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October 17, 2016

Kansas Corporation Commission,
Conservation Division
266 N Main Street, Suite 220
Wichita, KS 67202-1513

**Re: Request for Hearing – 17-CONS-3100-CPEN, Benjamin M. Giles, License No. 5446
Compliance with KAR 82-3-111 at the Clearwater #2 & #5**

To Whom It May Concern:

We respectfully request a hearing in the above-referenced penalty docket on behalf of Benjamin M. Giles (“Operator”). The Clearwater #2 and #5 wells (“Wells”) are located in low-lying areas in close proximity to the Whitewater River. The frequent heavy rains over the past several months have kept the surface area surrounding the Wells saturated—often completely under water—such that any attempt to bring a rig to the Wells would be imprudent as it would likely result in excess unnecessary surface damages and otherwise be extraordinarily dangerous. Photos of the wet condition of the surface surrounding the Wells are enclosed.

To comply with K.A.R. 82-3-111, Operator must immediately produce, temporarily abandon (“TA”), or plug and abandon the Wells. None of these options are available to Operator until such time as the surface area surrounding the Wells dries out so that it is prudent and safe to bring in a rig. Obviously, Operator cannot plug or bring the Wells back into production without bringing a rig to the wellsite. Operator filed TA applications for the Wells in March. The TA application for the #2 well was denied because it has been off production for more than 10 years. To TA the #2 well, Operator must first obtain an exception to the 10-year TA time limitation of K.A.R. 82-3-111. Operator cannot obtain this exception without conducting a casing integrity test, which test requires rigging up over the #2 well. The TA application for the #5 well was denied due to high fluid levels. The source of the high fluid levels is not saltwater from the wellbore, but rain and flood water that infiltrated the wellbore during the heavy rains of the past several months.

Operator cannot TA the #5 well until the fluid levels are lowered. Operator needs to run rods and tubing into the wellbore to pump the water level down, which requires rigging up over the #5 well.

Operator has been in communication with District #2 Staff since the TA applications for the Wells were denied. Operator has kept District #2 Staff apprised of the wet surface conditions surrounding the Wells, and has attempted to obtain an accommodating extended compliance period. District #2 Staff has inspected the wet conditions surrounding the wells and confirmed it would be imprudent to attempt to bring a rig to the Wells. Nevertheless, District #2 Staff recommended a penalty order for noncompliance with K.A.R. 82-3-111.

Under these circumstances it would be inequitable and result in economic waste to impose penalties against Operator for failing to bring the Wells into compliance with K.A.R. 82-3-111. At this time, it is imprudent and dangerous to attempt to bring a rig to the Wells to perform the work necessary to bring the Wells into compliance with K.A.R. 82-3-111. Operator intends to bring the Wells back into production as soon as it is safe to bring a rig onsite, so any order to immediately plug and abandon the Wells would result in waste of the State's natural resources, and violate the correlative rights of the working and royalty interest owners of the Clearwater Lease. Further, it would create yet another quagmire for Operator, as it is simply not safe to attempt to plug the Wells at this time.

For the foregoing reasons, a hearing in this matter is requested.

Sincerely,



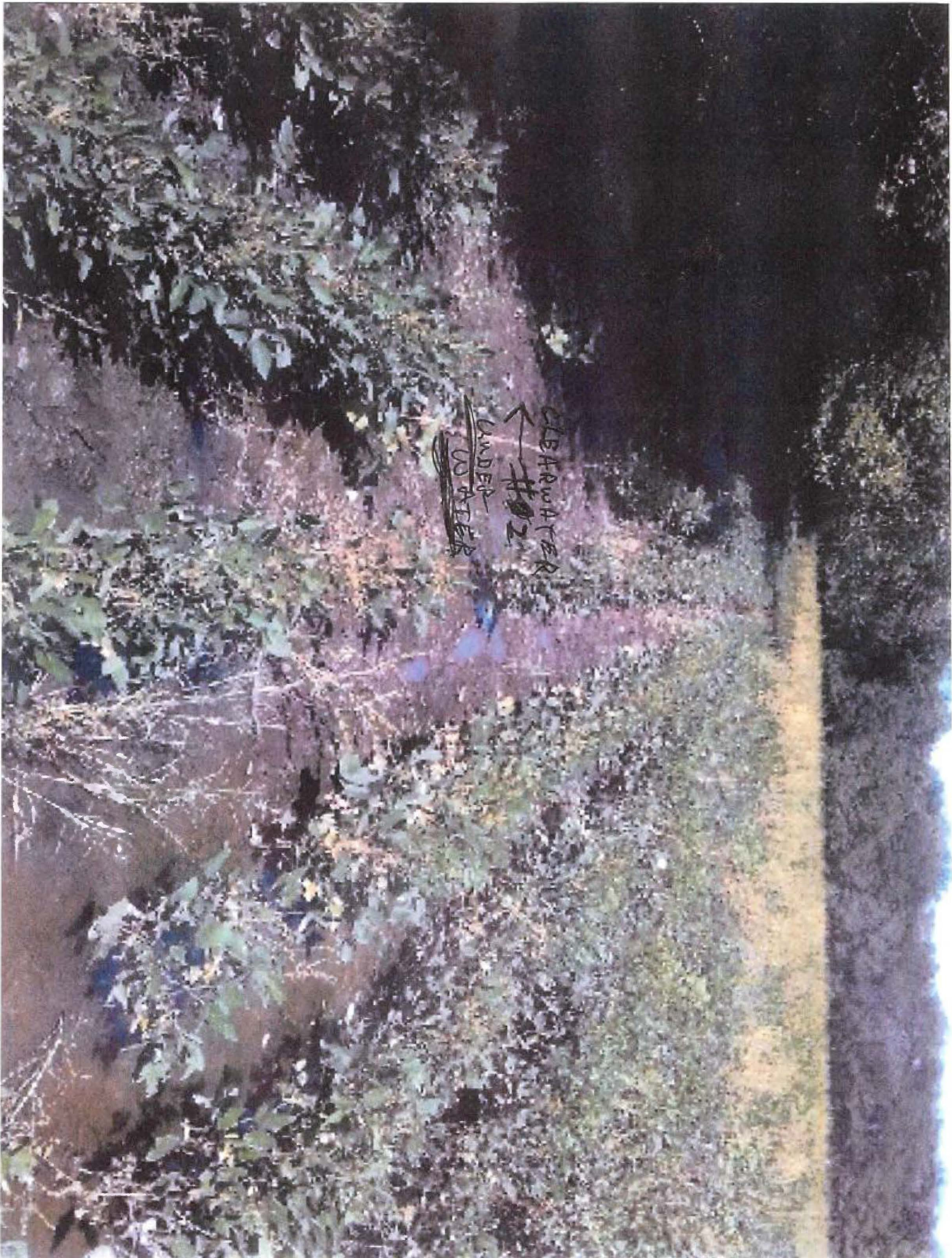
Jonathan A. Schlatter
For the Firm

JAS/cda

Enclosures

cc: Mr. Benjamin Giles (w/encls.)

CHEWATER
← #02
UNDER
~~WOODS~~





CLEAR WATER #5

