

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Application of RJ Energy, LLC )	
for a Permit to Authorize the Enhanced Recovery )	
and to Commence Injection of Saltwater Into the )	Docket No. 20-CONS-3231-CUIC
Squirrel Formation From the Murray Twins #2-I, )	
#3-I, #4-I, #5-I, #6-I, #7-I, #8-I, #9-I, #10-I, #11-I, )	CONSERVATION DIVISION
#12-I, #13-I and #14-I Wells and the Brewer #1-I, )	
#2-I, #3-I, #4-I, #5-I, #6-I, #7-I, #8-I, #9-I and )	License No. 3728
#10-I Wells, Located in Coffey County, Kansas. )	
_____ )	

MOTION TO DISMISS PROTESTS

COMES NOW, operator and Applicant, RJ Energy, LLC (“RJ Energy”), and respectfully moves the State Corporation Commission of the State of Kansas (“Commission”) for dismissal of the protests to the Application in this docket filed by Cindy Hoedel (“Hoedel) and Susan Royd-Sykes (“Royd-Sykes”) herein as follows:

1. RJ Energy filed its Application for Injection Wells as to the Murray Twin wells on February 3, 2020 and as to the Brewer wells on February 12, 2020. These applications were for enhanced recovery and repressuring by injection of salt water into the Squirrel formation as found in the subject wells located in Coffey County, Kansas, and involve environmental matters under K.A.R. 82-3-400 through 82-3-412. Copies of each application were timely and properly served upon the persons described in K.A.R. 82-3-135a(c), and pursuant to K.A.R. 82-3-135a(d), RJ Energy published notice of its application in *The Coffey County Republican* on January 23, 2020. K.A.R. 82-3-135a(e) provides that, once notice of the application is published, the application shall be held in abeyance for 30 days for environmental matters, pending the filing of any protest pursuant to K.A.R. 82-3-135b. The deadline of 30 days after publication of notice for filing protests in

environmental matters is repeated in subsection (c)(1) of K.A.R. 82-3-135b and K.A.R. 82-3-402(c). Protests filed by Hoedel and Royd-Sykes in this docket were dated February 18, 2020 and marked “Received” by the Commission on February 20, 2020, within the time for filing protests prescribed by K.A.R. 82-3-135a, 82-3-135b and 82-3-402(c).

2. K.A.R. 82-3-135b(a) requires that a person filing a protest have a valid interest in the application, and that the protest include “a clear and concise statement of the direct and substantial interest of the protester in the proceeding, including specific allegations as to the manner in which the grant of the application will cause waste, violate correlative rights, or pollute the water resources of the State of Kansas.” Additionally, K.A.R. 82-3-402(c) provides that a complaint or objection to an injection well application “shall conform to the requirements of K.A.R. 82-3-135b and shall state the reasons why the proposed plan, as contained in the application, may cause damage to oil, gas, or fresh and usable water resources.” In its Final Precedential Order issued April 5, 2018 in Docket No. 17-CONS-3689-CUIC, the Commission ruled that the “direct and substantial interest” requirement of K.A.R. 82-3-135b(a) can only be met if each individual protestant has “standing” under the traditional two-part test prescribed by Kansas law, i.e., the protestant has suffered a cognizable injury, and there is a causal connection between the injury and the challenged project or conduct. Final Precedential Order, Para. 3. This order was deemed by the Commission to have precedential effect pursuant to K.S.A. 77-415(b)(2)(A), and is binding here. *Id.*

3. In her protest, Hoedel states that the notice published by RJ Energy is allegedly defective because it fails to adequately describe the proposed activity for which permits are sought. However, the published notice specifically states that the applications seek permission to conduct enhanced recovery operations by injection of salt water into the Squirrel formation in each of the

subject wells. “Enhanced recovery” is defined at K.A.R. 82-3-101(29) as “any process involving the injection of fluids into a pool to increase the recovery of oil or gas.” Thus, the notice creates no misunderstanding or confusion as to what the applications in this docket seek. Hoedel states that she is familiar with Enhanced Oil Recovery (EOR) wells, and therefore is presumably familiar with the enhanced recovery process, so her contended lack of knowledge and understanding of the nature of the applications is specious. Despite Hoedel’s statements to the contrary, there can be no inability to determine the potential for harm caused by the proposed operation, given the protester’s admitted and imputed knowledge of what the operation applied for entails. Although the protester claims not to know whether she has been or could be harmed by the enhanced recovery operations proposed, the notice published by RJ Energy provides all of the information required by K.A.R. 82-3 135a(c) and 82-3-402(a), and directs the reader to sources of additional information if further inquiry is required. But there is no indication in Hoedel’s protest that she conducted any further inquiry. Her failure to do so and purported lack of knowledge of any harm caused by the application in this case alone justify dismissal of her protest. In any event, no evidence of Hoedel’s direct and substantial interest in the pending application is provided, so she lacks standing to object to the application, and her protest must be dismissed.

4. Susan Royd-Sykes likewise states in her protest that she is unable to determine the meaning of “enhanced recovery” as used in the application notice, and is confused by later reference in the notice to “injection of salt water”. All of this is clarified by the definition of “enhanced recovery” contained in the Commission’s regulations, and the protester’s failure to research this term or understand the process involved is not the fault of the applicant. Royd-Sykes relies upon the sample newspaper notice provided by the Commission as a guide to the proper form of publication

notice as grounds for her protest of the notice provided by RJ Energy in this case. In fact, the notice provided here sets forth all of the essential elements of the application filed with the Commission in complete compliance with the Commission's sample. The published notice states the name of the operator (RJ Energy), the type of operation proposed (injection of salt water for enhanced recovery), the wells, formation and locations where the operations will be conducted, and the maximum injection rate and pressure. Nothing further is necessary to understand the nature of the application being noticed, or to comply with the Commission's regulations and sample. Again, the protester's failure to inquire further into the application to gain the understanding she supposedly lacks, and to determine whether or not she has been or will be actually harmed by it, deprives her of the right to object. As with Hoedel's protest, no evidence of Royd-Sykes' direct and substantial interest, other than being a resident of the county in which the operations will be conducted, is provided. Royd-Sykes thus lacks standing to object to the application and her protest must be dismissed.

5. Both protesters had 30 days following publication of notice on January 23, 2020 in which to confer with the operator and/or the Commission and conduct their own independent research to determine the nature and effects of the applications in this docket, but neglected to do so. Delay resulting from unnecessary fact-finding and discovery in advance of a hearing, not to mention the trouble and expense of a hearing itself, will be prejudicial to the applicant and a misuse of the Commission's hearing resources. The protesters should be barred from using the hearing process as a means of gathering information that could and should have been collected at much less cost earlier. If the protesters lack knowledge or information necessary to determine, and are unable to state, the nature and extent of the harm or injury that they contend may be caused by the subject applications, they alone are responsible and their protests must be dismissed.

6. Notably, Hoedel and Royd-Sykes appeared as protesters whose protests were dismissed for lack of standing in Docket No. 17-CONS-3689-CUIC, so they are intimately familiar with the requirement of a “direct and substantial interest” in the subject matter of injection well applications that is lacking from their protests and has been completely ignored by the protesters in this case. Neither protester in this docket has provided specific evidence of any direct or substantial interest in the pending application that is unique to her, or described any individual, personal or impending injury not common to members of the general public that could result from granting the application, as required by the Final Precedential Order entered in that docket. Nor has either protester stated how approval of the application will cause waste, violate correlative rights, or pollute the water resources of the State of Kansas as mandated by K.A.R. 82-3-135b. Having established no direct personal stake or standing in this proceeding, the protests of Hoedel and Royd-Sykes must be dismissed.

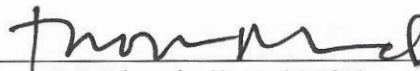
7. Hoedel and Royd-Sykes have also filed protests in other Commission proceedings in which they had no interest, resulting in dismissal of those protests. In addition to Docket No. 17-CONS-3689-CUIC, Hoedel and Royd-Sykes filed protests in Docket No. 18-CONS-3205-CUIC objecting to an application for a permit to inject salt water into a well in Lane County, Kansas. Neither protester is a resident of or appears to own property in Lane County, Kansas, so neither could show a direct and substantial interest in that proceeding. The protests were dismissed by the Commission for failure of the protesters to serve their protests on the operator and applicant, an omission the protesters did not attempt to correct. Docket No. 18-CONS-3205-CUIC, Order Granting Motion to Dismiss. In Docket Nos. 19-CONS-3106-CUIC and 19-CONS-3107-CUIC, Royd-Sykes protested applications for salt water injection permits for two wells in Coffey County,

Kansas. Those protests were dismissed by the Commission as invalid due to the fact that Royd-Sykes did not own the land on which the wells were located or within one-half mile of those wells, the radius required for compulsory written notice. The Commission further determined that Royd-Sykes was unable to establish the necessary causal connection between the applications and any injury she might ostensibly suffer, made no specific allegation as to the manner in which the grant of the applications would cause waste, violate correlative rights, or pollute state water resources, and that Royd-Sykes therefore failed to state a prima facie case for standing to protest. Docket Nos. 19-CONS-3106-CUIC and 19-CONS-3107-CUIC, Order on Applicant's Motion to Dismiss the Protest Filed Herein. Her protest and that of Hoedel in this docket suffer from the same deficiencies.

8. The protests filed in this proceeding fail to supply even prima facie grounds for objection to the pending application, are invalid and wholly without merit. No direct and substantial interest of the protesters and no specific, personal injury to the protesters is cited, and no no specific allegation as to the manner in which the grant of the applications would cause waste, violate correlative rights, or pollute state water resources is made, despite the fact that all information pertinent to the application and the sources of additional information, if needed, are fully disclosed in the published notice. As such, the protests fail to meet the minimum criteria for consideration by the Commission as prescribed by its regulations and orders, and must be dismissed.

WHEREFORE, RJ Energy prays that the protests of Hoedel and Royd-Sykes in this docket be dismissed, that the application of RJ Energy be granted administratively without a hearing, and that the Commission grant to RJ Energy such other and further relief as the Commission may deem just and proper.

Respectfully submitted,



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RJ Energy, LLC

VERIFICATION

STATE OF KANSAS            )  
  ) SS:  
COUNTY OF SEDGWICK    )

Thomas M. Rhoads, of lawful age and being first duly sworn upon his oath, deposes and states: That he is the attorney for the Applicant, RJ Energy, LLC, in the above-captioned action; that he has read the above and foregoing Motion to Dismiss Protests, knows and understands the contents thereof, and states that the statements and allegations therein contained are true and correct according to his knowledge, information, and belief.



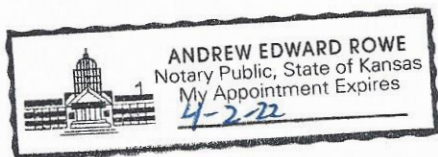
Thomas M. Rhoads

SUBSCRIBED AND SWORN TO before me, the undersigned authority, this 16 day of March, 2020.

My commission expires:



Notary Public



CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this 16 day of March, 2020, he caused true and correct copies of the above and foregoing Motion to Dismiss Protests to be served electronically and/or via United States mail, postage prepaid, upon the following persons at the addresses shown:

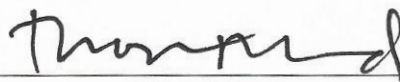
Susan Royd-Sykes  
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Cindy Hoedel  
205 Mercer Street  
Matfield Green, Kansas 66862  
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and served electronically upon the following persons at the email addresses indicated:

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Thomas M. Rhoads