

**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 Application of Berexco) Docket No. 17-CONS-3532-CUNI
LLC for an order authorizing Unitization and)
Unit Operation of the Kane Unit in Kiowa) CONSERVATION DIVISION
County, Kansas.)
_____) License No. 34318

ORDER GRANTING UNITIZATION APPLICATION

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission makes the following findings and conclusions:

I. Background

1. On April 6, 2017, the Operator filed an Application for unitization under K.S.A. 55-1301 *et seq.*, specifically under K.S.A. 55-1304(a)(1).¹

2. The proposed Unit contains the stratigraphic equivalent of the Marmaton formation through the base of the Mississippian formation, as the same is encountered between 4,895 feet to 5,175 feet, inclusive, below the surface of the Kane 24 Unit #6-24 (API #15-097-21474),² insofar as said formations underlie the lands and leases to be unitized, specifically the following areas in Kansas:

- a. The west half of Section 19 and the northwest quarter of Section 30, in Township 30 South, Range 18 West, Kiowa County;³ and

¹ Application, p. 4 (Apr. 6, 2017) (Application). The Application does not explicitly request unitization under K.S.A. 55-1304(a)(1), but instead makes a general request for an order providing for unitization. In Paragraphs 7(a) and 8, however, the Application specifically cites the standards of K.S.A. 55-1304(a)(1), rather than those of K.S.A. 55-1304(a)(2).

² Application, ¶ 3. The Application identifies the well as the Kane 6-24 and does not list the API number. Upon consulting Commission records, it is clear the Application identifies what is currently designated in Commission records as the Kane 24 Unit #6-24, API #15-097-21474.

³ Application, ¶ 2.

- b. the south half of Section 11; the northwest, southwest, and southeast quarters of Section 13; all of Section 14; the northeast quarter of Section 23; all of Section 24; and the north half of Section 25, in Township 30 South, Range 19 West, Kiowa County.⁴

3. The Operator's Application, including the Unit Agreement and Unit Operating Agreement, complies with K.S.A. 55-1303 by listing what a unitization application must contain.

4. The Operator is applying for unitization under K.S.A. 55-1304(a)(1). The Operator lists all the conditions necessary to grant the Application under K.S.A. 55-1304 and states that such conditions are present.⁵

5. The Operator has obtained approval from those responsible for 100% of the costs of Unit operations,⁶ and more than 76.79% of the royalty interests have approved the plan for Unit operations.⁷ This exceeds the statutory requirements.

6. The Operator has verified that notice was properly served and published at least 15 days before the issuance of this Order.⁸ Although a protest was filed May 1, 2017, it was withdrawn on August 24, 2017. No protest to the Application remains pending.

7. The Commission finds the conditions required by K.S.A. 55-1304 for unitization are present, specifically:

- a. The primary production from a pool or part thereof sought to be unitized has reached a low economic level and, without introduction of artificial energy, abandonment of oil or gas wells is imminent;
- b. the value of the estimated additional recovery of oil or gas substantially exceeds the estimated additional cost incident to conducting such operations; and
- c. the proposed unit operation is fair and equitable to all interest owners.

⁴ Application, ¶ 2.

⁵ Application, ¶ 7.

⁶ See Pre-Filed Testimony of Jesse Fendorf, page 4, line 21 to page 5, line 17.

⁷ *Id.*

⁸ See Application, Exhibit C. See also Legal Proof of Publication, The Wichita Eagle (Apr. 10, 2017); Affidavit of Insertion, The Merchants Directory (Apr. 12, 2017).

8. The Commission finds that incorporation of the Operator's Application and all exhibits, including the Unit Agreement and Unit Operating Agreement, into this Order will satisfy the requirements of K.S.A. 55-1305.

II. Legal Standards

9. K.S.A. 55-1301 through K.S.A. 55-1317 provide processes for unitizing acreage. K.S.A. 55-1301 provides that the Commission shall exercise its powers under such statutes to prevent waste and protect correlative rights.

10. K.S.A. 55-1303 provides detailed requirements for a Unit application, including a statement of the type of operations, the proposed plans for unitization, the proposed operating plan covering supervision and costs, and an allegation of the facts required to be found by the Commission under K.S.A. 55-1304.

11. K.S.A. 55-1304's conditions, as listed in paragraph 7 above, must be met before acreage can be unitized.

12. K.S.A. 55-1305 states that the order providing for unitization and Unit operation shall be upon terms and conditions that are just and reasonable and shall prescribe a plan for Unit operations which includes various details listed in K.S.A. 55-1305(a) through K.S.A. 55-1305(l).

13. K.S.A. 55-1305(l) provides that no order of the Commission providing for unitization pursuant to K.S.A. 55-1304(a)(1) shall become effective unless and until the plan for Unit operations prescribed by the Commission has been approved in writing by those persons who, under the Commission's order, will be required to pay at least 63% of the costs of the Unit operation, and also by the owners of at least 63% of the production or proceeds thereof that will be credited to royalties, and the Commission has made a finding, either in the Order providing for Unit operations or in a supplemental order, that the plan for unit operations has been so approved.

III. Conclusions of Law

14. Operator's Application was filed in accordance with the rules and regulations of the Commission and Kansas statutes, and should be granted to prevent waste and protect correlative rights.

THEREFORE, THE COMMISSION ORDERS:

A. The Operator's Application to create the Kane Unit pursuant to K.S.A. 55-1301 through 55-1317 is granted.

B. The Unit shall be governed by the terms found in the Application and the exhibits, including the Unit Agreement and Unit Operating Agreement, which are hereby incorporated by reference.

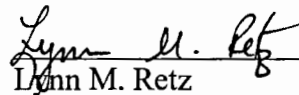
C. Any party affected by this Order may file a petition for reconsideration pursuant to K.S.A. 77-529(a). The petition shall be filed within 15 days after service of this Order. If service of this Order is by mail, three days are added to the deadline. The petition shall be addressed to the Commission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

D. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: SEP 21 2017


Lynn M. Retz
Secretary to the Commission

September 21, 2017
Mailed Date: _____

JRM/mjd

CERTIFICATE OF SERVICE

I certify that on September 21, 2017, 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:

Thomas M. Rhoads (SC 10005)
Law Offices of Thomas M. Rhoads LC
200 E. 1st Street, Suite 301
Wichita, Kansas 67202-2114
Attorney for Applicant

Emma Richmond
Berexco LLC
2020 N. Bramblewood
Wichita, Kansas 67206-1094

Linda Kraus
1312 Iroquois Road
Wichita, Kansas 67203

And delivered electronically to:

Jonathan Myers
Litigation Counsel

Michael J. Duenes
Assistant General Counsel

/s/ Cynthia K. Maine
Cynthia K. Maine
Administrative Assistant
Kansas Corporation Commission