

**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 Merit            ) Docket No. 20-CONS-3049-CWLE  
Energy Company, LLC for a well location            ) )  
exception for its NLV 4-1 well, to be located       ) CONSERVATION DIVISION  
in the Northeast Quarter of Section 4,            ) )  
Township 29 South, Range 33 West, Haskell        ) License No. 32446  
County, Kansas.                                        )

**ORDER GRANTING APPLICATION**

The above captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being duly advised in the premises, the Commission makes the following findings and conclusions:

**I. JURISDICTION**

1. The Commission has the exclusive jurisdiction and authority to regulate oil and gas activities in Kansas.<sup>1</sup>

2. K.A.R. 82-3-108(a) provides that the setback requirement for oil and gas wells shall be 330 feet from any lease or unit boundary line, except as provided in subsection (b) or (c).

3. K.A.R. 82-3-108(b) provides that an oil well drilled to a total depth of less than 2,000 feet in any of the following counties in eastern Kansas shall be subject to a setback of 165 feet from any lease or unit boundary: Allen, Anderson, Atchison, Bourbon, Brown, Cherokee, Coffey, Crawford, Douglas, Elk, Franklin, Greenwood, Jackson, Jefferson, Johnson, Labette, Leavenworth, Linn, Lyon, Miami, Montgomery, Neosho, Osage, Shawnee, Wilson, Woodson, and

---

<sup>1</sup> K.S.A. 74-623.

Wyandotte. Further, wells drilled to a total depth of less than 2,500 feet in Chautauqua County are subject to the 165-foot setback.

4. K.A.R. 82-3-108(c) provides that the Commission may grant an exception to the well setback requirements if necessary either to prevent waste or protect correlative rights.

5. K.A.R. 82-3-207 states that a standard oil well drilling unit shall be 10 acres, except that the standard drilling unit for counties and well depths listed in K.A.R. 82-3-108(b) shall be 2.5 acres.

## II. FINDINGS OF FACT

6. Merit Energy Company, LLC (Operator) conducts oil and gas activities in Kansas under active license number 32446.

7. On August 14, 2019, Operator filed an Application requesting a well location exception and full allowable for the proposed NLV #4-1 well (the subject well). Operator intends to drill the subject well at a surface location of 157' FEL & 2,245' FNL of Section 4, Township 29 South, Range 33 West in Haskell County, Kansas.<sup>2</sup>

8. Operator seeks a well location exception for the subject well because the subject well will be drilled less than 330 feet from the adjacent lease or boundary line. Operator's geophysical and geological staff have interpreted 3D-seismic data and identified what is believed to be a narrow sandstone channel with potential oil and gas reserves near the eastern boundary line of the lease.<sup>3</sup> Therefore, Operator is asking for an exception pursuant to K.A.R. 82-3-108(c).<sup>4</sup> Additionally, Operator requests a full oil and gas allowable.<sup>5</sup>

---

<sup>2</sup> See Application, ¶4 (Aug. 14, 2019).

<sup>3</sup> *Id.* at ¶7.

<sup>4</sup> *Id.* at ¶¶6-7.

<sup>5</sup> *Id.* at ¶11.

9. The proposed location of the subject well is located less than the required distance from a current oil and gas lease, which is also owned by Operator.<sup>6</sup> Exhibit B of the Application lists those lessors under that offset lease.<sup>7</sup> Operator states there are no other operators or unleased mineral owners located less than the required distance from the proposed location of the subject well.<sup>8</sup> Operator has verified that notice was properly served and published as required under K.A.R. 82-3-135a.<sup>9</sup> No protest was filed under K.A.R. 82-3-135b.

10. Commission Staff recommends that Operator's Application be granted and recommends the subject well be granted one-half of its full allowable pursuant to K.A.R. 82-3-203 and K.A.R. 82-3-312 in order to prevent economic and physical waste, and that the granting of this Application will not violate correlative rights.<sup>10</sup>

### III. CONCLUSIONS OF LAW

11. The Commission concludes that it has jurisdiction over Operator and this matter.

12. The Commission concludes the Application was filed in accordance with the rules and regulations of the Commission and in accordance with Kansas statutes.

13. The Commission concludes that notice was properly served and published.

14. Based on the above facts, the Commission concludes that the Application should be granted to prevent waste and protect correlative rights, except that the allowable should be reduced per Staff's recommendation and the drilling unit should be modified to reflect the eastern boundary of the lease.

---

<sup>6</sup> *Id.* at ¶10.

<sup>7</sup> *Id.* at Exhibit B.

<sup>8</sup> *Id.* at ¶10.

<sup>9</sup> *Id.* at ¶14.

<sup>10</sup> The reduced allowable recommendation reflects Commission Staff's interpretation of the data provided by the Applicant combined with the approximate decrease from the legal distance of the well to the well's actual location. Staff Litigation Counsel has communicated with Applicant's attorney and confirmed that the reduced allowable is acceptable to operator.

**THEREFORE, THE COMMISSION ORDERS:**

A. Operator's Application for a well location exception for the subject well under K.A.R. 82-3-108 is granted. The subject well is assigned one-half of a full oil allowable pursuant to K.A.R. 82-3-203, and one-half of a full gas allowable pursuant to K.A.R. 82-3-312. The subject well shall have a standard drilling unit, except that the acreage of the drilling unit shall be reduced along the eastern side to match the lease line.<sup>11</sup>

B. 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).<sup>12</sup>

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

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

Keen, Chair; Albrecht; Commissioner, Duffy, Commissioner.

Dated: 10/01/2019



\_\_\_\_\_  
Lynn M. Retz  
Executive Secretary

Mailed Date: 10/01/2019

REV/kam

---

<sup>11</sup> See Application, ¶12.

<sup>12</sup> K.S.A. 55-162; K.S.A. 55-606; K.S.A. 55-707; K.S.A. 77-503(c); K.S.A. 77-531(b).

**CERTIFICATE OF SERVICE**

20-CONS-3049-CWLE

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 10/01/2019.

SCOTT ALBERG, DISTRICT #1 SUPERVISOR  
KANSAS CORPORATION COMMISSION  
DISTRICT OFFICE NO. 1  
210 E. FRONTVIEW SUITE A  
DODGE CITY, KS 67801  
Fax: 785-271-3354  
s.alberg@kcc.ks.gov

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

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 A. SCHLATTER, ATTORNEY  
MORRIS LAING EVANS BROCK & KENNEDY CHTD  
300 N MEAD STE 200  
WICHITA, KS 67202-2745  
Fax: 316-262-6226  
jschlatter@morrislaing.com

ROBERT VINCENT, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3354  
r.vincent@kcc.ks.gov

/S/ DeeAnn Shupe  
\_\_\_\_\_  
DeeAnn Shupe