

**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 failure of Jack W.	)	Docket No.: 16-CONS-056-CPEN
McFadden ("Operator") to comply with	)	
K.A.R. 82-3-400 injection authority and/or	)	CONSERVATION DIVISION
K.A.R. 82-3-409 reporting requirements	)	
regarding injection that took place during the	)	License No.: 8866
<u>2014 calendar year.</u>	)	

**MOTION FOR DEFAULT ORDER**

For the following reasons, Commission Staff moves for a Default Order to be issued against Operator.

**I. Background**

1. On July 23, 2015, the Commission issued a penalty against Operator, because given the U3C Form Operator submitted for the Winslow #J 10, Operator either conducted unauthorized injection in violation of K.A.R. 82-3-400 or submitted an inaccurate U3C Form in violation of K.A.R. 82-3-409. On August 6, 2015, Operator filed an appeal. On August 20, 2015, the Commission set a prehearing conference for September 15, 2015, which was continued by a Prehearing Officer Order to 12:30 p.m. on October 7, 2015.

**II. Argument**

2. Operator failed to attend the October 7, 2015, prehearing conference. The Commission's August 20, 2015, Order in this matter is quite clear: "Any party that fails to attend or participate in the Prehearing Conference, hearing, or other stage of this proceeding **shall** be held in default under the [Kansas Administrative Procedure Act]" (emphasis added). Operator

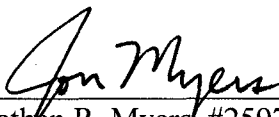
should be held in default, because the Commission clearly stated that the consequence of failure to attend or participate in any Prehearing Conference **shall** be default.

3. Since Operator should be held in default, there is no need for further proceedings. Thus, it would be appropriate for the Penalty Order to remain in place.

### **III. Conclusion**

4. Based upon the above, Staff requests that a Default Order be issued against Operator, therefore allowing the Penalty Order to remain in place.

Respectfully submitted,

  
\_\_\_\_\_  
Jonathan R. Myers, #25975  
Litigation Counsel  
Kansas Corporation Commission  
266 N. Main, Suite 220  
Wichita, Kansas 67202  
Phone: 316-337-6200  
Fax: 316-337-6106

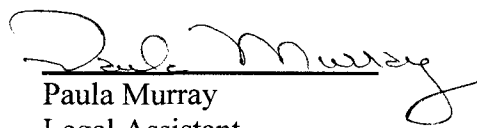
**CERTIFICATE OF SERVICE**

I certify that on 10/8/15, I caused a complete and accurate copy of this Motion to be served via United States mail, with the postage prepaid and properly addressed to the following:

Jack W. McFadden  
dba McFadden Oil Co.  
P.O. Box 394  
Iola, Kansas 66749

And delivered by hand to:

Lane Palmateer  
Conservation Division Central Office

  
Paula Murray  
Legal Assistant  
Kansas Corporation Commission