

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

Before Commissioners: Jay Scott Emler, Chairman
Shari Feist Albrecht
Pat Apple

In the matter of a Compliance Agreement between)	Docket No.: 16-CONS-3876-CMSC
Steven A. Leis and Commission Staff regarding)	
bringing the twenty-eight wells in Woodson County)	CONSERVATION DIVISION
into compliance with K.A.R. 82-3-111.)	
<hr/>		License No. 33900

**ORDER GRANTING INTERVENTION OF LD AND CHERYL MCCORMICK,
GRANTING RECONSIDERATION, DESIGNATING A PREHEARING OFFICER, AND
SCHEDULING A PREHEARING CONFERENCE**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas. Having examined the files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On March 10, 2016, the Commission Staff ("Staff") filed a motion requesting the Commission adopt a compliance agreement between Staff and Steven A. Leis with regard to 28 wells located in Woodson County.
2. On March 15, 2016, the Commission issued its Order Approving Compliance Agreement, incorporating the terms of the compliance agreement into the Order.
3. On March 29, 2016, LD and Cheryl McCormick filed a Petition of Landowner for Intervention and a Petition for Reconsideration.
4. On April 8, 2016, Staff filed responses opposing each of the two petitions.

I. INTERVENTION

5. The threshold issue is whether intervention is appropriate. K.S.A. 77-521 governs intervention in Commission proceedings. Subsection (a) governs interventions as a matter of right, and subsection (b) allows the Commission discretion to grant intervention "at any time

upon determining that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.”

6. In *Mobil Exploration & Producing U.S. Inc. v. Kansas Corporation Commission*, 258 Kan. 796, 846-47, 908 P.2d 1276, 1309 (1995), the Kansas Supreme Court affirmed permissive intervention and stated the following:

K.S.A. 77-521(b) allows the KCC discretion to grant a petition for intervention upon a determination that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings. While the evidence of record supporting the decision that intervention was in the best interests of justice is sparse, the intervention did not impair the orderly and prompt conduct of the proceedings. Further, OXY provides no evidence of prejudice other than its contention that intervention caused unnecessary delays. OXY does argue that allowing the intervention of the pipeline companies permitted those companies to inquire about matters which were not pertinent to the BPO and were of questionable relevance. However, OXY makes no attempt to show how these matters in any way affected any of the amendments to the BPO of which OXY now complains. Indeed, the intervention of the pipelines had no effect on any of the amendments adopted by the KCC. Thus, like the trial court, we conclude that there is no abuse of discretion established and further conclude that no prejudice to any party has been established. *Id* (citing *Zinke & Trumbo, Ltd. v. Kansas Corporation Commission*, 242 Kan. at 475, 749 P.2d 21 (1988)).

7. LD and Cheryl McCormick, being landowners of the acreage upon which the subject wells are located, certainly have an interest in this proceeding. Allowing the McCormicks to participate in proceedings to determine the schedule for addressing wells located on their land is in the interest of justice.

8. While an evidentiary hearing takes more time and resources than a summary proceeding, K.S.A. 77-521 does not preclude an evidentiary hearing as long as it is conducted in an “orderly and prompt” manner. This language seeks to avoid undue disruption in proceedings

which include an evidentiary hearing. The McCormicks' intervention will not prove disruptive to an evidentiary hearing provided arguments are tailored to the Commission's jurisdiction.

9. For these reasons, the Commission permits the McCormicks' intervention under K.S.A. 77-521(b). It is unnecessary to consider whether K.S.A. 77-521(a) would provide the McCormicks with a right to intervene.

10. The Commission finds and concludes that limitations should be placed on the McCormick's intervention pursuant to K.S.A. 77-521(c)(1). The Commission does not have jurisdiction over any civil remedies by and between the McCormicks and Mr. Leis, and testimony offered solely in furtherance of any private cause of action may be stricken. The parties' testimony should instead address Mr. Leis's regulatory duties to the Commission as addressed by the compliance agreement. Testimony may be offered regarding additional wells alleged to exist that are not within the original compliance agreement.

II. RECONSIDERATION

11. The Commission grants reconsideration and vacates its Order Approving Compliance Agreement pending the evidentiary hearing on this matter.

III. PREHEARING OFFICER AND PREHEARING CONFERENCE

12. Upon its own motion and pursuant to K.S.A. 77-551(c), the Commission finds that a Prehearing Officer should be designated in this proceeding to address any matters listed in K.S.A. 77-517(b), and that a prehearing conference should be scheduled.

THEREFORE, THE COMMISSION ORDERS:

A. The petition by LD and Cheryl McCormick to intervene in this docket is granted. Service of all pleadings in this docket shall be delivered to the McCormicks' counsel. Intervention is subject to the limitations specified in Paragraph 10.

B. The petition for reconsideration is granted. The Order Approving Compliance Agreement is vacated pending additional proceedings.

C. The Prehearing Officer in this proceeding is Lane R. Palmateer, Counsel, Kansas Corporation Commission, 266 N. Main, Ste. 220, Wichita, Kansas 67202, telephone number 316-337-6200, email address L.palmateer@kcc.ks.gov.

D. A Prehearing Conference is scheduled for Tuesday, May 17, 2016. The Prehearing Conference shall begin at 11:00 a.m. and end by 11:30 a.m., at the Commission's offices, 266 N. Main St., Ste. 220, Wichita, Kansas 67202. Telephonic attendance may be permitted upon advance request. The Prehearing Conference will focus on the development of a procedural schedule for this docket.

E. 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.

F. 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 shall be held in default under the KAPA.

G. Pursuant to K.A.R. 82-1-228(d)(2), corporations must enter an appearance via an attorney. If a corporation fails to enter an appearance via an attorney prior to the Prehearing Conference, it shall be held in default under the KAPA.

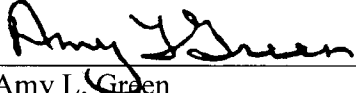
H. The attorney designated to appear on behalf of the agency in this proceeding is Jon Myers, Litigation Counsel, telephone number 316-337-6200, j.myers@kcc.ks.gov.

I. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated: APR 26 2016



Amy L. Green
Secretary to the Commission

Mailed Date: April 26, 2016

LRP

CERTIFICATE OF SERVICE

I certify that on April 26, 2016, I caused a complete and accurate copy of this Order to be served via United States mail, with the postage prepaid and properly addressed to the following:

David J. Bideau
Bideau Law Offices, LLC
P.O. Box 945
Chanute, Kansas 66720
Attorney for LD & Cheryl McCormick

Steven A. Leis
1135 30th Road
Yates Center, Kansas 66783

And delivered by email to:

Jonathan R. Myers
Conservation Division Central Office

John Almond
KCC District #3

/s/ Cynthia K. Maine
Cynthia K. Maine
Administrative Assistant
Kansas Corporation Commission