

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

Before Commissioners: Pat Apple, Chair  
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	)	License No. 32218
<u>21 East, Franklin County, Kansas.</u>	)	

**ORDER GRANTING APPLICATION**

The above captioned matter comes before the State Corporation Commission of the State of Kansas for consideration and determination. Having examined its files and records, and being duly advised in the premises, the Commission makes the following findings:

**I. JURISDICTION**

1. K.S.A. 74-623 provides that the Commission has the exclusive jurisdiction and authority to regulate oil and gas activities.
2. K.A.R. 82-3-108(a) provides that the setback requirement for oil and gas wells shall be 330 feet from any lease or unit boundary line, except as provided in subsection (b) or (c).
3. K.A.R. 82-3-108(b) provides that an oil well drilled to a total depth of less than 2,000 feet in any of the following counties in eastern Kansas shall be subject to a setback of 165 feet from any lease or unit boundary: Allen, Anderson, Atchison, Bourbon, Brown Cherokee, Coffey, Crawford, Douglas, Elk, Franklin, Greenwood, Jackson, Jefferson, Johnson, Labette, Leavenworth, Linn, Lyon, Miami, Montgomery, Neosho, Osage, Shawnee, Wilson, Woodson, and Wyandotte. Further, wells drilled to a total depth of less than 2,500 feet in Chautauqua County are subject to the 165-foot setback.

4. K.A.R. 82-3-108(c) provides that the Commission may grant an exception to the well setback requirements if necessary either to prevent waste or protect correlative rights.

5. K.A.R. 82-3-207 states that a standard oil well drilling unit shall be 10 acres, except that the standard drilling unit for counties and well depths listed in K.A.R. 82-3-108(b) shall be 2.5 acres.

## **II. FINDINGS OF FACT**

6. TDR Construction, Inc., (“Operator”) is currently licensed to conduct oil and gas activities in Kansas under K.S.A. 55-155.

7. On March 29, 2017, Operator filed an application requesting a well location exception, standard drilling unit, and full allowable for the following wells (collectively “the subject wells”), both located in Section 32, Township 15 South, Range 21 East, Franklin County:

- a. Duffy #31, API #15-059-25525, an oil well completed by Operator in January 2011 and drilled to a depth of 798 feet, at 543 feet from the south section line and 3,891 feet from the east section line; and
- b. Duffy #32, API #15-059-25526, an oil well completed by Operator in July 2011 and drilled to a depth of 838 feet, at 176 feet from the south section line and 3893 feet from the east section line.<sup>1</sup>

8. On April 18, 2017, Oil Sources Corp. filed a protest, but that corporation withdrew its protest on June 23, 2017. No other protest was filed pursuant to K.A.R. 82-3-135b.

9. On June 26, 2017, the prehearing officer issued an order cancelling a scheduled prehearing conference and directing Commission Staff to handle Operator’s application administratively. Staff typically handles such matters administratively by reviewing such

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<sup>1</sup> The API numbers for the subject wells were not mentioned in Operator’s application, but have been identified via Commission records.

application, and, if Staff recommends approval of the application, by causing an *Order Granting Application* to be brought before the Commission.

10. On July 13, 2017, Operator filed a technical supplement to its application, attaching the intention-to-drill forms for the subject wells and filing an updated, corrected plat.

11. Operator seeks a well location exception for the subject wells because they are located less than the required 165 feet from the existing lease or unit boundary line. Specifically, as indicated on the plats, the Duffy #31 was drilled approximately 115 feet to the east, and the Duffy #32 was drilled approximately 111 feet to the east, of the offsetting Two Bros. lease.

12. Commission Staff notes that the subject wells were drilled in unapproved locations in violation of Commission regulations, but recommends that Operator's application should be granted to prevent waste. Staff has identified no correlative rights issues.

### **III. CONCLUSIONS OF LAW**

13. The Commission has jurisdiction over Operator and this matter.

14. The application was filed in accordance with the rules and regulations of the Commission and in accordance with Kansas statutes.

15. Notice was properly served and published. No timely, ongoing protest has been received by the Commission.

16. Based on the available facts, the Commission concludes that the application should be granted to prevent waste.

### **THEREFORE, THE COMMISSION ORDERS:**

A. Operator's application for a well location exception for the subject wells under K.A.R. 82-3-108 is granted. Both of the subject wells shall have a standard drilling unit, except

that the acreage of the drilling units shall be reduced along their western sides to match the lease line. The assignment of a full allowable for each of the subject wells is also granted.

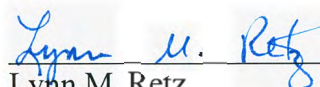
B. This Order is a summary proceeding pursuant to K.S.A. 77-537, which provides in paragraph (b)(4) that summary proceedings are not effective until the time for requesting a hearing has expired. K.S.A. 77-542 provides that a request for hearing shall be filed within 15 days of any agency notice resulting in a right to request a hearing. If service of this Order is by mail, three days are added to the deadline.

C. Any party affected by this Order may file with the Commission a petition for reconsideration pursuant to K.S.A. 77-529(a). The petition shall be filed within 15 days after service of this Order. If service of this Order is by mail, three days are added to the deadline. The petition shall be addressed to the Commission and sent to 266 N. Main, Suite 220, Wichita, Kansas 67202. Pursuant to K.S.A. 55-606, K.S.A. 66-118b, and K.S.A. 77-529(a), reconsideration is prerequisite for judicial review of this Order. Any party taking an action permitted by this summary proceeding before the deadline for a petition for reconsideration does so at their own risk of further proceedings.

**BY THE COMMISSION IT IS SO ORDERED.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: AUG 17 2017

  
Lynn M. Retz  
Secretary to the Commission

Mailed Date: August 17, 2017

JRM

## **CERTIFICATE OF SERVICE**

I certify that on August 17, 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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Law Offices of Thomas M. Rhoads LC  
200 E. 1<sup>st</sup> Street, Suite 301  
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Oil Sources Corp.  
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And delivered by email to:

Troy Russell & John Almond, KCC District #3  
Michael Duenes, KCC Topeka Office

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