

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of the Application of Brian L.) Docket No. 19-CONS-3107-CUIC
Birk dba Birk Petroleum to Amend the)
Injection Permit for the Merritt #5, located in) CONSERVATION DIVISION
Section 7, Township 23 South, Range 15)
East, Coffey County, Kansas.) License No. 31280
_____)

ORDER SETTING PROCEDURAL SCHEDULE

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds the following:

1. On August 31, 2018, Brian L. Birk dba Birk Petroleum (Operator) filed an Application to amend the injection permit for the Merritt #5 well in Coffey County, Kansas.¹ Notice of the Operator's Application was published in The Coffey County Republican newspaper on August 23, 2018.²

2. On August 27, 2018, Susan Royd-Sykes filed a letter of protest, and on September 13, 2018, Ms. Royd-Sykes filed a letter requesting a hearing.

3. On October 2, 2018, the Commission issued its *Order Designating Prehearing Officer and Setting Prehearing Conference*, scheduling a Prehearing Conference for October 25, 2018.³

¹ Application, p. 1 (Aug. 31, 2018).

² Affidavit of Publication (Sept. 14, 2018).

³ *Order Designating Prehearing Officer and Setting Prehearing Conference*, Ordering Clause B (Oct. 2, 2018).

4. A Prehearing Conference was held on October 25, 2018, at which the following procedural schedule was proposed:

Operator Pre-filed Direct Testimony	Due: December 3, 2018
Protestant Pre-filed Direct Testimony	Due: December 10, 2018
Staff Pre-filed Direct Testimony	Due: December 17, 2018
Rebuttal Testimony	Due: January 14, 2019
<u>Evidentiary Hearing before the Commission</u>	January 24, 2019, 10:00 a.m.
266 Main, Suite 220, Wichita, Kansas 67202	

5. Failure to submit pre-filed testimony may result in the Commission restricting the right to testify and present evidence at the evidentiary hearing. At the hearing, the Commission may limit the parties' direct and rebuttal testimony to the pre-filed testimony.

6. Any settlement agreement the parties wish to present for Commission consideration shall be due by December 17, 2018.

7. Any person requiring special accommodations under the Americans with Disabilities Act (ADA) should notify the Commission at least 10 days before the scheduled hearing date.

8. Any party who fails to attend or participate in the evidentiary hearing or in any other stage of this proceeding may be held in default under the Kansas Administrative Procedure Act.⁴

9. A corporation shall appear before the Commission by a Kansas licensed attorney.⁵

THEREFORE, THE COMMISSION ORDERS:

A. The procedural schedule set forth in paragraph 4 above is adopted.

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).⁶

⁴ K.S.A. 77-518(c)(8); K.S.A. 77-520.

⁵ K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

⁶ 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).

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

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 11/01/2018



Lynn M. Retz
Secretary to the Commission

Date Mailed: 11/02/2018

MJD

CERTIFICATE OF SERVICE

19-CONS-3107-CUIC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of electronic service on 11/01/2018.

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/S/ DeeAnn Shupe

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