

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

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

In the Matter of the Application of Phillips)	Docket No. 18-CONS-3204-CUIC
Exploration Company, L.C. to authorize)	
Injection of saltwater into the Cedarhill)	CONSERVATION DIVISION
Formation at the Gaither 2-21 well)	
Located in Section 21, Township 14 South,)	License No. 31160
Range 24 West, Trego County, Kansas)	
_____)	

MOTION TO DISMISS PROTEST

Applicant Phillips Exploration Company, L.C. ("Phillips Exploration") moves the Kansas Corporation Commission (the "Commission") for an Order dismissing the protest filed by Gaither Family Ranch, LLC ("Protestor") in the above captioned matter.

In support of this motion, Phillips Exploration states and alleges as follows:

1. On October 12, 2017, Phillips Exploration filed an Application (KCC Form U-1) seeking authorization to inject produced water in the Cedarhill formation in the Gaither 2-21 well in Section 21, Township 14 South, Range 24 West, Graham County, Kansas, and thereafter published notice of the filing of that Application in The Western Kansas World on October 5, 2017, and on November 23, 2017.
2. Protestor filed a letter of protest and requesting a hearing with the Conservation Division of the Commission on November 1, 2017.
3. On January 11, 2018, the Commission entered an Order Designating Prehearing Officer and Setting Prehearing Conference scheduling a prehearing conference in this matter on February 22, 2018.

4. Protestor did not serve a copy of its letter of protest and request for hearing on Phillips Exploration.

5. K.A.R. § 82-3-135b states that "[e]ach protest . . . shall be considered under the following conditions and requirements" K.A.R. § 82-3-135b(d). That regulation continues on to specifically require that "each protest shall serve the protest upon the applicant at the same time or before the protestor files the protest with the conservation division." *Id.* (emphasis added). That regulation makes clear that a protestor shall serve a copy of their protest on the Applicant and that the Commission staff is not responsible for doing so.

6. In this matter, Protestor did not serve a copy of its protest on Phillips Exploration. Phillips Exploration first learned of that protest when it received the Order Designating Prehearing Officer and Setting Prehearing Conference.

7. Protestor failed to follow the Commission's Rules and Regulations in that it violated K.A.R. 32-3-135b(d) by failing to provide a copy of her protest to Phillips Exploration.

8. The Commission has previously held that strict compliance with K.A.R. § 82-3-135b(d) is mandatory and that a protestor's failure to serve a copy of their protest on the Applicant justifies dismissal of their protest. See *In the Matter of the Application of Lawson Engineering, Inc., d/b/a Larson Operating Company, to authorize the injection of saltwater into the Pleasanton and Altamont formations at the Danis #1-21 well in Section 21, Township 18 South, Range 29 West, Lane County, Kansas*, Docket No. 18-CONS-3205-CUIC, Order Granting Motion to Dismiss (filed January 9, 2018).

9. Kansas courts have also held that "[a] pro se litigant in a civil case is required to follow the same rules of procedure and evidence which are binding upon a litigant who is represented by counsel." *Mangiaracina v. Guitierrez*, 11 Kan.App.2d 594, 595, 730 P.2d 1109

(1986). Thus, the fact that Protestor is pro se does not excuse non-compliance with this mandatory Commission rule.

WHEREFORE, for the reasons set forth herein, Applicant Phillips Exploration Company, L.C., respectfully requests that the Commission follow its Rules and Regulations and dismiss the Protest filed herein and allow this matter to proceed expeditiously.

s/ David E. Bengtson

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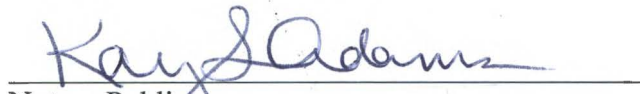
VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

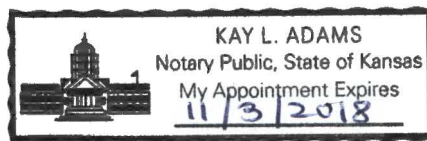
James B. Phillips, of lawful age, being first duly sworn on my oath, states that I am President and owner of Phillips Exploration Company, L.C.; that I have read the above Motion to Dismiss Protest; that I know the contents thereof and declare that the statements made therein are true and correct to the best of my knowledge and belief.

By 
James B. Phillips

SUBSCRIBED AND SWORN to before me this 30 day of January, 2018.


Notary Public

My appointment expires:



CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of January, 2018, the foregoing Motion was electronically filed with the Kansas Corporation Commission and served by U.S. mail, postage prepaid, addressed to the following:

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s/ David E. Bengtson

David E. Bengtson