

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

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

In the matter of the failure of Patrick) Docket No: 23-CONS-3030-CPEN
Development Corporation (Operator) to)
comply with K.A.R. 82-3-111 at the Bodley) CONSERVATION DIVISION
#Pringle 7 and Johnson #7 wells in Woodson)
County, Kansas.) License No: 6279

ORDER DISMISSING REQUEST FOR HEARING

The Commission rules as follows:

1. On August 9, 2022, the Commission issued a Penalty Order in this matter against Operator for violations of K.A.R. 82-3-111. On September 19, 2022, Operator requested a hearing.

2. The Commission's Penalty Order was issued pursuant to K.S.A. 55-164, which provides 30 days for a person "to make written request to the Commission for a hearing."¹ Accordingly, upon initial calculation, Operator's request for hearing was due Thursday, September 8, 2022. But the Penalty Order was also an order in summary proceedings under the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*,² which means that under K.S.A. 77-531(b), three days must be added to the deadline. This pushes the calculation of Operator's deadline to Sunday, September 11, 2022. Finally, under K.S.A. 77-503, deadlines falling on a Sunday run until the end of the next day that is not a Saturday, Sunday, or legal holiday. So, Operator's final deadline to submit a written request for hearing in this matter was Monday, September 12, 2022.

3. Operator's request for hearing was not filed until September 19, 2022, and so its request is untimely. As the Penalty Order stated at Ordering Clause C, "Failure to timely request a hearing will result in waiver of Operator's right to a hearing." The deadline for requesting a hearing

¹ See K.S.A. 55-164(b).

² See K.S.A. 55-162, K.S.A. 55-164, K.S.A. 77-503, K.S.A. 77-537

on a Commission Penalty Order is set by statute, the Commission does not have authority to alter a statutory deadline, and the Commission's Penalty Order a final order.³ In light of these facts, the Commission finds dismissal of Operator's request for hearing is appropriate.

4. There is an additional point to make. Under K.A.R. 82-1-228(d)(1), any party may either "appear before the Commission and be heard in person on that party's own behalf," or appear before the Commission through a licensed attorney. Because Operator is an artificial entity, it cannot appear in person.⁴ Thus, Commission regulations require artificial entities such as Operator to appear before the Commission via counsel.⁵ Even if Commission regulations did not require counsel in this matter, the Commission finds it would be in the public interest to require counsel via order.⁶ Thus, Operator must make any future filing in this docket via counsel.

5. Operator's request for hearing is dismissed. Any party may file and serve a petition for reconsideration regarding this Order pursuant to the requirements and time limitations established by K.S.A. 77-529(a)(1).⁷

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Duffy, Commissioner; French, Commissioner

Dated: 09/29/2022



Lynn M. Retz
Executive Director

Mailed Date: 09/29/2022
JRM

³ See K.S.A. 55-164(b), K.S.A. 77-501 *et seq.*

⁴ See *State ex rel. Stephan v. Williams*, 246 Kan. 681, 691 (1990).

⁵ See also K.A.R. 82-1-228(d)(2) ("[A] corporation shall not be permitted to enter an appearance, except by its attorney."); Operator is a corporation.

⁶ The administration of justice is efficiently furthered by requiring persons licensed to practice law and familiar with procedure to represent artificial entities. See *In re Arnold*, 274 Kan. 761, 770 (2002). See also K.S.A. 77-515(c) ("A state agency may require a corporation or other artificial person to participate by counsel.").

⁷ K.S.A. 55-162; K.S.A. 55-606; K.S.A. 55-707; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

23-CONS-3030-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
first class mail and electronic service on 09/29/2022.

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