

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

In the Matter of the failure of Benjamin M.	)	Docket No.: 20-CONS-3039-CPEN
Giles ("Operator") to comply with K.A.R.	)	
82-3-407 at the Paulsen #8B in Butler County,	)	CONSERVATION DIVISION
Kansas.	)	
<hr/>		License No.: 5446

**RESPONSE TO PETITION FOR INTERVENTION**

Commission Staff (Staff) of the State Corporation Commission of the State of Kansas (Commission) files this Response, wherein Staff opposes the Petition for Intervention filed by MWM Oil Co., Inc. ("Petitioner") in this docket. In support of its Response, Staff states as follows:

**I. BACKGROUND**

1. On August 6, 2019, the Commission issued a Penalty Order in this docket against Operator finding that a current and successful MIT has not been performed at the Paulsen #8B ("subject well"), API #15-015-21486.<sup>1</sup>
2. On September 5, 2019, a request for hearing was filed on behalf of Operator.<sup>2</sup>
3. On September 17, 2019, an Order Designating Prehearing Officer and Setting Prehearing Conference was filed in this docket and set the Prehearing Conference for October 1, 2019.<sup>3</sup>
4. At the October 1, 2019, prehearing conference, the parties agreed to set a new prehearing conference for October 10, 2019, to allow for discussion of the possibility of resolution of this matter absent the need for a procedural schedule.<sup>4</sup>

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<sup>1</sup> *Penalty Order*, ¶¶ 8, 13 (Aug. 6, 2019).

<sup>2</sup> *Letter Requesting Hearing* (Sept. 5, 2019).

<sup>3</sup> *Order Designating Prehearing Officer and Setting Prehearing Conference* (Sept. 17, 2019).

<sup>4</sup> *See Prehearing Officer Order Setting Status Conference* (Oct. 7, 2019).

5. On October 7, 2019, Mr. Schlatter entered his appearance in this docket on behalf of MWM Oil Co., Inc.<sup>5</sup>

6. At the October 10, 2019, prehearing conference, the parties agreed to set a new prehearing conference for October 22, 2019, to foster additional conversation regarding resolution of this matter absent the need for a procedural schedule.<sup>6</sup>

7. On October 17, 2019, Mr. Schlatter filed a Petition for Intervention on behalf of MWM Oil Co., Inc., seeking permission to participate in the docket.<sup>7</sup>

## II. ARGUMENT

8. Petitioner makes a conclusory statement that it meets all of the statutory requirements for intervention, and therefore should be allowed to participate in this proceeding.<sup>8</sup> K.A.R. 82-1-225 discusses intervention and applies to both KAPA and non-KAPA proceedings. It states that the presiding officer shall grant a petition for intervention if the following conditions are met:

- i. The petition is submitted in writing to the presiding officer, with copies mailed to all parties named in the presiding officer's notice of the hearing, at least three days before the hearing,
- ii. The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities, or other legal interest may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law, and

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<sup>5</sup> Entry of Appearance (Oct. 7, 2019).

<sup>6</sup> See *Prehearing Officer Order Setting Status Conference and Amending Electronic Service Status* (Oct. 11, 2019).

<sup>7</sup> Petition for Intervention (Oct. 17, 2019).

<sup>8</sup> *Id.* at p. 2.

- iii. The presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.

9. However, Petitioner fails to state what legal right, duties, privileges, immunities, or other legal interest may be substantially affected as a non-operating working interest owner if it is not allowed to intervene in this docket. The Penalty Order in this docket is against Operator and involves a well on Operator's license. Therefore, any legal ramifications from this docket will be assessed against Mr. Giles' license, not against the Petitioner. Petitioner's non-operating working interest in the subject well cannot be substantially affected by a penalty order assessed against Operator. While Petitioner mentions that the subject well is to be sold at auction on December 5, 2019, Petitioner's legal authority to sell its interest in the well in December is not affected by the resolution of this docket.

10. Petitioner alleges that allowing it to intervene in this proceeding will help achieve an orderly and prompt resolution, because it will allow the Commission to "work directly with the party in the best position to address the causes of the penalty order." Staff disagrees. The party in the best position to address the causes of the penalty order is Operator's Estate. Where Operator was licensed by the Commission to operate the well, and the Estate will remain obligated to comply with the Commission's directives regardless of who owns the non-operating working interest in the well. To be clear, Petitioner does not have an oil or gas license for the subject well, and is therefore not in a position to address the causes of the penalty order.

11. Further, the subject well in this docket has environmental issues which require immediate attention. However, Petitioner has filed for bankruptcy and as such does not have the funds or means to resolve the issues that the Commission has with this well. Since Petitioners

have no legal interest in this matter and are unable to address the causes of the Penalty Order, there is no legal reason Petitioner should be allowed to intervene in this proceeding.

WHEREFORE, for the reasons set forth above, Staff respectfully requests the Commission to deny Petitioner's Motion for Intervention and for any further relief as the Commission deems just and proper.

Respectfully submitted,



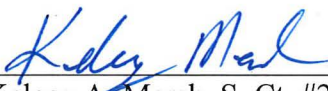
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**VERIFICATION**

STATE OF KANSAS                     )  
  ) ss.  
COUNTY OF SEDGWICK            )

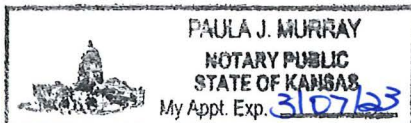
Kelcey A. Marsh, of lawful age, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas; that he has read and is familiar with the foregoing *Response*, and attests that the statements therein are true to the best of his knowledge, information and belief.

  
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Kelcey A. Marsh, S. Ct. #28300  
Litigation Counsel  
State Corporation Commission  
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 28 day of Oct, 2019.

  
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Notary Public

My Appointment Expires: 3/07/23



## CERTIFICATE OF SERVICE

20-CONS-3039-CPEN

I, the undersigned, certify that a true copy of the attached Response to Petition for Intervention has been served to the following by means of electronic service on October 28, 2019.

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/S/ Paula J. Murray  
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