDR to cease producing gas from the Duffy #32 until a proper allowable, if any, can be determined."⁹

4. The Commission finds that Operator's Application was filed in accordance with K.A.R. 82-3-108. To secure consideration of its protest, OSC "shall offer evidence or a statement or participate in the hearing."¹⁰

5. Based on the current lack of evidence in the record, the Commission finds that neither dismissal of Operator's Application nor an order requiring Operator to shut-in, plug or abandon the Duffy wells is warranted at this point in the proceedings. Pursuant to K.A.R. 82-3-108(f), the Commission finds the Application shall be set for hearing.

6. Upon its own motion and pursuant to K.S.A. 77-551(c), the Commission finds that a Prehearing Officer should be designated in this proceeding to address any matters listed in K.S.A. 77-517(b), and a Prehearing Conference should be scheduled.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*, p. 3.

⁸ *Id.*

⁹ *Id.*

¹⁰ K.A.R. 82-3-135b(e).

7. Although a Prehearing Officer is designated in this docket, parties are still required to file pleadings with the Commission, and filings shall be made with the Commission's Docket Room before 5:00 p.m. on the date scheduled for service. Any electronic service received after the deadline set forth in the procedural schedule, or any filing made after 5:00 p.m. on the date scheduled for service, shall be accompanied by a Motion to File Out of Time.

THEREFORE, THE COMMISSION ORDERS:

A. OSC's request that the Commission deny Operator's Application, order the Duffy wells immediately plugged and abandoned, or order the Duffy wells shut-in, is denied.

B. The Prehearing Officer in this proceeding shall be Michael J. Duenes, Assistant General Counsel, Kansas Corporation Commission, 1500 SW Arrowhead Road, Topeka, Kansas, 66604-4027, telephone number (785) 271-3181, email address m.duenes@kcc.ks.gov. The Commission may designate other Staff members to serve in this capacity.

C. A Prehearing Conference is scheduled for Thursday, **May 25, 2017 at 11:00 a.m.** by telephone. The conference call information is: telephone number (866) 620-7326, Conference Code PIN: 7632914771#.

D. 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.

E. 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.¹¹

F. A corporation shall appear before the Commission by a Kansas licensed attorney.¹²

G. The attorney designated to appear on behalf of the agency in this proceeding is Jon Myers, Litigation Counsel, phone number (316) 337-6245, j.myers@kcc.ks.gov.

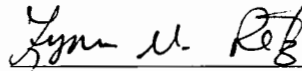
H. The parties have 15 days from the date of electronic service of this Order to petition for reconsideration.¹³

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

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: MAY 11 2017



Lynn M. Retz
Secretary to the Commission

MJD

¹¹ K.S.A. 77-506; K.S.A. 77-516(c)(7)-(8).

¹² K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

¹³ K.S.A. 66-118b; K.S.A. 77-529(a)(1).

CERTIFICATE OF SERVICE

I certify that on May 11, 2017, I caused a complete and accurate copy of this Order to be served via United States mail, with the postage prepaid and properly addressed to the following:

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TDR Construction, Inc.
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And delivered electronically to:

Jonathan Myers
Litigation Counsel

Michael Duenes
Assistant General Counsel

/s/ Cynthia K. Maine
Cynthia K. Maine
Administrative Assistant
Kansas Corporation Commission