

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

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

IN THE MATTER OF THE APPLICATION)	Docket No. 15-CONS-009-CUNI
OF C12 KANSAS OIL, LLC, FOR AN)	
ORDER PROVIDING FOR THE)	CONSERVATION DIVISION
UNITIZATION AND UNIT OPERATION)	
OF THE POST ROCK UNIT IN RUSSELL)	OPERATOR NO. 34912
COUNTY, KANSAS.)	
)	

**PROTEST OF RUSSELL OIL, INC., ELMER L. KARST OIL, HERMAN KRUG OIL
OPERATIONS AND BARTON EXPLORATION, INC.**

COMES NOW, Russell Oil, Inc. ("Russell"), Elmer L. Karst Oil ("Karst"), Herman Krug Oil Operations ("Krug") and Barton Exploration, Inc. ("Barton"), by and through their attorneys Steven D. Gough and Joseph A. Schremmer of Withers, Gough, Pike, Pfaff & Peterson, LLC, to protest the above-captioned Application filed by C12 Kansas Oil, LLC for an order providing for the unitization and unit operation of the Post Rock Unit in Russell County, Kansas.

Russell, Karst, Krug and Barton set forth the following facts in support of their protest:

1. Russell operates various oil and gas leases in the state of Kansas, including one tract within the proposed Post Rock Unit. Russell is licensed by the Kansas Corporation Commission, License No. 3293. Russell operates an oil and gas lease covering what is identified as Tract 6 in the Application, commonly known as the Hickey #2, comprised of 160 acres located in SE/4 25-14-14, Russell County, Kansas. Russell is joined by and brings this Protest on behalf of each owner of a working interest in the oil and gas lease covering Tract 6.

2. Karst operate various oil and gas leases in the state of Kansas and is licensed by the Kansas Corporation Commission, License No. 33690. Karst operates oil and gas leases covering three (3) tracts of land within the proposed Post Rock Unit, identified as Tracts 17, 30 and 33 in the Application. Tract 17 is commonly referred to as the Herbel A covering the W/2 SW/4 26-14-14, Russell County, Kansas, covering 80 acres. Tract 30 is commonly referred to as the Holl, covering the SW/4 22-14-14, Russell County, Kansas, covering 160 acres. Tract 33 is commonly referred to as the Holl C covering the S/2 SE/4 21-14-14, Russell County, Kansas, covering 80 acres. Karst brings this protest on behalf of all of the working interest owners in the oil and gas leases covering Tracts 17, 30 and 33.

3. Krug operates various oil and gas leases in the state of Kansas and is licensed by the Kansas Corporation Commission, License No. 7111. Krug operates oil and gas leases covering two (2) tracts of land within the proposed Post Rock Unit identified in the Application as Tracts 20 and 21. Tract 20 is commonly referred to as the Krug 2 covering the SW/4 less the SE/4 NW/4 SW/4 and the NE/4 NE/4 SW/4, 23-14-14, Russell County, Kansas, consisting of 140 acres. Tract 21 is commonly known as the Gurney B 2 covering the NE/4 NW/4 SW/4 and the NE/4 NE/4 SW/4, 23-14-14, Russell County, Kansas, covering 10 acres. Krug is joined by and brings this Protest on behalf of working interest owners in the oil and gas leases covering Tracts 20 and 21.

4. Barton operates an oil and gas lease covering one (1) tract of land located within the proposed Post Rock Unit. Barton is licensed by the Kansas Corporation Commission, License No. 31431. Barton operates the oil and gas lease covering Tract 22, commonly referred to as the Gurney, covering the NE/4 NE/4 SW/4, 23-14-14, Russell County, Kansas, covering 10 acres.

5. The production on Tract Nos. 6, 17, 20, 21, 22 30 and 33 as described above has not reached a low economic level, nor is abandonment of oil and gas wells on those Tracts

imminent. Consequently, the Tracts described above do not qualify for compulsory unitization under K.S.A. 55-1304(a)(1), which is the sole basis upon which the Applicant proposes to unitize the interests and operations at issue in its Application.

6. Russell, Karst, Krug and Barton request that this entire Application be dismissed because the Kansas Corporation Commission lacks the power to unitize multiple distinct producing formations that are not in pressure communication so as to constitute “a single pressure system so that production from one part of the pool affects the pressure throughout its extent.” K.S.A. 55-1302(b). The Commission’s power to unitize extends only to a “pool or part thereof.” K.S.A. 55-1303(a).

7. Applicant seeks to unitize multiple producing formations that are **not** in pressure communication and which do **not** constitute “a single pressure system so that production from one part of the pool affects the pressure throughout its extent” as required by K.S.A. 55-1302(b). Instead, Applicant seeks to unitize multiple separate producing formations between 2,300 feet and 3,180 feet defined as the “Tarkeo Member, Topeka Formation, Toronto Member, Lansing-Kansas City Group, Gorham Standstone and Arbuckle Group” as shown on a log from the Solar Petroleum G. Miller “A” 18-31 well located in Section 31, T14S, R13W, Russell County, Kansas, between 2,300 feet and 3,180 feet. (See, Application, ¶ 5).

8. Production of oil or gas from one (1) of the above six (6) identified formations does not satisfy the definition of a “pool” with respect to the remaining five (5) formations.

9. K.S.A. 55-1302(b) defines a pool as:

“Pool” means that underground accumulation of oil and gas in one or more natural reservoirs in communication so as to constitute a single pressure system so that production from one part of the pool affects the pressure throughout its extent.

10. K.A.R. 8-23-101 (a) (53) defines a pool as follows:

“Pool” means a single and separate natural reservoir of oil or gas characterized by a single pressure system.

This Application violates both definitions of a “pool” and fails to meet the essential prerequisite needed for the Commission to exercise its power to form a unit under K.S.A. 55-1303 and 55-1304.

11. Russell, Karst, Krug and Barton also object to this Application because the Applicant, C12 Kansas Oil, LLC lacks the experience and expertise to either operate or form a unit.

12. Russell, Karst, Krug and Barton further object to the Applicant’s proposed plan for unitization because:

- a. The proposed plan for unitization is not fair, reasonable or equitable.
- b. The configuration of the proposed Post Rock Unit appears to have been gerrymandered to benefit Applicant’s economic interests in the area rather than being based on geology, engineering or any showing of pressure communication among and between all of the formations that Applicant proposes to be included in the unit.
- c. The Post Rock Unit appears to have been gerrymandered to artificially inflate Applicant’s collective interest so Applicant can satisfy K.S.A. 55-1305(l) by omitting all acreage in Sections 24, 33, 34, 35 and 36 of T14S, R14W, Russell County, Kansas, which has various producing wells in one or more of the six different formations that Applicant proposes to unitize.
- d. The correlative rights of these protesting parties will likely be violated because Applicant’s proposed actions are substantially likely to endanger the current production from wells operated by Russell, Karst, Krug and Barton.
- e. The Application would cause economic waste because it seeks to include production from wells operated by Russell, Karst, Krug, and Barton which all produce at economic levels and which are not in a condition where “abandonment of oil or gas wells is imminent.” K.S.A. 55-1304(a)(1)(2).
- f. The Applicant seeks to have this Commission adopt an Operating Agreement that is designed to enrich the Applicant at the expense of all others owning oil and gas within the proposed unit. For example, even

though operating expenses average \$350.00 to \$500.00 per month per well, Applicant seeks an overhead charge of \$1,450.00 per producing well each month and an overhead rate of \$14,500.00 for drilling a well per month. Application, Ex. 2, p. 2-5, Overhead Fixed Rate Basis (1). This overhead rate is approximately three times higher than what is typically charged in Russell County and is indefensible.

- g. The CO2 technique proposed by Applicant is likely to cause economic waste given the past history of failed CO2 secondary recovery projects in the area.

Based on the reasons set forth above, Russell, Karst, Krug and Barton request that the Application filed by C12 Kansas Oil, LLC, be denied. Russell, Karst, Krug and Barton request the Commission dismiss this Application as not meeting the most basic requirements of having a "pool" to form a unit, or, in the alternative, set this matter for a full evidentiary hearing.

Respectfully submitted,

By: 

Steven D. Gough, #09016

Joseph A. Schremmer, #25968

WITHERS, GOUGH, PIKE, PFAFF & PETERSON, LLC

O.W. Garvey Building,

200 W. Douglas, Suite 1010

Wichita, KS 67202

sgough@withersgough.com

jschremmer@withersgough.com

***Attorneys for Russell Oil, Inc., Elmer L. Karst Oil,
Herman Krug Oil Operations and Barton
Exploration, Inc.***

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 23, 2014, I have caused to be served a true and accurate copy of the foregoing *Protest of Russell Oil, Inc., Elmer L. Karst Oil, Herman Krug Oil Operations and Barton Exploration, Inc.* to:

Stanford J. Smith, Jr.
Martin, Pringle, Oliver, Wallace & Bauer, L.L.P.
100 N. Broadway, Ste. 500
Wichita KS 67202
Attorneys for Applicant



sjsmith@martinpringle.com

Timothy E. McKee
Amy Fellows Cline
Triplett, Woolf & Garretson, LLC
2959 N. Rock Road, Suite 300
Wichita KS 67226
Attorneys for Petroleum Property Services, Inc.

temckee@twgfirm.com
amycline@twgfirm.com

John McCannon
Kansas Corporation Commission
Finney State Office Building, Room 2078
130 S. Market
Wichita KS 67202

j.mccannon@kcc.ks.gov

Steven D. Gough

VERIFICATION

STATE OF KANSAS }
 }
COUNTY OF SEDGWICK}

ss.

Lonnie Barton, of lawful age, and being first duly sworn upon oath, deposes and says: that he is the authorized agent of Barton Exploration, Inc.; that he has read the within and foregoing *Protest of Russell Oil, Inc., Elmer L. Karst Oil, Herman Krug Oil Operations and Barton Exploration, Inc.* and the statements and contents thereof are true to the best of his knowledge and belief.

By: Lonnie Barton
Lonnie Barton, Authorized Agent
Barton Exploration, Inc.

Subscribed and sworn to before me on July 23, 2014.



[seal]

Cindy Ross
Notary Public

My Commission Expires:

June 1, 2016