

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

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

In the matter of the failure of Jack W.)	Docket No.: 16-CONS-056-CPEN
McFadden ("Operator") to comply with)	
K.A.R. 82-3-400 injection authority and/or)	CONSERVATION DIVISION
K.A.R. 82-3-409 reporting requirements)	
regarding injection that took place during the)	License No.: 8866
2014 calendar year.)	

REPLY TO OPERATOR'S RESPONSE TO MOTION FOR DEFAULT ORDER

Operator's October 16, 2015, filing in this docket appears to be a response to Staff's October 8, 2015, motion for the Commission to issue a default order. Staff still urges the Commission to issue a default order as requested, and replies to Operator's filing as follows:

1. Operator failed to attend the prehearing conference scheduled for 12:30 p.m. on October 7, 2015. As addressed in Staff's motion, the Commission's August 20, 2015, Order in this matter is quite clear: "Any party that fails to attend or participate in the Prehearing Conference, hearing, or other stage of this proceeding **shall** be held in default under the [Kansas Administrative Procedure Act]" (emphasis added).

2. On October 7, 2015, after Operator failed to attend the 12:30 p.m. prehearing conference, Staff telephone records indicate Operator left a message for Staff's counsel at 4:48 p.m. requesting a call back, not at 4:30 p.m. as Operator's filing indicates.

3. On October 8, 2015, Operator and Staff's counsel conversed by telephone, and Operator stated that he had been unavailable at the time of the prehearing conference because he had been somewhere that did not have cell phone reception, rendering Operator's alleged assumption about who would call whom moot. Operator also appears to be alleging that Staff

had called Operator to start a previous conference in this docket, which is contrary to the facts. At the last prehearing conference, Operator and Staff both attended by calling the Commission's telephone conference dial-in number, because Operator had requested telephonic attendance.

4. Operator was responsible for his attendance at the prehearing conference, which had been scheduled for weeks. Operator failed to attend, and was apparently so unconcerned about it that he did not attempt to contact anyone at the Commission until over four hours later, minutes before the close of business.

5. In Operator's August 6, 2015, Request for Hearing, Operator admitted he submitted inaccurate data regarding the Winslow #J 10, which is the violation for which he was penalized. Operator does not need to be given yet another chance to be given a chance to explain why he should be excused from his regulatory violation. The Commission's August 20, 2015, Order was clear on the consequences of failure to attend a prehearing conference. A default order is appropriate.

Respectfully submitted,


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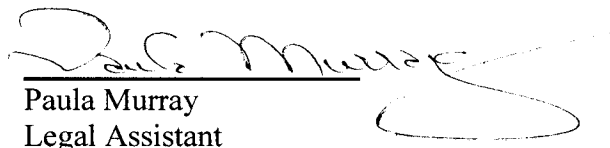
CERTIFICATE OF SERVICE

I certify that on 10/19/18, I caused a complete and accurate copy of this Reply to be served via United States mail, with the postage prepaid and properly addressed to the following:

Jack W. McFadden
dba McFadden Oil Co.
P.O. Box 394
Iola, Kansas 66749

And delivered by hand to:

Lane Palmateer
Conservation Division Central Office



Paula Murray
Legal Assistant
Kansas Corporation Commission