

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

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

In the matter of the failure of Great Plains ) Docket No: 20-CONS-3279-CPEN  
Petroleum, Inc. ("Operator") to comply with )  
K.A.R. 82-3-111 at the Adams #1-16 in Meade ) CONSERVATION DIVISION  
County, Kansas. )  
\_\_\_\_\_ ) License No: 30163

**ORDER ON PETITION FOR RECONSIDERATION**

Rod A. Phares petitions for reconsideration of the Commission's Default Order against Great Plains Petroleum, Inc. For the following reasons, his petition is denied.

**I. Procedural Background**

1. On May 5, 2020, the Commission issued a Penalty Order against Great Plains Petroleum, Inc. (Operator) for one violation of K.A.R. 82-3-111 because the Adams #1-16 (Subject Well) had been inactive in excess of the time allowed by regulation without being plugged, returned to service, or approved for temporary abandonment status.<sup>1</sup> The Penalty Order assessed a \$100 penalty and directed Operator to bring the Subject Well into compliance within 30 days to avoid license suspension.<sup>2</sup>

2. On June 4, 2020, Operator requested a hearing.<sup>3</sup> In the request, Operator stated it did not contest the penalty and had paid the \$100, but wanted more time to bring the Subject Well into compliance because another operator had expressed interest in assuming operations of the well.<sup>4</sup>

3. On July 7, 2020, upon Operator's failure to attend a July 2, 2020, prehearing conference, Commission Staff filed a motion for a default order against Operator. Operator did not

<sup>1</sup> See Penalty Order, ¶¶ 6, 10 (May 5, 2020).

<sup>2</sup> *Id.* at Ordering Clauses A, B, D.

<sup>3</sup> See Letter Requesting Hearing (June 4, 2020).

<sup>4</sup> *Id.*

directly respond, but on July 16, 2020, Rod A. Phares, president of Operator, filed a motion to reschedule the prehearing conference.

4. On July 30, 2020, the Commission issued a Default Order that stated:
  - A. Staff's motion for a default order is granted. Operator is in default in this proceeding. Mr. Phares' motion to reschedule the prehearing conference is denied.
  - B. Pursuant to K.S.A. 77-520(b), any party may file a written motion requesting this Default Order be vacated, stating the grounds relied upon, within seven calendar days after service of this Order, with three additional days added to account for service by mail.
  - C. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).

5. On August 14, 2020, Mr. Phares filed a "Confidential Petition for Reconsideration."

6. On August 17, 2020, Mr. Phares filed a "Petition for Reconsideration," which is identical to his August 14, 2020, filing, except that the seventh numbered paragraph was redacted.

## II. Analysis

### *A. The Confidentiality of Mr. Phares' Petition for Reconsideration*

7. Under K.A.R. 82-1-221a(5), a confidential petition must be accompanied by a written explanation of the confidential nature of the document, stating whether the information constitutes a trade secret or confidential commercial information, and specifying the harm or potential harm that disclosure would cause to the entity seeking nondisclosure. Mr. Phares' confidential petition was not accompanied by a written explanation. Upon review of the petition, a majority of paragraph seven discusses the health and personal data of certain individuals not associated with this matter. While not a trade secret or confidential commercial information, the Commission finds no public interest would be served by revealing such data. The portions of paragraph seven that do not contain health and personal data, however, should be made publicly available, as there is no stated basis for confidentiality. Consistent with these findings, a redacted version of Mr. Phares' confidential petition is attached to this Order.

*B. Mr. Phares' Ability to Participate in this Proceeding*

8. Proceedings associated with the Commission's Penalty Order in this matter, which was levied against Great Plains Petroleum, Inc., are conducted pursuant to the Kansas Administrative Procedure Act (KAPA).<sup>5</sup> There is no provision in the KAPA to allow a nonparty to initiate an appeal; similarly, only a party may file a petition for reconsideration.<sup>6</sup> Further, under K.A.R. 82-1-228(d)(2), Great Plains is required to appear through an attorney. Per the Commission's Default Order, "[A]s the Commission's Penalty Order stated, a corporation shall appear before the Commission by a Kansas licensed attorney; Mr. Phares has not indicated he is an attorney."<sup>7</sup> Since Mr. Phares is not a party to this proceeding, nor an attorney representing Great Plains Petroleum, Inc., his petition for reconsideration is not properly before the Commission. Accordingly, the Commission finds his petition for reconsideration should be denied.

*C. The Contents of Mr. Phares' Petition for Reconsideration*

9. A petition for reconsideration must "inform the [Commission] and other parties where mistakes of law and fact were made in [an] order."<sup>8</sup> Mr. Phares' petition does not allege a mistake of law, but does allege two mistakes of fact. Both alleged mistakes are immaterial to the facts and law forming the basis for the Default Order and do not justify reconsideration. First, Mr. Phares states one of the Commission's findings was "not the whole truth" because he did not miss the prehearing conference due to malfeasance.<sup>9</sup> But the Commission did not make a finding regarding malfeasance. Second, Mr. Phares states he has no person or means to delegate review of correspondence.<sup>10</sup>

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<sup>5</sup> See K.S.A. 55-162; K.S.A. 55-164.

<sup>6</sup> See *Twin Valley Developmental Servs., Inc. v. Kansas Dept. of Soc. and Rehab. Servs.*, 36 Kan. App. 2d 865, 868 (2006). See also K.S.A. 55-164 (Only the person who is penalized may request a hearing. It was Great Plains, not Mr. Phares, who was penalized in this docket).

<sup>7</sup> Default Order, ¶ 7.

<sup>8</sup> *Citizens' Util. Ratepayer Bd. v. State Corp. Comm'n of the State of Kan.*, 24 Kan. App. 2d 222, 228 (1997), *aff'd in part, rev'd in part* 264 Kan. 363 (1998).

<sup>9</sup> Petition for Reconsideration, ¶ 7.

<sup>10</sup> *Id.*

Nonetheless, he admits he was properly served the relevant Commission correspondence.<sup>11</sup> Whether Mr. Phares can delegate review of correspondence is immaterial to the legal appropriateness of the Commission's Default Order against Great Plains. Even if Mr. Phares' petition for reconsideration was appropriately before the Commission, the Commission finds the petition should be denied.


**THEREFORE, THE COMMISSION ORDERS:**

- A. Mr. Phares' petition for reconsideration is denied.
- B. Lynn M. Retz, KCC Executive Director, is designated by the Commission to receive service of any petition for judicial review.<sup>12</sup>

**BY THE COMMISSION IT IS SO ORDERED.**

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 09/03/2020

  
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Lynn M. Retz  
Executive Director

Mailed Date: 09/03/2020

JRM

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<sup>11</sup> *Id.* at ¶4.

<sup>12</sup> *See* K.S.A. 77-529(d).

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

In the Matter of the failure of Great Plains	)	Docket No.: 20-CONS-3279-CPEN
Petroleum, Inc. ("Operator") to comply with	)	
K.A.R. 82-3-111 at the Adams #1-16 in Meade	)	CONSERVATION DIVISION
County, Kansas.	)	
<hr/>		License No.: 30163

**PETITION FOR RECONSIDERATION**

COMES NOW the Protestant, Rod A. Phares, who respectfully moves that the Kansas Corporation Commission reconsider our previous request to reschedule a *prehearing* conference for this docket in regards to bringing the Adams #1-16 well back into compliance with K.A.R. 82-3-111 and then returning the well to service, or alternatively plugging and abandoning the well.

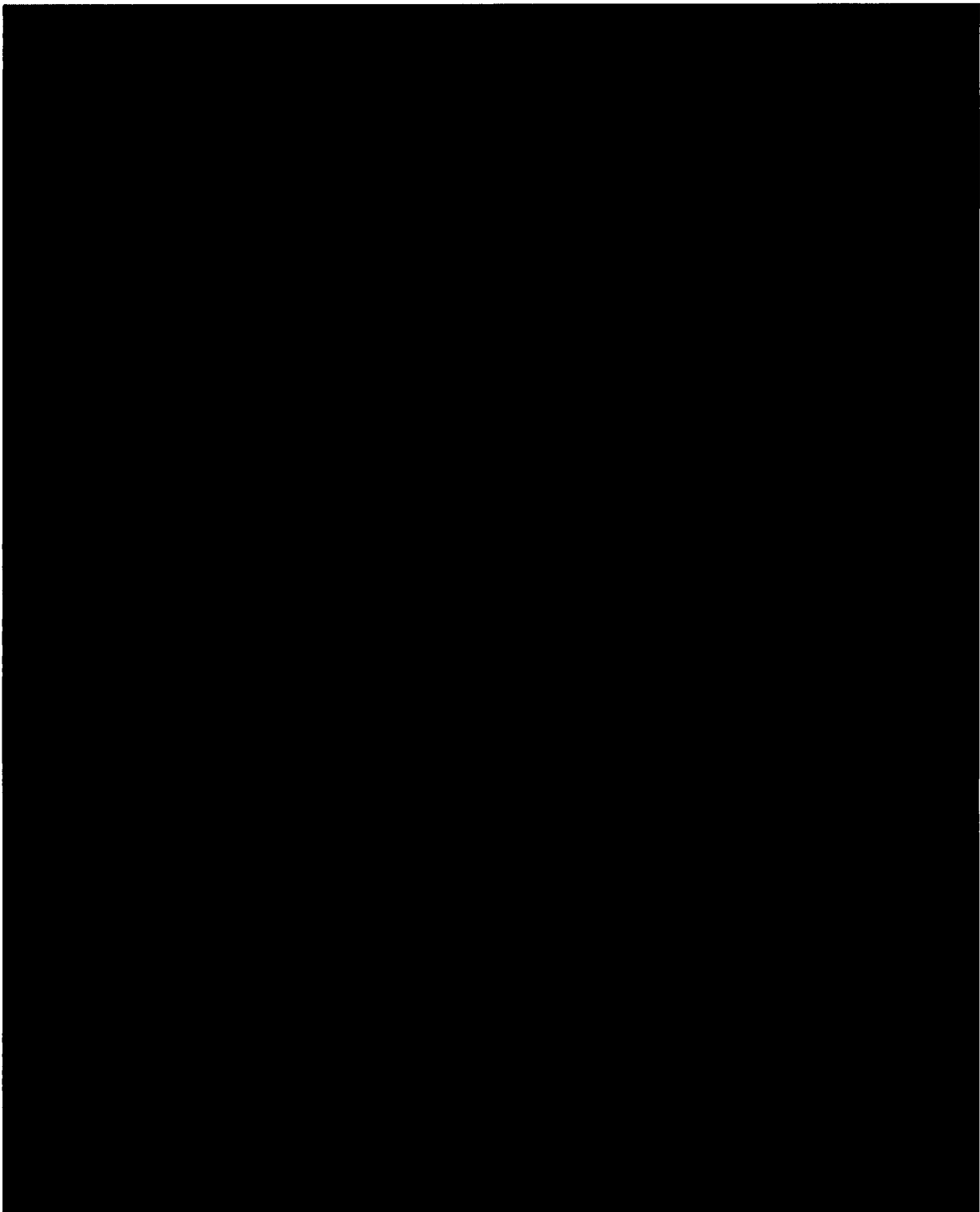
1. A Prehearing Conference was scheduled for July 2, 2020. Protestant was absent from the conference, due to the fact that Protestant was not aware that a conference had been scheduled.
2. Protestant only became aware of the scheduled conference on July 7, 2020 after viewing an email from the Kansas Corporation Commission providing notice of a Motion For Default Order in the matter referenced above.
3. Protestant then performed a search of his email document inbox and discovered an email dated June 16<sup>th</sup>, 2020 from DeeAnn Shupe, with Document Service in the subject line. This email had not been opened.
4. Protestant hereby acknowledges that it appears that the Kansas Corporation Commission provided Protestant with proper notice regarding the scheduled conference.

5. Protestant hereby asserts he was unaware of the scheduled conference and did not intentionally fail to attend or participate. This failure was due to an overwhelming schedule of job and family obligations.

6. Protestant still desires to return the subject well to compliance and requests that a second Prehearing Conference be scheduled. This will aid in putting the subject well to its best use and avoiding waste. For example, one of the Commission's main areas of discretion is outlined in 82-3-100 (b) "*An exception to the requirements of any regulation in this article may be granted by the commission, after considering whether the exception will prevent waste, protect correlative rights, and prevent pollution.*" Granting an extension of time certainly meets this mandate of the Commission as considering this well for saltwater disposal will allow another operator the potential to convert a non-economic oil well into a productive asset for the company, royalty owners, and taxing authorities.


7. **Special Pleading:** Protestant thought that a global pandemic that has severely impacted the oil industry would be sufficient for some latitude regarding a time extension for a well subject to a purely statutory violation that has no indication of any environmental problem whatsoever. Otherwise, I would have provided additional information in our previous motion.

In the Default Order dated 7/30/2020, the Commission outlined that my current obligations "are no excuse for Great Plains Petroleum, Inc., the entity licensed by the Commission, failing to attend the prehearing conference." That assertion is strictly true, but not the whole truth. I did not fail to attend the prehearing conference due to any deliberate malfeasance on my part, rather I missed a notification. I was completely forthright in admitting my error in missing my notifications, yet the response in The Default Order is that the review of such correspondence could have been delegated. This assertion is not true, as I have no person or means to delegate such additional work (as outlined below).



Unfortunately, the 20-year lows in gas prices and the collapsed oil prices have caused Great Plains Petroleum to suffer substantial ongoing net losses for calendar year 2020. [REDACTED]

[REDACTED]



I have worked to the best of my abilities to fulfill all of my duties as President of Great Plains Petroleum. All of my pumpers and contractors know to call me directly, day or night, for any problems or emergencies with our operations. The KCC district offices frequently call me directly for any notices or imminent problems – which always gets a response at my first opportunity.

Due to the current financial straits of Great Plains Petroleum, I am the sole employee. There is no one to whom I can delegate job duties, such as keeping caught up on correspondence via email or regular mail. This has been to my detriment several times in the past 12 months, yet even in hindsight I would not have changed my prioritization of the obligations that I currently work on for 12-18 hours/day, seven days/week.

WHEREFORE, for the reasons set forth above, Protestant respectfully requests that the Commission consider our Petition For Reconsideration and ancillary request to reschedule a Prehearing Conference in regards to the matter outlined in Docket No.: 20-CONS-3279-CPEN.

Respectfully submitted,



Rod A. Phares  
President  
Great Plains Petroleum

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Wichita, KS 67218  
Office Phone: 316-685-8800 Cell Phone: 316-655-6106  
gprod@cox.net



**CERTIFICATE OF SERVICE**


**20-CONS-3279-CPEN**

I, the undersigned, certify that a true copy of the attached Motion To Reschedule Prehearing Conference has been served to the following by means of first class mail and electronic service on July 10, 2020.

**KELCEY MARSH, LITIGATION COUNSEL  
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Rod A. Phares

**CERTIFICATE OF SERVICE**

20-CONS-3279-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 09/03/2020.

ROD A. PHARES  
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/S/ DeeAnn Shupe

DeeAnn Shupe