

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

Before Commissioners: Shari Feist Albrecht, Chair
Jay Scott Emler
Pat Apple

In the matter of the failure of Kutter Oil, Inc.) Docket No.: 15-CONS-148-CPEN
("Operator") to comply with K.A.R. 82-3-400)
at the Marshall #1 and Roy #1 wells in Butler) CONSERVATION DIVISION
County, Kansas.)
_____) License No.: 32702

DEFAULT ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas. Having examined the files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

I. JURISDICTION

1. K.S.A. 77-520 provides that if a party fails to attend any stage of an adjudicative proceeding, the agency may issue a default order with a statement of the grounds. The party has seven days to file a written motion to vacate, stating the grounds relied upon.

II. FINDINGS OF FACT

2. On August 12, 2014, the Commission issued its Penalty Order to the operator, finding two violations of K.A.R. 82-3-400 and assessing a \$2,000 penalty. The Penalty Order was mailed on August 29, 2014.

3. On September 29, 2014, the operator timely filed an appeal.

4. On October 21, 2014, the Commission issued its Order Designating Prehearing Officer and Setting Prehearing Conference. The Prehearing Conference was scheduled for November 13, 2014, at 11:00 am. The Order stated in underlined text that failure to attend the Prehearing Conference shall result in the party being held in default pursuant to the KAPA.

5. On November 13, 2014, the Prehearing Conference was held. Jon Myers appeared on behalf of Commission Staff and the public generally. The operator was not in attendance. Commission Staff verbally motioned for a default order affirming one of the violations and a \$1,000 penalty. Commission Staff moved that the remaining violation of K.A.R. 82-3-400 and \$1,000 penalty should be rescinded because of a records error.

III. CONCLUSIONS OF LAW

6. The operator's failure to attend the Prehearing Conference constituted default under the KAPA. Staff's motion for a default order is granted with regard to one violation of K.A.R. 82-3-400 and the corresponding \$1,000 penalty. The remaining violation of K.A.R. 82-3-400 and the corresponding \$1,000 penalty should be rescinded on Staff's motion.

THEREFORE, THE COMMISSION ORDERS:

A. Staff's motion for a default order is granted with regard to one violation of K.A.R. 82-3-400 and the corresponding \$1,000 penalty.

B. The second violation of K.A.R. 82-3-400 and \$1,000 penalty is rescinded.

C. Pursuant to K.S.A. 77-520(b), Operator may file a written motion requesting that this Default Order be vacated and stating the grounds relied upon, within seven calendar days after service of this Order, with three additional days added to account for service by mail.

D. Any party affected by this Order may file with the Commission a petition for reconsideration pursuant to K.S.A. 77-529(a). The petition shall be filed within 15 days after service of this Order. If service of this Order is by mail, three days are added to the deadline. The petition shall be addressed to the Commission and sent to 266 N. Main, Ste. 220, Wichita, Kansas 67202. Pursuant to K.S.A. 55-606, K.S.A. 66-118b, and K.S.A. 77-529(a), reconsideration is prerequisite for judicial review of this Order. Any party taking an action

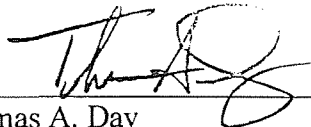
permitted by this summary proceeding before the deadline for a petition for reconsideration does so at their own risk of further proceedings.

E. The Commission retains jurisdiction of the subject matter and the parties and may enter additional orders as it deems appropriate.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Com.; Apple, Com.

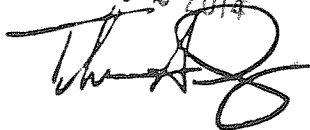
Dated: DEC 02 2014


Thomas A. Day
Acting Executive Director

Mailed Date: 12/3/14

LRP

I CERTIFY THE ORIGINAL
COPY IS ON FILE WITH
The State Corporation Commission

DEC 02 2014


CERTIFICATE OF SERVICE

I certify that on 12/3/14, 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:

Tim D. Gulick
Kutter Oil, Inc.
701 E. River Street
Eureka, KS 67045

And delivered by hand to:

Jon Myers and Alan Snider
KCC Conservation Division

/s/ Lane R. Palmateer
Lane R. Palmateer
Litigation Counsel
Kansas Corporation Commission