THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

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

In the matter of the failure of Robert E. Housel)	Docket No: 21-CONS-3253-CPEN
(Operator) to comply with K.A.R. 82-3-407 at)	
the Darling #1 in Montgomery County, Kansas.)	CONSERVATION DIVISION
)	
)	License No: 6700

PROPOSED DEFAULT ORDER

The Commission rules as follows:

- 1. On May 13, 2021, the Commission issued a Penalty Order against Robert E. Housel (Operator) for one violation of K.A.R. 82-3-407 because a current and successful mechanical integrity test had not been performed on the Darling #1 well.¹
 - 2. On June 17, 2021, Operator requested a hearing.²
- 3. On June 24, 2021, the Commission issued an Order Designating Presiding Officer and Setting Prehearing Conference, setting a July 20, 2021, prehearing conference.³ The Order noted that any party that failed to attend or participate in the prehearing conference, hearing, or other stage of this proceeding may be held in default.⁴ The prehearing conference was rescheduled for August 5, 2021;⁵ at that prehearing conference parties agreed to set another prehearing conference for August 26, 2021.⁶ Operator failed to appear at the August 26 prehearing conference.

¹ See Penalty Order, ¶¶ 7, 11 (May 13, 2021).

² See Request for Hearing (Jun. 17, 2021).

³ Order Designating Presiding Officer and Setting Prehearing Conference, Ordering Clause B (Jun. 24, 2021).

⁴ *Id.* at Ordering Clause C.

⁵ See Prehearing Officer Order Rescheduling Prehearing Conference (Jul. 21, 2021).

⁶ See Prehearing Officer Order Setting Prehearing Conference (Aug. 6, 2021).

- 4. On August 23, 2021, Staff motioned to amend the Penalty Order to reflect the fact that Operator had conducted a successful mechanical integrity test on the Darling #1, just not in a timely manner.⁷ Operator did not respond to Staff's motion.
- 5. K.S.A. 77-520 provides that "If a party fails to attend or participate in a prehearing conference, hearing or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties a written notice of a proposed default order, including a statement of the grounds."
- 6. Due to Operator's failure to appear at the August 26, 2021 prehearing conference, the Commission serves this proposed default order.
- 7. Pursuant to K.S.A. 77-520(b), Operator may file a written motion requesting this Proposed Default Order be vacated, stating the grounds relied upon, within seven calendar days after service of this Order.

THEREFORE, THE COMMISSION ORDERS:

- A. Pursuant to K.S.A. 77-520(c), unless Operator files a timely written motion to vacate this Proposed Default Order, this Order shall be effective.
- B. If this Proposed Default Order becomes effective, then this matter shall be completed in the following manner:
- i. The Commission's May 13, 2021 Penalty Order in this docket shall become effective and final; Operator's license shall be immediately suspended until Operator complies with the Penalty Order. Operator's obligations under the Penalty Order's ordering clauses B & C, however, shall be waived;⁸ and

⁷ See Motion to Amend Penalty Order, ¶¶ 3-4 (Aug. 23, 2021).

⁸ Ordering clauses B & C obligated Operator to perform a successful mechanical integrity test on the Subject Well or plug it, and to shut-in and disconnect the Subject Well until Operator had done so.

ii. Any party may file and serve a petition for reconsideration, pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).9

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissione	r; Duffy, Commissioner	
Dated: 09/16/2021	Lynn M. Ref	
	Lynn M. Retz	
	Executive Director	
Mailed Date: <u>09/16/2021</u>		
JRM		

⁹ See K.S.A. 77-520(e); K.S.A. 77-529(a)(1).

CERTIFICATE OF SERVICE

21-CONS-3253-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of

electronic service on <u>09/16/2021</u> .	
JOHN ALMOND KANSAS CORPORATION COMMISSION DISTRICT OFFICE NO. 3 137 E. 21ST STREET CHANUTE, KS 66720 j.almond@kcc.ks.gov	KELCEY MARSH, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION CENTRAL OFFICE 266 N. MAIN ST, STE 220 WICHITA, KS 67202-1513 k.marsh@kcc.ks.gov
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	/S/ Desirae Mayfield
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