

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Shari Feist Albrecht, Chair
Pat Apple, Commissioner
Jay Scott Emler, Commissioner

In the Matter of the Application of Phillips)	Docket No. 18-CONS-3204-CUIC
Exploration Company, L.C. to authorize)	
Injection of saltwater into the Cedarhill)	CONSERVATION DIVISION
Formation at the Gaither 2-21 well)	
Located in Section 21, Township 14 South,)	License No. 31160
Range 24 West, Trego County, Kansas)	
_____)	

REPLY IN SUPPORT OF MOTION TO DISMISS PROTEST

Applicant Phillips Exploration Company, L.C. ("Phillips Exploration") submits this response to the Response to Motion to Dismiss Protest (the "Response") filed by the protestants in the above captioned docket in support of the Motion to Dismiss Protest filed by Phillips Exploration.

1. The Response Was Untimely. The Motion to Dismiss Protest was filed on January 30, 2018, and was served on protestants by mail that same day. Under the Kansas Rules of Civil Procedure and the Commission's rules, the response to that motion was due within 7 days, including weekends, plus adding 3 days to account for service by mail. See Dist.Ct.Rule 133(b); K.A.R. § 82-1-217. Thus, the deadline for filing the Response was February 9, 2012. The Response was not filed until February 12, 2018.

2. The Response does not Comply with the Commission's Rules. All pleadings filed with the Commission "shall be verified by the party or by the party's attorney, if the attorney has actual knowledge of the truth of the allegations contained therein or reasonable grounds to believe that the statements are true." K.A.R. § 82-1-219(g). The Response was not verified by

either the protestants or by their attorney and, therefore, does not comply with that mandatory pleading requirement.

Importantly, the Response makes several arguments based on facts that cannot be verified independently. For example, protestants claim that they "believed" that they had complied with the requirement of mailing a copy of their protest to Phillips Exploration based on a conversation they had with Rene Stucky and their belief that the Commission would provide Phillips Exploration with a copy of their protest. Response, ¶¶ 2, 3. Absent proper verification of the Response, such unsupported factual allegations should be ignored.

Moreover, even if those facts were verified and are assumed to be true, they do not support the denial of the Motion to Dismiss. The Commission has held that strict compliance with K.A.R. § 82-3-135b(d) is mandatory and protestants failure to do so justifies dismissal of their protest. . See In the Matter of the Application of Lawson Engineering, Inc., d/b/a Larson Operating Company, to authorize the injection of saltwater into the Pleasanton and Altamont formations at the Danis #1-21 well in Section 21, Township 18 South, Range 29 West, Lane County, Kansas, Docket No. 18-CONS-3205-CUIC, Order Granting Motion to Dismiss (filed January 9, 2018). The Response does not even attempt to distinguish this case from that ruling.

3. The Protestants appear to ask the Commission to Resolve Contractual Issues Between the Parties that are Outside the Jurisdiction of the Commission. Protestants argue that Phillips Exploration had been advised that its disposal well Application would be protested by their attorney and that the Application improperly seeks the Commission's approval to dispose of off-lease water in the Gaither #2-21 well. Phillips Exploration admits that the protestants had previously denied its request that they enter into a disposal agreement allowing the disposal of off-lease water. The current Application, however, does not seek such approval and, even if it

did, the Commission is not authorized to grant such approval to Phillips Exploration. The Application and the Commission's order approving it only permit the disposal of produced water into the well. The Commission is not asked to approve and indeed cannot approve whether or not Phillips has the contractual right to dispose of water into that well. To the extent that this protest seeks to voice opposition to the Application because of the purported intent to dispose of off-lease water into the Gaither #2-21 well, then that issue is a matter of private contract rights between the parties and outside the jurisdiction of the Commission.

WHEREFORE, for the reasons set forth herein and in its Motion to Dismiss, Applicant Phillips Exploration Company, L.C., respectfully requests that the Commission follow its Rules and Regulations and dismiss the Protest filed herein and allow this matter to proceed expeditiously.

s/ David E. Bengtson

David E. Bengtson (#12184)

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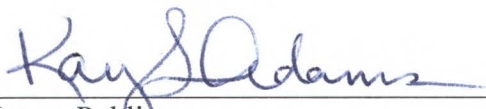
VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

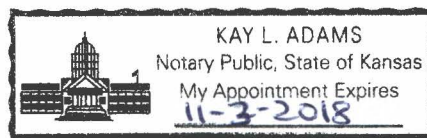
David E. Bengtson, of lawful age, being first duly sworn on my oath, states that I am the attorney for the Applicant, Phillips Exploration Company, L.C.; that I have read the above Reply in Support of Motion to Dismiss Protest; that I know the contents thereof and declare that the statements made therein are true and correct to the best of my knowledge and belief.

By 
David E. Bengtson

SUBSCRIBED AND SWORN to before me this 14th day of February, 2018.


Notary Public

My appointment expires:



CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of February, 2018, the foregoing Motion was electronically filed with the Kansas Corporation Commission and served by U.S. mail, postage prepaid, addressed to the following:

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s/ David E. Bengtson

David E. Bengtson