

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

Before Commissioners: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Susan K. Duffy

In the Matter of the Application of TDR) Docket No: 20-CONS-3043-CUIC
Construction, Inc. for a permit to authorize the)
enhanced recovery of saltwater into the) CONSERVATION DIVISION
Moldenhauer #W-42 well, located in Franklin)
County, Kansas.) License No: 32218

In the Matter of the Application of TDR) Docket No: 20-CONS-3079-CUIC
Construction, Inc. for a permit to authorize the)
enhanced recovery of saltwater into the) CONSERVATION DIVISION
Moldenhauer #30 and Moldenhauer #45 wells,)
located in Franklin County, Kansas.) License No: 32218

ORDER HOLDING DOCKET 20-3079 MOTION TO DISMISS IN ABEYANCE

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds the following:

I. Procedural Background

1. On October 16, 2019, the above-captioned dockets were consolidated for hearing on a common record.¹ In both dockets, TDR Construction, Inc. (Operator) seeks injection authority on the Moldenhauer lease; in both dockets, Scott Yeargain and Polly Shteamer (Protesters) filed a protest.²

2. On September 9, 2019, Operator filed a motion to dismiss Protesters in Docket 20-CONS-3043-CUIC; Protesters filed a response on September 10, 2019. On October 1, 2019, the Commission partially denied the motion and held the remainder in abeyance.³

¹ See *Prehearing Officer Order Consolidating Dockets, Regarding Electronic Service, and Setting Procedural Schedule*, ¶ 4 (Oct. 16, 2019).

² See *id.* at ¶¶ 1-2.

³ See *Order Rescheduling Prehearing Conference and Partially Denying Motion to Dismiss Protests* (Oct. 1, 2019).

3. On September 27, 2019, Operator filed a motion to dismiss Protesters in Docket 20-CONS-3079-CUIC; Protesters filed a response on October 10, 2019. No ruling has been issued.

4. These consolidated dockets are currently scheduled for a December 19, 2019, evidentiary hearing.⁴ No testimony is due until November 12, 2019; discovery is ongoing.⁵

II. Findings of Fact

5. The Commission finds it appropriate to clarify the status of Operator's motion to dismiss filed in Docket 20-3079. As the Commission found in considering the motion to dismiss in Docket 20-3043, the Commission believes additional development of the record will provide for a better opportunity to consider Protesters' standing.

III. Conclusions of Law

6. Based upon the above, the Commission shall hold Operator's arguments for dismissal of Protesters in Docket 20-3079 in abeyance pending additional proceedings.


THEREFORE, THE COMMISSION ORDERS:

A. Operator's motion to dismiss Protesters in Docket 20-3079 shall be held in abeyance in the same manner as Operator's motion to dismiss Protesters in Docket 20-3043.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 10/29/2019



Lynn M. Retz
Executive Director

Mailed Date: 10/29/2019

JRM

⁴ Prehearing Officer Order Consolidating Dkts., Regarding Electronic Service, and Setting Procedural Schedule, ¶ 6.

⁵ *Id.*; Prehearing Officer Protective and Discovery Order (Oct. 16, 2019).

CERTIFICATE OF SERVICE

20-CONS-3043-CUIC, 20-CONS-3079 CUIC

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 10/29/2019.

KEITH A. BROCK, ATTORNEY
ANDERSON & BYRD, L.L.P.
216 S HICKORY
PO BOX 17
OTTAWA, KS 66067
Fax: 785-242-1279
kbrock@andersonbyrd.com

JAKE EASTES, GEOLOGIST SPECIALIST
KANSAS CORPORATION COMMISSION
266 N. Main St., Ste. 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
j.eastes@kcc.ks.gov

MICHAEL GLAMANN, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
CENTRAL OFFICE
266 N. MAIN ST, STE 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
m.glamann@kcc.ks.gov

KELCEY MARSH, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
CENTRAL OFFICE
266 N. MAIN ST, STE 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
k.marsh@kcc.ks.gov

JONATHAN R. MYERS, ASSISTANT GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
266 N. Main St., Ste. 220
WICHITA, KS 67202-1513
Fax: 316-337-6211
j.myers@kcc.ks.gov

RENE STUCKY
KANSAS CORPORATION COMMISSION
266 N. Main St., Ste. 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
r.stucky@kcc.ks.gov

POLLY SHTEAMER
2263 NEVADA RD
OTTAWA, KS 66067
pshteamer@gmail.com

SCOTT YEARGAIN
2263 NEVADA RD
OTTAWA, KS 66067
syeargai2@gmail.com

LANCE TOWN
TDR CONSTRUCTION, INC.
PO Box 716
Louisburg, KS 66053

LESLIE BAKER
TDR CONSTRUCTION INC
POB 716
Louisburg KS 66053
lesli@dbdoil.com

/S/ DeeAnn Shupe

DeeAnn Shupe