

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

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

In the matter of the Notice of Denial of) Docket No.: 17-CONS-3685-CMSC
License Renewal Application issued to)
Tailwater, Inc.) CONSERVATION DIVISION
)
) License No.: 32461

RESPONSE TO TAILWATER'S MOTION TO JOIN PARTY

Commission Staff (Staff) of the State Corporation Commission of the State of Kansas (Commission) files this Response, wherein Staff is not opposed to joining Poverty Knob Production, LLC, to this proceeding. In support of its Response, Staff states as follows:

I. Background

1. On June 2, 2017, Tailwater's license renewal application was denied. On June 14, 2017, Operator requested a hearing. On September 19, 2017, the Commission issued an order setting a procedural schedule. Staff timely submitted direct testimony by November 17, 2017; Tailwater timely submitted direct testimony by December 4, 2017. A motion is pending to continue the rebuttal testimony deadline and the currently-scheduled January 18, 2018 hearing.

2. The only current issue in this proceeding is whether Tailwater's license should be denied because Christian L. Martin, president of Tailwater, was also a partner in Westside Energy, LLC, which is an entity not in good standing with Commission regulations because four unplugged wells remain on its suspended license.

3. On December 6, 2017, Tailwater filed a motion to join Poverty Knob Production, LLC, KCC License #35117, to this proceeding.

II. Argument

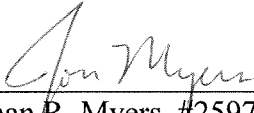
4. Staff is opposed to reopening the question of whether Westside Energy is responsible for the four wells on its suspended license. Westside Energy's responsibility was already determined in KCC Docket 17-CONS-3237-CSHO, and so Tailwater disputing Westside Energy's responsibility constitutes an impermissible collateral attack.

5. As part of its impermissible collateral attack, Tailwater argues that it was not necessary to file a Transfer of Operator (T-1) Form during the 1990s for the wells in question, an argument belied by the plain language of K.A.R. 82-3-136 both now and at that time. As another part of its impermissible collateral attack, Tailwater argues the landowners expressly assumed responsibility for the remaining wells on Westside Energy's license decades ago, and that Poverty Knob holds a current lease on the property.

6. Staff is adamantly opposed to re-litigating Westside Energy's responsibility for the four wells on Westside Energy's license. That has already been done. Staff, however, is in favor of making sure current operators list all wells on their license that are their responsibility. It is plausible Poverty Knob is a responsible party for the wells remaining on Westside Energy's suspended license. If Poverty Knob were to transfer the wells on Westside Energy's license to its own license, it would bring Westside Energy into compliance with Commission regulations, and thus resolve Tailwater's license denial. Further, at this time Poverty Knob has not objected to being joined. Therefore, Staff does not oppose the joining of Poverty Knob to this proceeding, as it may assist in bringing the wells on Westside Energy's license into compliance with Commission regulations.

WHEREFORE, Staff is not opposed to Poverty Knob being joined to this proceeding.

Respectfully submitted,

A handwritten signature in cursive script, reading "Jon Myers", positioned above a horizontal line.

Jonathan R. Myers, #25975

Litigation Counsel

Kansas Corporation Commission

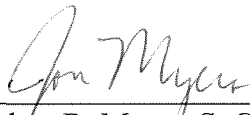
266 N. Main, Suite 220, Wichita, Kansas 67202

Phone: 316-337-6200; Fax: 316-337-6211

VERIFICATION


STATE OF KANSAS)
) ss.
COUNTY OF SEDGWICK)

Jonathan R. Myers, 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 *Motion*, and attests that the statements therein are true to the best of his knowledge, information and belief.



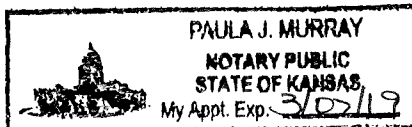
Jonathan R. Myers, S. Ct. #25975
Litigation Counsel
State Corporation Commission
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 18 day of Dec, 2017.



Notary Public

My Appointment Expires: 3/07/19



CERTIFICATE OF SERVICE

I certify that on 12/18/17, I caused a complete and accurate copy of this Order to be served electronically to the following:

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PO Box 602
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Attorneys for Tailwater, Inc.

and by United States mail, with the postage prepaid and properly addressed to the following:

Randy Kitchen
Poverty Knob Production, LLC
39395 W. 351st Street
Osawatomie, KS 66064

and delivered by e-mail to:

Jonathan R. Myers, Litigation Counsel
KCC Central Office

Michael J. Duenes, Assistant General Counsel
KCC Topeka Office

/s/ Paula J. Murray
Paula J. Murray
Legal Assistant
Kansas Corporation Commission