

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

BEFORE COMMISSIONERS: Shari Feist Albrecht, Chair  
Jay Scott Emler, Commissioner  
Dwight Keen, Commissioner

In the Matter of the Application of RJM )  
Company to Authorize Injection of )  
Saltwater into the Arbuckle/Granite Wash ) Docket No. 18-CONS-3382-CUIC  
Formation at the JB #2 Well Located in the )  
SW/4 of Section 34, Township 16 South, )  
Range 12 West, Barton County, Kansas. )

**APPLICANT’S MOTION TO DISMISS THE PROTESTS FILED HEREIN**

COMES NOW, the Applicant RJM Company and respectfully moves the Commission for an Order dismissing the protests in this Docket. In support of said Motion, Applicant states:

1. Each protest against the granting of an application for an order shall include specific allegations as to the manner in which the grant of the application will cause waste, violate correlative rights, or pollute the water resources of the state of Kansas.<sup>1</sup>

2. The Commission recently held in its Final Precedential Order issued on April 4, 2018 in Docket 17-CONS-3689-CUIC, that “Without specific allegations or a statement of the direct and substantial interest of the Protestant, the Protestant has not demonstrated a valid interest.”<sup>2</sup>

3. The Commission further stated in this Final Precedential Order that, “In order to satisfy standing requirements ‘in Kansas, a person must demonstrate that [1] he or she suffered a cognizable injury and [2] that there is a causal connection between the

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<sup>1</sup> K.A.R. 82-3-135b(a).

injury and the challenged conduct.” “A cognizable injury is established by showing...that [an individual] personally suffers some actual or threatened injury as a result of the challenged conduct...[and]...[t]he injury must be particularized, i.e., it must affect the plaintiff in a personal and individual way.” “Mere allegations of possible future injury do not meet the requirements of standing and instead, any threatened injury must be certainly impending.” Additionally, “it is a well-recognized rule that [individuals] must assert his [or her] own legal rights and interests, and...*an injury must be more than a generalized grievance common to all members of the public.*”<sup>3</sup> (emphasis in original).

4. As the Commission noted in its Final Precedential Order, at the pre-evidentiary stage of the proceeding, a party need only demonstrate a prima facie case for standing. In other words, the Commission must determine if the facts alleged in the protest, and inferences to be made therefrom, demonstrate standing.<sup>4</sup>

5. The protests filed in this matter do not satisfy K.A.R. 82-3-135b because they do not demonstrate, even by a prima facie showing, that these protestants meet the “direct and substantial interest” standard. They fall squarely in the category of protests rejected by the Commission in its Final Precedential Order, since they are merely a letter writing campaign (by some of the same individuals whose protests<sup>5</sup> were rejected by this Commission in its Final Precedential Order) highlighting general concerns without alleging an individual, personal, particularized and impending injury.<sup>6</sup> These protests also

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<sup>2</sup> Final Precedential Order in Docket 17-CONS-3689-CUIC, ¶ 28.

<sup>3</sup> *Id.* ¶ 29.

<sup>4</sup> *Id.* ¶ 30.

<sup>5</sup> Both Susan Royd-Sykes and Dr. Lee Anne Coester also filed protests in Docket 17-CONS-3689-CUIC, which were dismissed for lack of standing.

<sup>6</sup> Indeed, protestant Rachel Creager Ireland describes her interest in her protest letter as one generally held by “[e]very person in North America.”

fail to demonstrate a causal connection between such alleged injury and the proposed injection activity.<sup>7</sup>

6. In further support of its motion, Applicant notes that the protestants do not reside within any reasonable proximity to the subject JB #2 well (as demonstrated in Exhibit A, attached hereto), nor have these protestants demonstrated a direct nexus to the Applicant's operations of the JB #2 well. This fact provides additional support to Applicant's claim that these Protestants lack "standing" to protest and participate in this Docket.

7. The Commission's technical staff is empowered to conduct investigations and otherwise evaluate issues raised, and may testify and offer exhibits on behalf of the general public. K.A.R. 82-1-204(q). The generalized concerns raised by the Protestants, to the extent any actually fall within the Commission's jurisdiction, are already investigated and evaluated by the Commission's technical staff. Allowing Protestants to, in essence, represent the general public in this matter by voicing these generalized concerns improperly usurps the role of the Commission's technical staff.

WHEREFORE, Applicant respectfully requests that all of the protests in this Docket be dismissed and held for naught for the various reasons recited herein.

Respectfully submitted:

TRIPLETT WOOLF GARRETSON, LLC

By /s/ Amy Fellows Cline

Timothy E. McKee, #07135

[temckee@twgfirm.com](mailto:temckee@twgfirm.com)

Amy Fellows Cline, #19995

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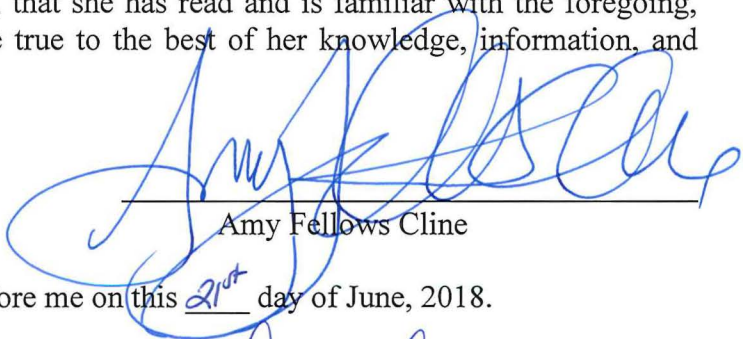
<sup>7</sup> *Id.* ¶ 31.

[amycline@twgfirm.com](mailto:amycline@twgfirm.com)  
2959 N. Rock Road, Suite 300  
Wichita, Kansas 67226  
Telephone: (316) 630-8100  
Facsimile: (316) 630-8101  
*Attorneys for RJM Company*

**VERIFICATION**

STATE OF KANSAS            )  
  ) ss  
COUNTY OF SEDGWICK    )

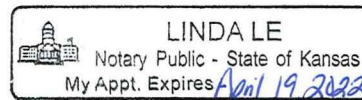
Amy Fellows Cline, being first duly sworn upon her oath, deposes and states that she is Counsel for RJM Company, that she has read and is familiar with the foregoing, and that the statements therein are true to the best of her knowledge, information, and belief.

  
\_\_\_\_\_  
Amy Fellows Cline

Submitted and sworn to before me on this 21<sup>st</sup> day of June, 2018.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: April 19, 2022



## **CERTIFICATE OF SERVICE**

I hereby certify that on this 21st day of June, 2018, the above **Applicant's Motion to Dismiss** was sent via United States Parcel Service, postage prepaid, and/or by electronic mail addressed to the following:

Michael Duenes, Assistant General  
Counsel  
Kansas Corporation Commission  
1500 SW Arrowhead Rd  
Topeka, KS 66604  
[m.duenes@kcc.ks.gov](mailto:m.duenes@kcc.ks.gov)

Rene Stucky  
Kansas Corporation Commission  
Conservation Division  
266 N. Main St. Ste. 220  
Wichita, KS 67202-1513  
[r.stucky@KCC.KS.GOV](mailto:r.stucky@KCC.KS.GOV)

Lauren Wright, Litigation Counsel  
Kansas Corporation Commission  
Conservation Division  
266 N. Main St. Ste. 220  
Wichita, KS 67202-1513  
[l.wright@kcc.ks.gov](mailto:l.wright@kcc.ks.gov)

Lee Anne Coester, PhD.  
401 Vine St.  
Cottonwood Falls, KS 66845  
[lacoester@sbcglobal.net](mailto:lacoester@sbcglobal.net)

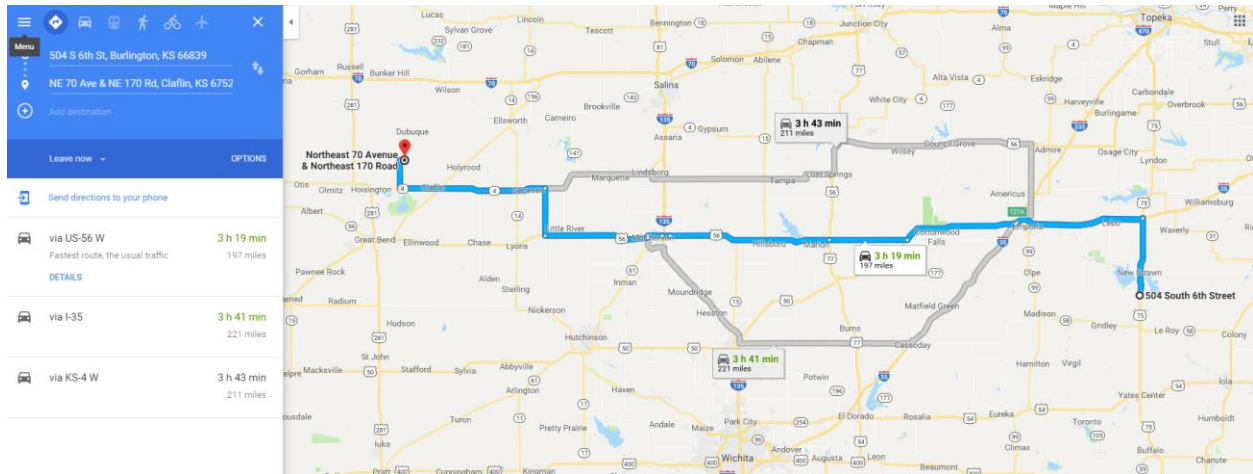
Rachel Creager Ireland  
Po Box 31  
Strong City, KS 66869  
[rachelcreager@yahoo.com](mailto:rachelcreager@yahoo.com)

Lawrence Miller  
RJM Company  
P.O. Box 256  
Claflin, KS 67525

Susan Royd-Sykes  
504 S. 6th St.  
Burlington, KS 66839  
[moondrummer88@gmail.com](mailto:moondrummer88@gmail.com)

/s/ Amy Fellows Cline  
Amy Fellows Cline, #19995

1. Susan Royd-Sikes  
504 S. 6<sup>th</sup> St.  
Burlington, KS 66839  
Distance from JB #2: 197 miles (approximately)



2. Dr. Lee Anne Coester  
401 Vine St.  
Cottonwood Falls, KS 66845  
Distance from JB #2 Well: 134 miles (approximately)

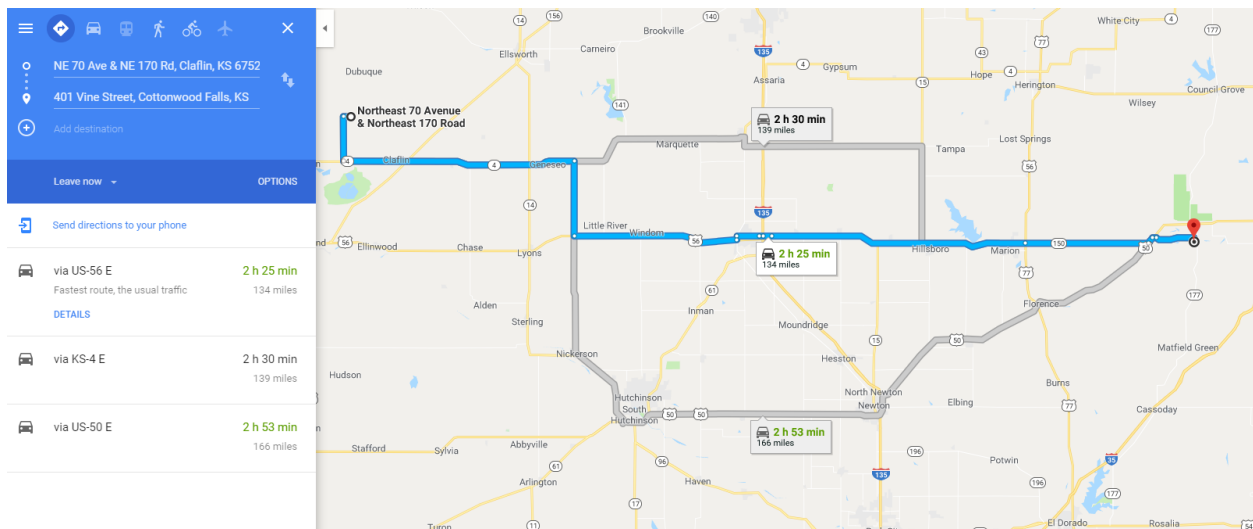


Exhibit  
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- NE 70 Ave & NE 170 Rd, Clifton, KS 6752

Strong City, Kansas 66869

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OPTIONS

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Fastest route, the usual traffic

DETAILS

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via US-56 E and KS-150 E 2 h 41 min 148 miles