

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application of Redbud Oil)	Docket No. 19-CONS-3191-CUIC
& Gas Operating, LLC to authorize injection of)	
natural gas into the Cattleman formation at the)	
Westfall #2E-12 well, located in Section 12,)	CONSERVATION DIVISION
Township 31 South, Range 13 East,)	
Montgomery County, Kansas.)	License No. 35497
)	

**REDBUD OIL & GAS OPERATING, LLC'S COMBINED
RESPONSE TO STAFF'S MOTION FOR DEFAULT ORDER,
MOTION TO DISMISS PROTEST AND, IN THE ALTERNATIVE,
MOTION TO ESTABLISH NEW PROCEDURAL SCHEDULE**

Applicant Redbud Oil & Gas Operating, LLC ("Redbud") hereby responds to the Motion for Default Order filed by the Staff of the State Corporation Commission ("Staff"), moves the Kansas Corporation Commission (the "Commission") for an Order dismissing the protest filed by Arlyn Hare on behalf of Eagle Oak Land Development ("Protestor") and, in the alternative, requests that a new hearing date and procedural schedule to be established in the above captioned docket.

In support of this response and motions, Redbud states and alleges as follows:

1. The undersigned counsel was retained by Redbud on March 1, 2019, and has entered his appearance contemporaneously with the filing of this motion.
2. On February 18, 2019, Staff filed a Motion for Default Order seeking the entry of a Default Order against Redbud and a Default Order against Protestor based on their failure to appear at a pre-hearing conference in this docket on February 15, 2019.
3. On February 26, 2019, Redbud timely responded to the Motion for Default Order stating that it intends to participate in this docket, requesting that Staff's motion for default order against Redbud be denied, and asking that the pre-hearing conference be rescheduled.

4. To date, Protestor has not responded to the Motion for Default Order filed by Staff and the time for doing so has expired.

5. Redbud requests that the Commission enter an order denying Staff's Motion for Default Order against Redbud and granting Staff's Motion for Default Order against Protestant. As a result, Redbud requests that the Application filed by Redbud in this docket be processed by Staff and granted administratively without the necessity of a hearing.

6. If the Commission denies Staff's Motion for Default Order against Protestor, then Redbud moves to dismiss the protest filed by Protestor based upon the failure to serve its protest on Redbud as required by the Commission's regulations.

7. On October 29, 2018, Redbud filed an Application (KCC Form U-1) seeking authorization to convert and inject natural gas in the Westfall 2E-12 well in Section 12, Township 31 South, Range 13 East, Montgomery County, Kansas, and also published notice of the filing of that Application in the Coffeyville Journal on September 26, 2018.

8. Protestor filed a letter of protest with the Commission on November 20, 2018, and requesting a hearing with the Conservation Division of the Commission on November 29, 2018.

9. Protestor did not serve a copy of either its letter of protest or its request for hearing on Redbud.

10. 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.

11. 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 its protest on Redbud.

12. 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).

13. 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 the Commission regulations.

14. In the alternative, if the Commission does not grant Staff's Motion for Default Order filed against Protestor or the Commission does not grant Redbud's Motion to Dismiss the protest on the grounds set forth herein, Redbud requests that the Commission vacate the current hearing date and procedural schedule in this docket and that a Prehearing Conference be scheduled and a new hearing date and procedural schedule be established for this docket.

WHEREFORE, for the reasons set forth herein, Applicant Redbud Oil & Gas Operating, LLC ("Redbud"), respectfully requests the following relief: (a) that the Staff's Motion for Default Order against Redbud be denied; (b) that the Staff's Motion for Default Order against Protestor be granted; (c) that Redbud's motion to dismiss the protest filed by Protestor be

granted; (d) if the protest is not dismissed on either of those grounds, that the current hearing date and procedural schedule be vacated and that a new Prehearing Conference be held in this docket; and (e) for such other and further relief as the Commission deems just and equitable.

Dated: March 4, 2019

/s/ David E. Bengtson

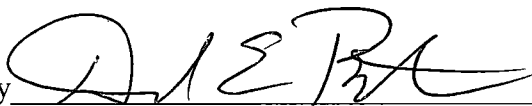
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VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

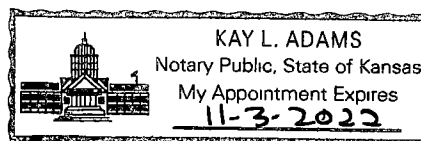
David E. Bengtson, of lawful age, being first duly sworn on my oath, states that I am the attorney for Redbud Oil & Gas Operating, LLC; that I have read the above Combined Response to Staff's Motion for Default Order, Motion to Dismiss Protest and, in the Alternative, Motion to Establish New Procedural Schedule; 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 
David E. Bengtson

SUBSCRIBED AND SWORN to before me this 4th day of March, 2019.


Notary Public

My appointment expires:
11-3-2022



CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 4th day of March, 2019, he caused a true and correct copy of the foregoing Combined Response to Staff's Motion for Default Order, Motion to Dismiss Protest and, in the Alternative, Motion to Establish New Procedural Schedule to be filed via the Kansas Corporation Commission Electronic Filing System (EFS), and that he caused a copy to be served via first class mail and electronic mail to the following parties:

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/s/ David E. Bengtson

David E. Bengtson