THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

Dwight D. Keen, Chair

Andrew J. Fr	ench	l
In the matter of the failure of LB Exploration, Inc. (Operator) to comply with K.A.R. 82-3-111 at the)	Docket No: 23-CONS-3007-CPEN
Larkin 14 #1 well in Barber County, Kansas.)	CONSERVATION DIVISION
)	License No: 33186

Susan K. Duffy

ORDER DESIGNATING PRESIDING OFFICER AND SETTING PREHEARING CONFERENCE

The Commission rules as follows:

Before Commissioners:

- 1. On July 14, 2022, the Commission issued a Penalty Order in this docket against Operator for violation of K.A.R. 82-3-111.¹
 - 2. On August 15, 2022, Operator requested a hearing.²
- 3. Under K.S.A. 77-551(c), the Commission finds a Presiding Officer should be designated in this proceeding to determine procedural matters that may arise prior to a hearing on the merits, including but not limited to conducting prehearing conferences.³
 - 4. The Commission finds a Prehearing Conference should be scheduled.
- 5. 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

¹ See Penalty Order, Introduction (Jul. 14, 2022).

² See Entry of Appearance and Request for Hearing (Aug. 15, 2022).

³ See also K.S.A. 77-516 and K.S.A. 77-517.

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

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

THEREFORE, THE COMMISSION ORDERS:

A. The Presiding Officer for prehearing matters in this proceeding shall be Jonathan R. Myers, Assistant General Counsel, Kansas Corporation Commission, 266 N. Main Street, Suite 220, Wichita, Kansas, 67202-1513, telephone number (316) 337-6245, email address j.myers@kcc.ks.gov. The Commission may designate other Staff members to serve in this capacity.

B. A Prehearing Conference is scheduled for **Thursday**, **September 15**, **2022**, **at 1:15 p.m.** by telephone. The conference call information is: telephone number (913) 227-1201, passcode 417418. **Operator must appear via a licensed attorney**.

C. At the Prehearing Conference, parties shall be prepared to discuss deadlines for filing testimony and briefs, discovery procedures, scheduling of a hearing with the Commission, and any other issues that will promote the orderly and prompt resolution of this proceeding. At the Prehearing Conference, without further notice, this proceeding may be converted into a conference hearing or a summary proceeding for disposition of this matter as provided by the Kansas Administrative Procedure Act (KAPA). Any party that fails to attend or participate in the Prehearing Conference, hearing, or other stage of this proceeding may be held in default under the KAPA.

D. Although a Presiding Officer is designated, parties are still required to file pleadings with the Commission, and filings shall be made with the Commission's Docket Room. Any filing received after 5:00 p.m. shall be considered filed the next business day. In addition, any late filing

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. 77-506; K.S.A. 77-516(c)(7)-(8).

shall be accompanied by a Motion to File Out-of-Time. The Commission directs electronic service of all filings in the docket to include service on the Presiding Officer and mailed service of all filings to be directed to the Presiding Officer's attention.

E. The attorney designated to appear on behalf of the agency in this proceeding is Tristan Kimbrell, Litigation Counsel, telephone number (316) 337-6200, t.kimbrell@kcc.ks.gov.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Duffy, Commissioner; Fre	ench, Commissioner
Dated: 08/30/2022	Lynn M. Ret
	Lynn M. Retz
	Executive Director
Mailed Date: <u>08/30/2022</u>	

CERTIFICATE OF SERVICE

23-CONS-3007-CPEN

I, the undersigned	, certify that a true	copy of the attac	hed Order has l	been served to t	the following by means of

first class mail and electronic service on _08/30/2022

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/S/ KCC Docket Room

KCC Docket Room