2016-08-04 14:53:26 Kansas Corporation Commission /s/ Amy L. Green

#### THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

Before Commissioners:

Jay Scott Emler, Chairman Shari Feist Albrecht Pat Apple

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In the matter of the failure of Brian L. Birk dba Birk Petroleum ("Operator") to comply with K.A.R. 82-3-400 regarding injection that took place during the 2015 calendar year. Docket No.: 16-CONS-4055-CPEN

CONSERVATION DIVISION

License No.: 31280

## ORDER DESIGNATING PREHEARING OFFICER AND SETTING PREHEARING CONFERENCE

1. On June 9, 2016, the Commission issued its Penalty Order in this docket. On July

11, 2016, Operator filed a request for hearing.

2. 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 that a prehearing conference should be scheduled.

### THEREFORE, THE COMMISSION ORDERS:

A. The Prehearing Officer in this proceeding shall be John McCannon, Counsel,

Kansas Corporation Commission, 266 N. Main, Ste. 220, Wichita, Kansas 67202, telephone

number 316-337-6200, email address j.mccannon@kcc.ks.gov.

B. A Prehearing Conference is scheduled for Thursday, August 18, 2016. The

Prehearing Conference shall begin at 11:00 a.m. and end by 11:30 a.m., at the Commission's offices, 266 N. Main St., Ste. 220, Wichita, Kansas 67202. Telephonic attendance may be permitted upon advance request. The Prehearing Conference will focus on the development of a procedural schedule for this docket.

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.

D. 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"). <u>Any party that fails to attend</u> or participate in the Prehearing Conference, hearing, or other stage of this proceeding shall be <u>held in default under the KAPA</u>.

E. <u>Pursuant to K.A.R. 82-1-228(d)(2), corporations must enter an appearance via an</u> <u>attorney. If a corporation fails to enter an appearance via an attorney prior to the Prehearing</u> Conference, it shall be held in default under the KAPA.

F. The attorney designated to appear on behalf of the agency in this proceeding is Jon Myers, Litigation Counsel, telephone number 316-337-6200, j.myers@kcc.ks.gov.

G. 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.

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated:

AUG 0 4 2016

Amy L. Green Secretary to the Commission

Mailed Date: <u>August 4, 2016</u>

LRP

# **CERTIFICATE OF SERVICE**

I certify that on  $\frac{8/4/16}{1000}$ , 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:

Brian L. Birk dba Birk Petroleum 874 12<sup>th</sup> Road SW Burlington, KS 66839-9255

and delivered by e-mail to:

Jonathan R. Myers Rene Stucky KCC Central Office

<u>/s/ Paula J. Murray</u> Paula J. Murray Legal Assistant Kansas Corporation Commission