

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

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

In the matter of the application of Norstar ) Docket No: 17-CONS-3403-CVAC  
Petroleum Inc., for authorization to impose a )  
vacuum on its Hume Bros Lease located in ) CONSERVATION DIVISION  
the NW/4 of Section 34, Township 29 South, )  
Range 41 West, Stanton County, Kansas. ) License No.: 31652

**ORDER DESIGNATING PREHEARING OFFICER AND SETTING PREHEARING  
CONFERENCE**

This 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 finds and concludes as follows:

1. On December 12, 2016, Norstar Petroleum Inc. (Operator) filed an Application asking the Commission to grant its request to impose a vacuum on three of its wells in Stanton County, Kansas. Operator also asked the Commission to grant its request administratively without a hearing, or in the alternative, to set the matter for hearing.<sup>1</sup> Affidavits of publication were attached to the Application.

2. On December 20, 2016, White Exploration, Inc. (White) timely filed a protest in this matter.<sup>2</sup> White's protest denied that the field from which Operator's subject wells produce is "nearly depleted" and stated that Operator's request will violate White's correlative rights.<sup>3</sup> White also requested that Operator's Application be dismissed, arguing that because Operator is a corporation and filed its Application *pro se*, Operator has impermissibly appeared in this

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<sup>1</sup> Application, p. 4 (Dec. 12, 2016).

<sup>2</sup> Protest of White Exploration, Inc. (Dec. 20, 2016).

<sup>3</sup> *Id.* at ¶ 3.

matter, in violation of K.A.R. 82-1-228(d)(2).<sup>4</sup> White asked the Commission to either dismiss the matter or set it for hearing.<sup>5</sup>

3. The Commission finds that Operator's Application was filed in accordance with K.A.R. 82-3-131(b). The Commission also finds that White's protest was timely filed in accordance with K.A.R. 82-3-135b. To secure consideration of its protest, White "shall offer evidence or a statement or participate in the hearing."<sup>6</sup>

4. The Commission finds that dismissal of Operator's Application is not warranted under K.A.R. 82-1-228(d)(2). At a hearing, Commission regulations do not allow a corporation to enter an appearance, except by its attorney.<sup>7</sup> However, because filing an Application does not entail appearing before the Commission at a hearing, the Commission finds it has discretion to accept Operator's *pro se* Application.<sup>8</sup>

5. Upon its own motion and pursuant to K.S.A. 77-551(c), the Commission finds that a Prehearing Officer should be designated in this proceeding to address any matters listed in K.S.A. 77-517(b), and a Prehearing Conference should be scheduled.

6. Although a Prehearing Officer is designated in this docket, parties are still required to file pleadings with the Commission, and filings shall be made with the Commission's Docket Room before 5:00 p.m. on the date scheduled for service. Any electronic service received after the deadline set forth in the procedural schedule, or any filing made after 5:00 p.m. on the date scheduled for service, shall be accompanied by a Motion to File Out of Time.

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<sup>4</sup> *Id.* at ¶ 5.

<sup>5</sup> *Id.* at p. 2.

<sup>6</sup> K.A.R. 82-3-135b(e).

<sup>7</sup> See K.A.R. 82-1-228.

<sup>8</sup> See Docket No. 12-LLPT-714-COC, *Order Denying Lifeline Phone Service's Petition for Reconsideration*, ¶ 7 (July 19, 2012); Docket No. 13-SWBT-479-COM, *Order Seeking Additional Briefing on AT&T's Motion to Dismiss Complaint and Denying Best Phone's Motion to Dismiss AT&T's Motion to Dismiss*, ¶ 9, Ordering Clause A (July 11, 2013).

**THEREFORE, THE COMMISSION ORDERS:**

A. White's motion to dismiss Operator's Application pursuant to K.A.R. 82-1-228(d)(2) is denied.

B. The Prehearing Officer in this proceeding shall be Michael J. Duenes, Assistant General Counsel, Kansas Corporation Commission, 1500 SW Arrowhead Road, Topeka, Kansas, 66604-4027, telephone number (785) 271-3181, email address [m.duenes@kcc.ks.gov](mailto:m.duenes@kcc.ks.gov). The Commission may designate other Staff members to serve in this capacity.

C. A Prehearing Conference is scheduled for Thursday, **February 9, 2017 at 9:00 a.m.** by telephone. The conference call information is: telephone number (866) 620-7326, Conference Code PIN: 7632914771#.

D. At the Prehearing Conference, parties shall be prepared to discuss deadlines for filing testimony and briefs, discovery procedures, scheduling of a hearing with the Commission, and any other issues that will promote the orderly and prompt resolution of this proceeding.

E. At the Prehearing Conference, without further notice, this proceeding may be converted into a conference hearing or a summary proceeding for disposition of this matter as provided by the Kansas Administrative Procedure Act (KAPA). Any party that fails to attend or participate in the Prehearing Conference, hearing, or other stage of this proceeding may be held in default under the KAPA.<sup>9</sup>

F. A corporation shall appear before the Commission by its attorney.<sup>10</sup>

G. The attorney designated to appear on behalf of the agency in this proceeding is John McCannon, Litigation Counsel, phone number (316) 337-6214, [j.mccannon@kcc.ks.gov](mailto:j.mccannon@kcc.ks.gov).

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<sup>9</sup> K.S.A. 77-506; K.S.A. 77-516(c)(7)-(8).

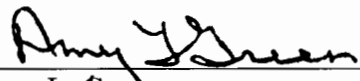
<sup>10</sup> K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

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

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

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: JAN 19 2017

  
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Amy L. Green  
Secretary to the Commission

Mailed Date: January 19, 2017

MJD/sc

**CERTIFICATE OF SERVICE**

I certify that on January 19, 2017, I caused a complete and accurate copy of this Order to be served via United States mail, with the postage prepaid and properly addressed to the following:

Brady Pfeiffer  
Norstar Petroleum Inc.  
88 Inverness Circle E, Unit F104  
Englewood, Colorado 80112

David E. Bengtson  
Stinson Leonard Street LLP  
1625 North Waterfront Parkway, Suite 300  
Wichita, Kansas 67206-6620  
*Attorneys for White Exploration, Inc.*

And delivered electronically to:

John McCannon  
KCC Conservation Division

Michael Duenes  
Assistant General Counsel

/s/ Cynthia K. Maine  
Cynthia K. Maine  
Administrative Assistant  
Kansas Corporation Commission