

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the matter of the failure of)
Benjamin M. Giles (“Operator”) to)
comply with K.A.R. 82-3-120)
_____)
Docket No. 20-CONS-3082-CPEN
CONSERVATION DIVISION
License No. 5446

**PETITION FOR INTERVENTION, REQUEST FOR HEARING
AND EMERGENCY MOTION TO LIFT SHUT-IN ORDER**

Community National Bank & Trust (“Petitioner”) moves the State Corporation Commission of the State of Kansas (“Commission”): (i) for an order pursuant to K.A.R. 81-1-225 allowing Petition to participate in the captioned docket, and (ii) for an emergency order lifting its prior order requiring that all of the Operator’s wells be shut-in (“shut-in order”).¹ Petitioner respectfully requests a hearing on said penalty order. As described in greater detail below, granting Petitioner’s Motion or the Motion by MWM Oil Co., Inc. and RAG Oil Co., LLC asking for the same relief will avoid an inordinate amount of waste, both physical and economic, while not threatening the pollution of freshwater, and is necessary to protect the rights of Petitioner who will be irreparably harmed by the shut-in order. In support of its Petition and Motion, Petitioner states as follows:

BACKGROUND

1. Petitioner adopts all statements made in the Petition for Intervention, Request for Hearing and Emergency Motion to Lift Shut-In Order filed by MWM Oil Co., Inc. and RAG Oil Co., LLC as if the same were set forth herein in their entirety.

¹ ¶B, Penalty Order, 20-CONS-3082-CPEN

2. Petitioner is secured creditor of MWM Oil Co., Inc. and RAG Oil Co., LLC. Petitioner's collateral are mortgages on the oil and gas interests related to the Subject Wells that have been ordered shut-in by the Commission. Such secured status has been acknowledged by MWM and Rag Oil in their bankruptcy filings.

3. Petitioner has been relying up MWM Oil Co., Inc. and RAG Oil Co., LLC to provide it information regarding the status of these wells and to take all appropriate steps to maintain the Subject Wells.

4. Petitioner approved and agreed to allow a third-party contractor with bankruptcy court approval to service the Subject Wells and get them back in to operation.

5. Petitioner also provided Debtor-In-Possession financing as part of the bankruptcy action to provide funds to allow the Subject Wells to be brought back into service by the third-party contractor. Said loan was secured by the previously provided mortgages on the oil and gas interests.

6. Petitioner was unaware of any issues with the Commission until it learned of the shut-in order and believed that MWM Oil Co., Inc. and RAG Oil Co., LLC and any third parties working with them were complying with all rules and regulations of the Commission.

7. As part of the bankruptcies of MWM Oil Co., Inc. and RAG Oil Co., LLC there has been a proposal to sell the Subject Wells that secure Petitioner's loans to these parties and it is currently anticipated that the sales will occur before the end of the year. Petitioner's loans would be repaid from the contemplated sale.

8. The shut-in order will negatively and adversely impact the value of the collateral securing the obligations to Petitioner and the ability to sell the Subject Wells

as contemplated to repay obligations of MWM Oil Co., Inc. and RAG Oil Co., LLC including those obligations owed to Petitioner.

LEGAL AUTHORITY AND ARGUMENT

I. Petition for Intervention

Petitioner meets all of the statutory requirements for intervention, and therefore should be allowed to participate in this proceeding. Intervention must be granted when the following conditions are met:

1. The petition is submitted in writing to the presiding officer, with copies served upon all parties named in the presiding officer's notice of hearing, at least three (3) business days before the hearing.
2. The petition states facts demonstrating that the petitioner's legal rights may be substantially affected by the proceeding.
3. The presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceeding will not be impaired by allowing for the intervention.²

The Commission entered the penalty order on October 17, 2019, just a few days ago, so there are no issues with timing. As stated in the Background, Petitioner is a secured creditor whose collateral includes the Subject Wells and Leases, a legal right that gives Petitioner a substantial interest in the outcome of this proceeding. Allowing Petitioner to participate in this proceeding does not impair the orderly and prompt conduct of the proceedings. By granting this petition, the Commission will have another interested party wanting to keep the Subject Wells and Leases operational and able to be sold to third parties interested in maintaining the same. A presiding officer may grant a

² K.A.R. 82-1-225(a); see also K.S.A. 77-521(a) (KAPA provision on intervention with identical requirements).

petition for intervention at any time upon determining that the intervention is in the interests of justice and will not impair the orderly and prompt conduct of the proceeding.³

WHEREFORE, for these reasons, Petitioner has substantial interest in the resolution of this proceeding, and justice dictates Petitioner be allowed to participate. As such Petitioner respectfully requests their petition for intervention be granted and that the penalty order entered in the captioned docket be set for evidentiary hearing.

II. Emergency Motion to Lift Shut-In Order

The shut-in order is contrary to the mission of the Commission, because it will likely result in the Subject Wells becoming the responsibility of the Commission and the obligation of the abandoned well plugging fund. Petitioner adopts in their entirety the arguments presented by MWM Oil Co., Inc. and RAG Oil Co., LLC in their Emergency Motion to Lift-Shut-In Order filed in this matter. Petitioner agrees with the positions taken by MWM Oil Co., Inc. and RAG Oil Co., LLC in their Motion as to the likelihood of significant damage occurring if the order is not lifted including loss of collateral securing the loans made to Community National Bank & Trust. Further, the Order will significantly impact the planned sale of the Subject Wells without providing any benefit to anyone, including the Commission.

WHEREFORE, for the forgoing reasons, Petitioners respectfully request the shut-in Order entered in the captioned docket be immediately lifted, and that the Commission enter an order allowing the Operator to continue operating the Subject

³ K.A.R. 82-1-225(b); see also K.S.A. 77-521(b) (KAPA provision on intervention with identical language).

Wells so that they may be sold and transferred to a responsible party for the benefit of everyone including the Commission.

Respectfully Submitted by:

Creath L. Pollak

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VERIFICATION

STATE OF KANSAS)
 §§
COUNTY OF SEDGWICK)

Creath L. Pollak, as attorney for Community National Bank & Trust, Petitioner, of lawful age, being first duly sworn, upon oath, states she is the attorney for Community National Bank & Trust, Petitioner; has read the above Petition for Intervention and Motion to Lift Shut-In Order; knows the contents thereof; and affirms that all factual statements made therein are true to the best of her knowledge and belief.

Creath L. Pollak

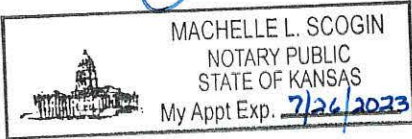
Creath L. Pollak

Subscribed and sworn to before me this 25th day of October 2019.

Machelle L. Scogin

Notary Public

My Appointment Expires: 7/26/2023



CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 25th day of October, 2019, I caused the original of the Petition for Intervention and Motion to Lift Shut-In Order to be electronically filed with the Conservation Division of the State Corporation Commission of the State of Kansas, and caused a true and correct copy of the same to be electronically served on the following parties:

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