

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Annie Kuether

In the matter of the petition of Daylight Petroleum, LLC) Docket No: 25-CONS-3040-CMSC
(Operator) to open a docket pursuant to K.S.A. 55-605(a))
regarding a fluid leak in Section 16, Township 30 South,) CONSERVATION DIVISION
Range 16 East, Wilson County, Kansas.)
_____) License No: 35639

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

The Commission rules as follows:

1. On July 29, 2024, Operator petitioned under K.S.A. 55-605(a) for a docket to be opened so that the Commission may consider what should be done regarding a situation wherein oil began coming up through a concrete floor in a commercial building.¹ Operator reports that the flow of fluid has ceased and that it has taken various actions to monitor the situation, but that Operator and Commission Staff disagree regarding the appropriate next steps.²
2. On August 13, 2024, Staff filed a response, asking that Operator’s petition be denied, and that the Commission instead issue an order requiring Operator to plug the well at issue.
3. K.S.A. 55-605(a) provides “Any person...may institute proceedings before the Commission upon any question relating to the enforcement of this act...or for the enforcement of, any rule, regulation or order thereunder.” Operator characterizes the situation as one involving potential waste, and thus a question relating to the act associated with K.S.A. 55-605 and the Commission’s regulations thereunder. Staff argues Operator’s characterization is inaccurate, and instead frames this matter one involving the plugging of abandoned wells.

¹ See Petition, ¶ 4 (Jul. 29, 2024).

² See *id.* at ¶¶ 13, 14.

4. Regardless of how the situation is characterized, the Commission finds that the Commission has jurisdiction over this matter. And without taking up the merits of Operator's position, Operator has indeed raised a question regarding waste, and thus a question relating to the enforcement of the act associated with K.S.A. 55-605(a). Further, the Commission sees no utility in denying Operator's petition and directing Operator to plug the well at issue; the next step would be Operator requesting a hearing on such order. Then this matter would be in the same procedural place it is now, with the same underlying fact pattern, and the same legal arguments to resolve.

5. Accordingly, the Commission finds it appropriate to grant Operator's petition; this docket is opened to determine what should be done concerning the fluid leak described in Operator's and Staff's filings. Under K.S.A. 77-551(c), the Commission finds a Presiding Officer should be designated in this proceeding to determine procedural matters that may arise prior to a hearing on the merits, including but not limited to conducting prehearing conferences.³ The Commission also finds a prehearing conference should be scheduled.

6. Under K.A.R. 82-1-228(d)(1), any party may either "appear before the Commission and be heard in person on that party's own behalf," or appear before the Commission through a licensed attorney. Because Operator is an artificial entity, it cannot appear in person.⁴ Thus, Commission regulations require artificial entities such as Operator to appear before the Commission via counsel. Even if Commission regulations did not require counsel in this matter, the Commission finds it would be in the public interest to require counsel via order.⁵

³ See also K.S.A. 77-516 and K.S.A. 77-517.

⁴ See *State ex rel. Stephan v. Williams*, 246 Kan. 681, 691 (1990).

⁵ The administration of justice is efficiently furthered by requiring persons licensed to practice law and familiar with procedure to represent artificial entities. See *In re Arnold*, 274 Kan. 761, 770 (2002). See also K.S.A. 77-515(c) ("A state agency may require a corporation or other artificial person to participate by counsel.").

THEREFORE, THE COMMISSION ORDERS:

A. The Presiding Officer for prehearing matters in this proceeding shall be Jonathan R. Myers, Assistant General Counsel, Kansas Corporation Commission, 266 N. Main Street, Suite 220, Wichita, Kansas, 67202-1513, telephone number (316) 337-6245, email address jon.myers@ks.gov. The Commission may designate others to serve in this capacity.

B. A prehearing conference is scheduled for **Thursday, September 12, 2024, at 1:30 p.m.** by telephone. The conference call information is: telephone number (253) 205-0468, Meeting ID 5248125436.⁶ **Operator must appear via a licensed attorney.**

C. 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. 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.⁷

D. Although a presiding officer is designated, parties are still required to file pleadings with the Commission, and filings shall be made with the Commission's docket room. Any filing received after 5:00 p.m. shall be considered filed the next business day. In addition, any late filing shall be accompanied by a Motion to File Out-of-Time. **The Commission directs electronic service of all filings in the docket to include service on the Presiding Officer and mailed service of all filings to be directed to the Presiding Officer's attention.**

⁶ If prompted, there is no Participant ID; just press pound to continue.


⁷ K.S.A. 77-506; K.S.A. 77-516(c)(7)-(8).

E. The attorney designated to appear on behalf of the agency in this proceeding is Kelcey Marsh, Litigation Counsel, telephone number (316) 337-6200, kelcey.marsh@ks.gov.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 08/22/2024



Lynn M. Retz
Executive Director

Mailed Date: 08/22/2024

JRM

CERTIFICATE OF SERVICE

25-CONS-3040-CMSC

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 08/22/2024.

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/S/ KCC Docket Room
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