

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

Before Commissioners: Andrew J. French, Chairperson
Dwight D. Keen
Annie Kuether

In the matter of the failure of Quito, Inc. and/or) Docket No.: 24-CONS-3086-CMSC
Thor Operating, LLC to comply with K.A.R.)
82-3-120 and K.A.R. 82-3-133.) CONSERVATION DIVISION
)
) License Nos.: 33594 & 36020

**SHUT-IN AND SHOW CAUSE ORDER,
DESIGNATING A PRESIDING OFFICER
AND SETTING A PREHEARING CONFERENCE**

Commission records indicate the Sears #30 well has been in operation despite being listed on Quito, Inc.'s inactive and revoked license. This order finds Quito has violated K.A.R. 82-3-120 and K.A.R. 82-3-133 by conducting oil and gas operations under an inactive and revoked license, and/or that Thor Operating, LLC has violated K.A.R. 82-3-120 and K.A.R. 82-3-133 by conducting oil and gas operations on a well listed under Quito's inactive and revoked license. Accordingly, this order directs Commission Staff to seal all oil and gas wells listed under Quito's license, directs Quito and Thor to appear before the Commission to show why each should not be assessed a \$25,000 penalty, and further rules as more fully described below.

I. JURISDICTION

1. K.S.A. 74-623 provides the Commission exclusive jurisdiction and authority to regulate oil and gas activities in Kansas. K.S.A. 55-152 provides the Commission with jurisdiction to regulate the construction, operation, and abandonment of any well, and also the protection of the usable water of this state from any actual or potential pollution from any well. The Commission has licensing authority under K.S.A. 55-155.

2. K.S.A. 55-162(a) provides the Commission authority to issue penalty orders for violations of Chapter 55 of the Kansas Statutes Annotated, or of any rule, regulation, or order of the

Commission. K.S.A. 55-162(e) provides that whenever an operator is in violation of subsection (a) of the statute, “agents of the commission may enter upon the lease or any other leases under the control of such operator and seal any well operated by the offending party.”

3. Under K.S.A. 55-164, a penalty order may include a monetary penalty of up to \$10,000, the penalty must constitute a substantial and actual economic deterrent to the violation, and each day of a continuing violation constitutes a separate violation.

4. K.A.R. 82-3-120 provides that no operator shall operate any well without a current license. K.A.R. 82-3-133 provides that production of oil or gas in violation of a Commission regulation or order shall be deemed unlawful.

II. BACKGROUND

5. On September 2, 2021, in Docket 22-CONS-3115-CMSC, the Commission issued an Order denying Quito’s June 1, 2020, license renewal application.¹ Quito timely requested a hearing. On February 9, 2023, the Commission issued a Final Order affirming its denial of Quito’s license renewal application.² On February 16, 2023, Quito filed a Petition for Stay of the Commission’s Final Order, on February 24, 2023, Quito filed a Petition for Reconsideration of the Commission’s Final Order, and on March 6, 2023, Quito filed a Request for Hearing.

6. On February 17, 2023, Thor obtained an operator’s license from the Commission.

7. On March 23, 2023, the Commission issued an Order Denying Quito’s Petition for Reconsideration, Request for Hearing, and Petition for Stay.³

8. Between April 6, 2023 and May 9, 2023, Commission Staff received Request for Change of Operator (T-1) forms requesting transfer of the Appleby, Dearmond, Flossie-White,

¹ Docket 22-CONS-3115-CMSC, Order Denying Application for License (Sept. 2, 2021).

² Docket 22-CONS-3115-CMSC, Final Order (Feb. 9, 2023).

³ Docket 22-CONS-3115-CMSC, Order Denying Operator’s Petition for Reconsideration, Request for Hearing, and Petition for Stay (Mar. 23, 2023).

McFarland-Delong, Morton, Sears, Wall, and Williamson leases from Quito to Thor. Staff has not approved the T-1 Forms.

9. On July 18, 2023, Staff inspected Quito's Sears lease and found the Sears #30, API #15-019-26185, in operation despite being listed under Quito's inactive and revoked license.⁴

10. On September 13, 2023, Commission Staff received a letter from Quito's counsel. Quito acknowledged T-1 forms had not been approved and stated Quito had not operated any of its wells since February 9, 2023.⁵

11. To date, the wells on the T-1 Forms for the Appleby, Dearmond, Flossie-White, McFarland-Delong, Morton, Sears, Wall, and Williamson leases remain on Quito's inactive and revoked license.

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

12. The Commission finds that Quito has violated K.A.R. 82-3-120 by conducting oil and gas operations on an inactive and revoked license, resulting in unlawful production under K.A.R. 82-3-133, and/or that Thor has violated K.A.R. 82-3-120 by conducting oil and gas operations on wells listed under Quito's inactive and revoked license. The Commission also finds that under K.S.A. 55-162(e), Commission Staff may immediately seal any of the wells listed under Quito's license.

13. The Commission finds it appropriate to direct Quito and Thor to appear before the Commission, to demonstrate why each should not be assessed a \$25,000 penalty.

14. The Commission further finds that a Presiding Officer should be designated in this proceeding to determine procedural matters that may arise prior to a hearing on the merits,

⁴ Exhibit A. Under K.A.R. 82-3-120(i), a license denial pursuant to K.S.A. 55-155(c)(3) or (4) shall be considered a license revocation.

⁵ Exhibit B.

including but not limited to conducting prehearing conferences,⁶ and that a prehearing conference should be scheduled.

15. Under K.A.R. 82-1-228(d)(1), any party may either “appear before the Commission and be heard in person on that party’s own behalf,” or appear before the Commission through a licensed attorney. Because Quito and Thor are artificial entities, they cannot appear in person.⁷ Thus, Commission regulations require artificial entities such as Quito and Thor to appear before the Commission via counsel. Even if Commission regulations did not require counsel in this matter, the Commission finds it would be in the public interest to require counsel via order.⁸

THEREFORE, THE COMMISSION ORDERS:

A. Quito and Thor are directed to appear before the Commission to demonstrate why each should not be assessed a \$25,000 penalty.

B. Commission Staff is directed to shut-in and seal all oil and gas wells listed under Quito’s license. The wells shall not be unsealed until they have been placed upon the license of an operator whose license is active and in good standing with the Commission.

C. The Presiding Officer for prehearing matters in this proceeding shall be Jonathan R. Myers, Assistant General Counsel, Kansas Corporation Commission, 266 N. Main Street, Suite 220, Wichita, Kansas, 67202-1513, telephone number (316) 337-6245, email address j.myers@kcc.ks.gov. The Commission may designate other Staff members to serve in this capacity.

D. A prehearing conference is scheduled for **Thursday, October 26, 2023, at 1:30 p.m.** by telephone. The conference call information is: telephone number (253) 205-0468, Meeting ID 5248125436.⁹ **Quito and Thor must each appear via a licensed attorney. Prior to the**

⁶ See also K.S.A. 77-516 and K.S.A. 77-517.

⁷ See *State ex rel. Stephan v. Williams*, 246 Kan. 681, 691 (1990).

⁸ The administration of justice is efficiently furthered by requiring persons licensed to practice law and familiar with procedure to represent artificial entities. See *In re Arnold*, 274 Kan. 761, 770 (2002). See also K.S.A. 77-515(c) (“A state agency may require a corporation or other artificial person to participate by counsel.”).

⁹ If prompted, there is no Participant ID; just press pound to continue.

prehearing conference, any such attorney must file an entry of appearance, comporting with the pleading requirements of K.A.R. 82-1-219 and identifying the filer as a licensed attorney.

E. At the prehearing conference, parties shall be prepared to discuss deadlines for filing testimony and briefs, discovery procedures, scheduling of a hearing with the Commission, and any other issues that will promote the orderly, prompt resolution of this proceeding. At the prehearing conference, without further notice, this proceeding may be converted into a conference hearing or a summary proceeding for disposition of this matter as provided by the Kansas Administrative Procedure Act (KAPA). Any party that fails to attend or participate in the prehearing conference, hearing, or other stage of this proceeding may be held in default under the KAPA.¹⁰

F. Although a Presiding Officer is designated, parties are still required to file pleadings with the Commission, and filings shall be made with the Commission's Docket Room. Any filing received after 5:00 p.m. shall be considered filed the next business day. In addition, any late filing shall be accompanied by a Motion to File Out-of-Time. **The Commission directs electronic service of all filings in the docket to include service on the Presiding Officer and mailed service of all filings to be directed to the Presiding Officer's attention.**

G. The attorney designated to appear on behalf of the agency in this proceeding is Kelcey Marsh, Litigation Counsel, telephone number (316) 337-6200, k.marsh@kcc.ks.gov.

BY THE COMMISSION, IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner (recused); Kuether, Commissioner

Dated: 10/03/2023



Lynn M. Retz
Executive Director

Mailed Date: 10/03/2023

KAM

¹⁰ K.S.A. 77-506; K.S.A. 77-516(c)(7)-(8).

KCC OIL/GAS REGULATORY OFFICES

Inspection Date: 07/18/2023 **District:** 3 **Incident Number:** 8376

- New Situation Lease Inspection
 Response to Request Complaint
 Follow-up Field Report

Operator License No: 33594 **API:** 15-019-26185-00-01 **Q3:** SE **Q2:** SE **Q1:** NE

Operator Name: Quito Inc. **SEC** 23 **TWP** 34 **RGE** 10 **RGEDIR:** E

Address: 1613 W 6th St. **FSL:** 3223

City: Bartlesville **FEL:** 555

State: OK **Zip Code:** 74003-3712 **Lease:** Sears **Well No.:** 30

Phone contact: 918-798-4365 **County:** CQ

Reason for Investigation:

District 3 Compliance officer Ryan Duling had me check Quito Inc. leases to see if any wells were producing/operating under a revoked license.

Problem:

Quito Inc. license # 33594 is operating an oil well and producing oil on a revoked license. I confirmed the location and well status of well Sears # 30 API # 15-019-26185-00-01 to be the one producing at the time of my arrival.

Persons contacted:

District 3 Compliance Officer Ryan Duling

Findings:

Research of the Sears # 30 API # 15-019-26185-00-01 located in 23-34-10E in Chautauqua county found Quito Inc. license # 33594 to be the operator. After the well status check I found the well to be active and producing. You will find more well information in the additional findings section.

Actions / Recommendations **Follow-up Required** **Deadline Date:**

I will refer this report to District #3 Compliance officer Ryan Duling for further review.

Photo's Taken: 2

RBDMS KGS KOLAR **Report Prepared By:** Thad Triboulet

District Files Courthouse **Position:** ECRS

KCC OIL/GAS REGULATORY OFFICES

Additional Findings:

Sears #30 API # 156-019-26185-00-01, Sec 23 - T34S- R10E, 3223 FSL, 555 FEL, Lat. 37.078010, Long. - 96.274313, SE SE NE, Sears # 30 is an active well constructed with 4.5" casing, 2" tubing, rods, electric motor, and a pump jack. See attached photos numbered (1) and (2)

KCC DISTRICT III OFFICE FIELD REPORT PHOTO ID FORM



Operator: Quito, Inc.
Lease: Sears
Subject: # 30
County: CQ
FSL: 3223'
FEL: 555'
API#: 15-019-26185-00-01
Date: 07/18/2023
Staff: Triboulet

KLN: 33594
Legal: Sec 23 T34S R 10E SE SE NE
PIC ID#: 1,2
PIC Orientation: Facing South
Latitude: 37.078010
Longitude: -96.274313

Time: 2:07

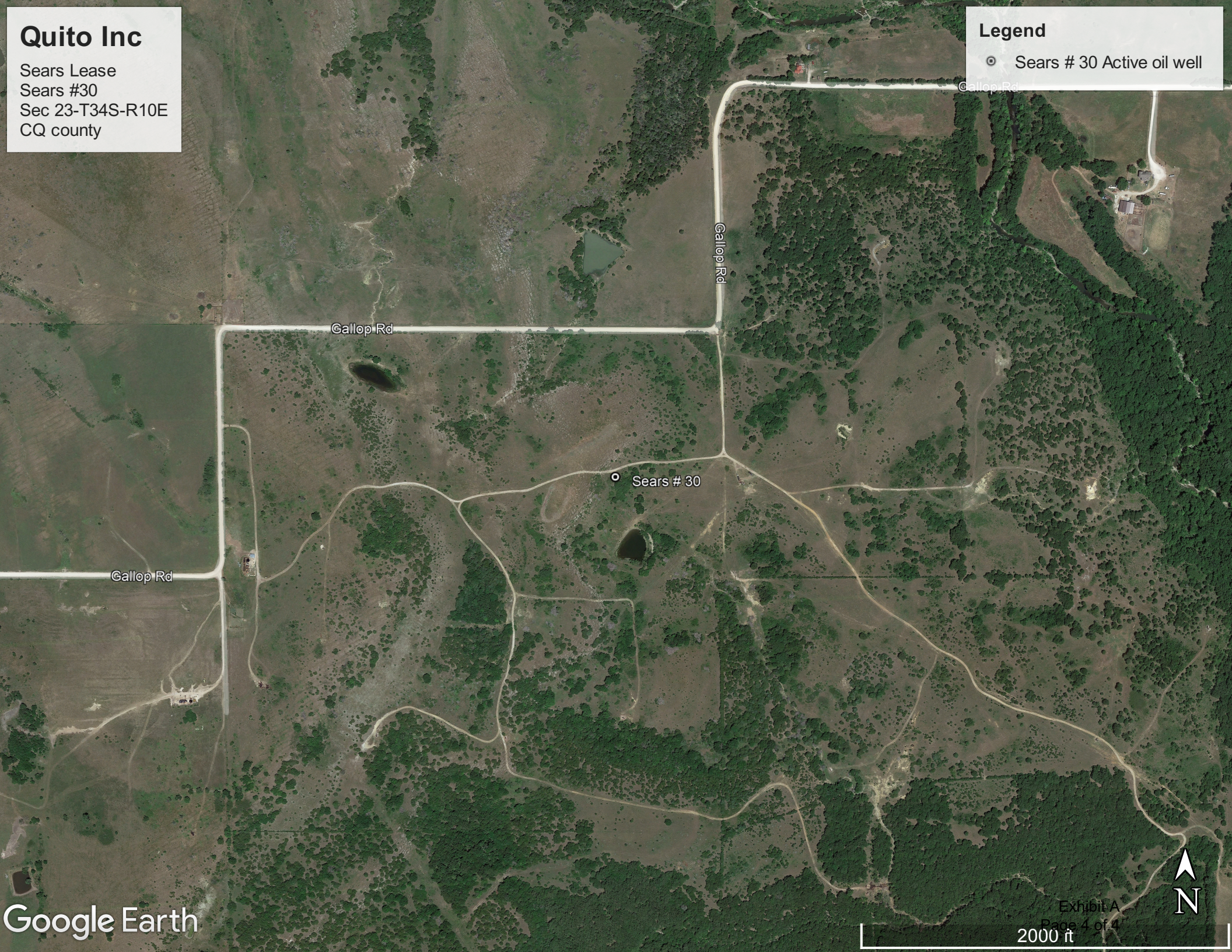
Additional Information: Sears # 30 is an active oil well. The first picture on the left shows the pumping unit in the up position. The picture on the right, 8 seconds later shows the pumping unit in the down position. It is constructed with 4.5" casing, 2" tubing, rods, and a pump jack with an electric motor. This operator's license has been revoked and should not be operating any wells at this time.

Quito Inc

Sears Lease
Sears #30
Sec 23-T34S-R10E
CQ county

Legend

- Sears # 30 Active oil well



Gallop Rd

Gallop Rd

Gallop Rd

○ Sears # 30



Received
KANSAS CORPORATION COMMISSION
SEP 13 2023
CONSERVATION DIVISION
WICHITA, KS

JOHN R. HORST, P.A.
ATTORNEY AT LAW
207 W. FOURTH, P.O. BOX 560
CANEY, KS 67333

Telephone (620) 879-2146
Fax (620) 879-2148
jrhorst48@yahoo.com

September 11, 2023

Nancy Borst
Kansas Corporation Commission
Conservation Division
266 N. Main St., Ste. 220
Wichita, KS 67202-1513

VIA E-MAIL and U.S. MAIL

RE: Quito, Inc.; License No. 33594

Dear Ms. Borst:

Quito, Inc. acknowledges receipt of your Notice of Violation letter dated August 28, 2023. Please note that Quito, Inc. filed an Application to renew its operator's license on June 1, 2020; renewal of Quito's operator's license was the subject of Docket No: 22-CONS-3115-CMSC in which Quito sought to renew its operator's license, but in its Final Order issued February 9, 2023, the Commission affirmed its prior Order Denying Application for license previously issued on September 2, 2021.

Also, please note that Quito, Inc. has sought judicial review of the Commission's Final Order in CQ-2023-CV-000004, in the District Court of Chautauqua County, Kansas. Quito continues to seek to renew its license.

It should also be noted that Quito, Inc. has transferred many of the wells listed on Exhibit A attached to the Notice of Violation letter to Thor Operating, LLC, but those Transfers of Operator Responsibility have not yet been approved.

Additionally, K.A.R. 82-3-120(k) provides:

"The failure to obtain or renew an operator or contractor license before operating shall be punishable by a \$500 penalty."

Subsequent to February 9, 2023, Quito, Inc. has not operated any of the wells listed in Exhibit A attached to the Notice of Violation letter.

Sincerely,

JOHN R. HORST, P.A.

By


JOHN R. HORST

Received
KANSAS CORPORATION COMMISSION

SEP 13 2023

CONSERVATION DIVISION
WICHITA, KS

JRH:st

cc: Jonathan R. Myers

Kelcey Marsh

Tristan Kimbrell

CERTIFICATE OF SERVICE

24-CONS-3086-CMSC

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 10/03/2023.

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/S/ KCC Docket Room
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