

**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

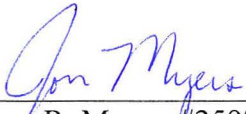
MOTION TO APPROVE PROPOSED ORDER GRANTING APPLICATION

Commission Staff (Staff) of the State Corporation Commission of the State of Kansas (Commission) files this *Motion to Approve Proposed Order Granting Application*, attaching said proposed Order. In support of its motion, Staff states as follows:

1. On April 6, 2017, Berexco LLC (Operator) filed an application for an order authorizing the unitization and unit operation of the Kane Unit in Kiowa County.
2. On May 1, 2017, the Commission received a protest to the application, but on August 24, 2017, that protest was withdrawn.
3. Staff has reviewed Operator's application and is satisfied that it meets all requirements of K.S.A. 55-1301 *et seq.* Staff recommends approval of the application.

WHEREFORE, for the reasons described above, Staff moves for the Commission to approve Operator's application and has attached a proposed Order Granting Application.

Respectfully submitted,



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

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ORDER GRANTING APPLICATION

The Commission grants the application of Berexco LLC (“Operator”) for the unit operation of the Kane Unit, for following reasons.

I. LEGAL STANDARD

1. K.S.A. 55-1301 through K.S.A. 55-1317 provides 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.

2. 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.

3. K.S.A. 55-1304 provides that the Commission must find all three of the following conditions are present before unitizing acreage:

- a. Under K.S.A. 55-1304(a)(1), the primary production from a pool or a 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; or under K.S.A. 55-1304(a)(2) the unitized management, operation, and

further development of the pool or the part thereof sought to be unitized is economically feasible and reasonably necessary to prevent waste within the reservoir and substantially increase the ultimate recovery of oil or gas;

- 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 operation is fair and equitable to all interest owners.

4. K.S.A. 55-1305 provides 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).

5. 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.

II. FINDINGS OF FACT

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

7. 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, 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; and
- 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.

8. 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.

9. Operator is applying for unitization under in K.S.A. 55-1304(a)(1). Operator's application lists all of the conditions necessary to grant the application under K.S.A. 55-1304 and states that such conditions are present.

¹ The application does not explicitly request unitization under K.S.A. 55-1304(a)(1), instead making 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. 1304(a)(2).

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

10. Operator has obtained approval from those responsible for 100% of the costs of unit operations,³ and more than 76.79% of the royalty interests have approved the plan for unit operations.⁴ This exceeds the statutory requirements.

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

12. The Commission finds that 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.

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

IV. 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.

³ See Pre-Filed Testimony of Jesse Fendorf, 4:21 to 5:17.

⁴ *Id.*

THEREFORE, THE COMMISSION ORDERS:

A. 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: _____

Lynn M. Retz
Secretary to the Commission

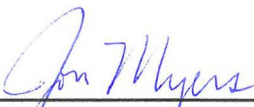
Mailed Date: _____

JRM

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.



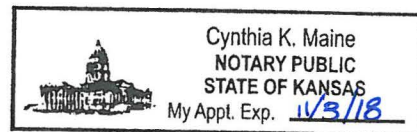
Jonathan R. Myers, S. Ct. #25975
Litigation Counsel
State Corporation Commission
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 13th day of September, 2017.



Notary Public

My Appointment Expires: 11/3/18



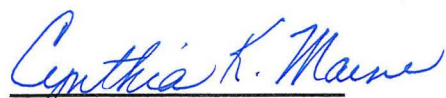
CERTIFICATE OF SERVICE

I certify that on 9/13/2017, I caused a complete and accurate copy of this Motion to be served via United States mail, with the postage prepaid and properly addressed to the following:

Thomas M. Rhoads
Law Offices of Thomas M. Rhoads LC
200 E. 1st Street, Suite 301
Wichita, Kansas 67202
Attorney for Berexco LLC

And delivered by email to:

Samuel Feather, KCC Topeka Office



Cynthia K. Maine
Administrative Assistant
Kansas Corporation Commission