

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

Before Commissioners:                      Shari Feist Albrecht, Chair  
   Jay Scott Emler  
   Dwight D. Keen

In the Matter of the Application of Brian L.    )    Docket No. 19-CONS-3107-CUIC  
Birk dba Birk Petroleum to Amend the        )  
Injection Permit for the Merritt #5, located in    )    CONSERVATION DIVISION  
Section 7, Township 23 South, Range 15        )  
East, Coffey County, Kansas.                    )    License No. 31280  
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**ORDER ON MOTION TO CHANGE HEARING LOCATION**

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds the following:

1.        On August 31, 2018, Brian L. Birk dba Birk Petroleum (Operator) filed an Application to amend the injection permit for the Merritt #5 well in Coffey County, Kansas.<sup>1</sup> Notice of the Operator's Application was published in The Coffey County Republican newspaper on August 23, 2018.<sup>2</sup>
2.        On August 27, 2018, Susan Royd-Sykes filed a letter of protest, and on September 13, 2018, Ms. Royd-Sykes filed a letter requesting a hearing.
3.        On November 1, 2018, the Commission issued an *Order Setting Procedural Schedule*, setting an evidentiary hearing for January 24, 2019, at the Commission's Wichita office.<sup>3</sup>
4.        On November 6, 2018, Protestant Ms. Royd-Sykes moved the Commission to change the hearing location from Wichita to Topeka.<sup>4</sup> Ms. Royd-Sykes stated that health factors

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<sup>1</sup> Application, p. 1 (Aug. 31, 2018).

<sup>2</sup> Affidavit of Publication (Sept. 14, 2018).

<sup>3</sup> *Order Setting Procedural Schedule*, ¶ 4 and Ordering Clause A (Nov. 1, 2018).

<sup>4</sup> Protestant's Motion to Change Hearing Location from Wichita to Topeka (Nov. 6, 2018) (Motion).

limit her driving ability, and she requested that, should this matter proceed to hearing, the Commission take her driving constraints into consideration and move the location of the January 24, 2019 hearing from Wichita to the Commission's Topeka office.<sup>5</sup>

5. The Commission is sensitive to Ms. Royd-Sykes' health issues and the difficulties they create in terms of mobility. As a public agency, the Commission works to provide the widest possible access to its proceedings within a legal, workable and efficient process. However, the Commission typically hears multiple cases on days when hearings are scheduled for Wichita, and further, the Conservation Staff necessary for all such hearings are in Wichita, not Topeka.

6. Moreover, by her own admission, Ms. Royd-Sykes' husband has availability to drive her to a hearing in Wichita given the fact that he is an "on call substitute teacher," meaning that he need not work every day.<sup>6</sup> Since the scheduled hearing in this proceeding is approximately two months in the future, the Commission finds that Ms. Royd-Sykes has sufficient ability to make appropriate arrangements for a trip to Wichita on January 24, 2018. The fact that other dockets are scheduled for hearing in Wichita on the same day also weighs against moving the hearing location.

7. Based on the above, the Commission finds that the hearing in this proceeding shall be held in Wichita, pursuant to the Commission's *Order Setting Procedural Schedule*, paragraph 4. The Commission finds that Ms. Royd-Sykes' Motion shall be denied.

**THEREFORE, THE COMMISSION ORDERS:**

A. The Protestant's Motion to Change Hearing Location from Wichita to Topeka is denied. The hearing shall be held at the Commission's Wichita office on January 24, 2019, pursuant to the Commission's *Order Setting Procedural Schedule*, paragraph 4.

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<sup>5</sup> Motion, p. 2.

<sup>6</sup> See Motion, p. 2.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).<sup>7</sup>

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 11/27/2018



Lynn M. Retz  
Lynn M. Retz  
Secretary to the Commission

Date Mailed: 11/28/2018

MJD

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<sup>7</sup> K.S.A. 55-162; K.S.A. 55-606; K.S.A. 55-707; K.S.A. 77-503(c); K.S.A. 77-531(b).

**CERTIFICATE OF SERVICE**

19-CONS-3107-CUIC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of electronic service on 11/27/2018.

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/S/ DeeAnn Shupe  
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