

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

Before Commissioners: Jay Scott Emler, Chairman  
Shari Feist Albrecht  
Pat Apple

In the matter of the application of Becker Oil Corporation for an exemption to the 10 year time limitation of K.A.R. 82-3-111 for its # 1 Durler well, API #15-083-21512-00-00, located in the NW/4 of Section 32, Township 32 South, Range 22 West, Hodgeman County, Kansas.	)	Docket No.: 16-CONS-4132-CEXC
	)	CONSERVATION DIVISION
	)	License No.: 31093

**RESPONSE TO MOTION TO DISMISS PROTEST**

Commission Staff, by and through its litigation counsel responds to Becker Oil Corporation's Motion to Dismiss. In support of its response Staff states the following:

1. Becker Oil Corporation filed an application for an exception to the ten year time limitation of K.A.R. 82-3-111 for its Durler #1 well.
2. Rodney Durler filed a Protest to the application. The basis of the protest being that the well has not produced for ten years; it's time to give up.
3. In evaluating this type of exemption application the Commission looks at two things: will the well pose a threat to water and is there a valid future use for the well. These two areas of evaluation line up with the Commission's Statutory duties to protect water resources and prevent waste.
4. Becker Oil Corporation stated in its application a future use for the well and that it had recently passed a Staff witnessed mechanical integrity test.
5. Mr. Durler's Protest doesn't challenge those allegations nor does it allege how granting the application would harm water resources, cause waste or violate correlated rights. Mr. Durler simply believes the well has been there long enough.

6. The Protest fails to meet the requirements of K.A.R. 82-3-135b, therefore, Staff joins Becker Oil Corporation in its request that the Commission dismiss Mr. Durler's Protest.

Respectfully submitted,

by   
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**CERTIFICATE OF SERVICE**

I certify that on September 14, 2016, I caused a complete and accurate copy of this Response to Motion to be served via United States mail, with the postage prepaid and properly addressed to the following:

Jeff Kennedy  
Martin, Pringle, Oliver, Wallace & Bauer, L.L.P.  
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*Attorney for Becker Oil Corporation*

Rodney Durler  
POA on behalf of Edward Durler  
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Spearville, Kansas 67876

And delivered by electronically to:

Dustin R. Kirk  
Deputy General Counsel  
Prehearing Officer

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