

**BEFORE 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 Palomino
Petroleum, Inc., to authorize injection of
saltwater into the Arbuckle formation at the
Carter Trust SWD well in the SW/4 of Section
23, Township 17 South, Range 26 West, Ness
County, Kansas

) Docket No. 19-CONS-3078-CUIC
)
) License No. 30742
)
) Conservation Division
)
)

**APPLICANT'S RESPONSE TO PROTESTER'S MOTION TO DISMISS
APPLICATION**

COMES NOW John G. Pike of Withers, Gough, Pike & Pfaff, LLC, and on behalf of the
Applicant, Palomino Petroleum, Inc., states as follows:

1. The Commission scheduled a telephone pre-hearing conference in this docket for September 27, 2018, at 9:00 a. m. Notice was served to all parties, including this counsel, by email on September 6, 2018. Service is not disputed.
2. This counsel was out of the state on that date, and did not return until September 17, 2018. The service was inadvertently overlooked and not entered into counsel's calendar, and therefore this counsel did not call in to the conference.
3. This counsel was advised by Commission staff by telephone at approximately 9:20 a. m. on September 27, of the conference, which was concluded by that time. Counsel was advised that Commission staff did not seek default or dismissal of the application, but that the Protester did seek default.
4. At the suggestion of staff, this counsel immediately notified staff, the Pre-hearing Officer and the Protester by email of the reason for his absence, and requested a second pre-hearing

conference at the Pre-hearing Officer's convenience. No Order has been issued from the conference.

5. Protester filed her Motion for Default and Dismissal.

6. The pre-hearing conference Order permits, but does not require, a holding of default against a party not participating in the conference.

7. Counsel apologizes to all parties inconvenienced by this inadvertent error, and recognizes Protester's right to file her Motion. However, counsel suggests that since staff did not request default or dismissal, and that because no Order has issued or action taken from the conference, no prejudice has resulted or will result from a second pre-hearing conference. On the other hand, dismissal of the application on this procedural basis, rather than on merit, will simply result in the application, and presumably the protest, being re-filed, and thus all parties will be better served by re-scheduling the conference at the Commission's convenience.

WHEREFORE, this counsel, and on behalf of Applicant, requests that the Motion for Default and Dismissal filed herein be denied; that a second pre-hearing conference be scheduled; and for such other relief as the Commission may find proper.

Respectfully submitted,

By: /s/ John G. Pike

John G. Pike, #09938

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Attorneys for Palomino Petroleum, Inc.

CERTIFICATE OF SERVICE

I, the undersigned, certify that a true copy of the attached *Response* has been served to the following parties by means of electronic service on October 1, 2018.

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/s/ John G. Pike

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