

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

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

In the matter of the application of Terry E.) Docket No: 20-CONS-3253-CUIC
Morris dba G L M Company, to authorize the)
disposal of saltwater into the Arbuckle) CONSERVATION DIVISION
Formation at the Steinle #5 well, located in the)
N/2 NE/4 SW/4 of Section 22, Township 13) License No: 3134
South, Range 14 West, Russell County, Kansas.)

ORDER RESCHEDULING 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 finds the following:

I. Procedural Background

1. On March 3, 2020, Terry E. Morris dba G L M Company (Operator) filed an Application seeking authorization for injection of saltwater into the Steinle #5 in Russell County.
2. On March 9, 2020, Patrick Barney (Protester) filed a protest.¹
3. On May 7, 2020, the Commission issued an order designating a prehearing officer and setting a prehearing conference for June 4, 2020.² The order stated, “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 [Kansas Administrative Procedure Act].”³
4. On June 4, 2020, the prehearing conference was timely called to order. Operator and Commission Staff were in attendance, but Protester was not.

¹ See Letter of Protest (Mar. 9, 2020).

² See Order Designating Prehearing Officer and Setting Prehearing Conference, Ordering Clause B (Jun. 4, 2020).

³ *Id.* at Ordering Clause D.

5. On June 12, 2020, Operator filed a motion for a default order to be issued against Protester, due to Protester's non-attendance at the prehearing conference.⁴

6. On June 17, 2020, Protester filed a motion to reschedule the prehearing conference, stating that his non-attendance "was due to his error in not knowing of it occurring on that day, and discovering it shortly thereafter," and further stating that his absence was unintentional.⁵

II. Findings of Fact

7. The Commission declines to find Protester in default due to his non-attendance at the prehearing conference. While under K.S.A. 77-520(a) the Commission has discretion to issue a proposed default order for non-attendance,⁶ the law disfavors default.⁷ Here, Protester promptly responded to the motion for default and admitted unintentional error. While there can certainly be situations calling for default,⁸ the Commission in its discretion does not find this to be one of them.

8. Since the Commission shall deny Operator's request to find Protester in default, the Commission finds it appropriate to reschedule the prehearing conference in this matter.

III. Conclusions of Law

9. The Commission concludes it should issue an order in accordance with its findings.

THEREFORE, THE COMMISSION ORDERS:

- A. Operator's motion to for a default order against Protester is denied.
- B. Protester's motion to reschedule the prehearing conference is granted.
- C. A Prehearing Conference is scheduled for **Thursday, July 23, 2020, at 2:30 p.m.** by telephone, under the same terms as outlined in the Commission's Order Designating Prehearing

⁴ See Motion for Default Order Against Non-Appearing Protester, ¶ 6 (Jun. 12, 2020).

⁵ Motion to Reschedule Prehearing Conference, ¶ 1 (Jun. 17, 2020).

⁶ K.S.A. 77-520(a): "If a party fails to attend or participate in a prehearing conference . . . the presiding officer may serve upon all parties written notice of a proposed default order"

⁷ See *Garcia v. Ball*, 303 Kan. 560, 568 (2015).

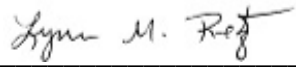
⁸ See, e.g., KCC Docket 19-CONS-3191-CUIC, Order Denying Motion to Vacate Default Order (Apr. 11, 2019).

Officer and Setting Prehearing Conference in this docket. The conference call information is:
telephone number (866) 620-7326, Conference Code PIN: 3902542751.

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 07/07/2020



Lynn M. Retz
Executive Director

Mailed Date: 07/07/2020

JRM

CERTIFICATE OF SERVICE

20-CONS-3253-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 07/07/2020.

TODD BRYANT, GEOLOGIST SPECIALIST
KANSAS CORPORATION COMMISSION
266 N. Main St., Ste. 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
t.bryant@kcc.ks.gov

KELCEY MARSH, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
CENTRAL OFFICE
266 N. MAIN ST, STE 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
k.marsh@kcc.ks.gov

JONATHAN R. MYERS, ASSISTANT GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
266 N. Main St., Ste. 220
WICHITA, KS 67202-1513
Fax: 316-337-6211
j.myers@kcc.ks.gov

RENE STUCKY
KANSAS CORPORATION COMMISSION
266 N. Main St., Ste. 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
r.stucky@kcc.ks.gov

PATRICK BARNEY
1720 N MAIN ST
RUSSELL, KS 67665
patrickbarney@gmail.com

TERRY E. MORRIS
TERRY E. MORRIS
D/B/A G L M COMPANY
PO BOX 193
RUSSELL, KS 67665-0193
morris@eaglecom.net

/S/ DeeAnn Shupe

DeeAnn Shupe