

**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 Patrick)
Development Corporation (“Operator”) to) Docket No. 15-CONS-197-CPEN
comply with K.A.R. 82-3-400 at the)
Hegwald #d-1 (WSW), Hendricks #PDC) CONSERVATION DIVISION
11, Hendricks #PDC 10 and Henrichs)
#PDC 9 wells in Woodson and Allen)
Counties, Kansas) License No.: 6279

**RESPONSE OF PATRICK DEVELOPMENT CORPORATION TO
COMMISSION STAFF’S MOTION FOR A DEFAULT ORDER**

The undersigned has been practicing before this Commission for over 30 years. In that time, he has never seen a more egregious effort to violate the basic due process rights of an entity falling under this Commission’s jurisdiction as is the case with this Motion. This Motion should be dismissed by the Commission.

This proceeding involves a Penalty Order issued by the Commission on August 26, 2014, and mailed on September 9, 2014. The Commission seeks to assess a penalty against Patrick Development Corporation (“Patrick”) and clearly has the burden of proof to demonstrate a violation that justifies Patrick being penalized. Patrick filed a timely Request for Hearing, a Prehearing Conference was held in which Patrick participated, and as Staff correctly notes, following Patrick’s Motion for a Continuance, the matter was set for a January 15, 2015, hearing. Staff’s Motion seeks to assert the sole penalty remaining in this proceeding by default, simply because Patrick has failed to submit pre-filed testimony. The suggestion that Patrick has failed to participate in this proceeding is ludicrous.

The undersigned would agree that Patrick is precluded from offering its own testimony by failing to submit pre-filed testimony by the Commission's January 5, 2015, deadline, but the idea that precludes Patrick from participating in the hearing is preposterous. Apparently, the Commission Staff is concerned about the potential cross-examination of its sole witness, since four of the penalties it initially asserted have been recommended for rescission by this witness, since Commission Staff was looking at the wrong information when it issued the Penalty Order. Additionally, Patrick, in connection with the penalty to be asserted in connection with the Hegwald well, has submitted an amended UC3 form that apparently Staff now wishes to completely ignore. This form demonstrates that the injection was occurred at gravity and the volumes of water are not in excess of the permitted volumes. Is Patrick precluded from examining the Commission's witness about this issue?

At the time Patrick requested a continuance, it believed this matter could be settled. With this Motion for a Default Order, Patrick has strong reservations about agreeing to a settlement, particularly since it has submitted information that should obviate any penalty whatsoever pursuant to the Penalty Order. Apparently, Staff is concerned about Patrick's participation in this hearing and thus files its Motion for a Default Order. This is a complete abuse of Patrick's due process rights and ignores the simple fact that the Commission is required to prove that Patrick has committed a violation of the Commission's regulations.

WHEREFORE, Patrick Development Corporation requests an order from this Commission denying the Motion for a Default Order, and allowing Patrick to participate in the hearing.

Respectfully submitted,
MARTIN, PRINGLE, OLIVER,
WALLACE & BAUER, L.L.P.

By: 
Jeff Kennedy, #12099
100 North Broadway, Suite 500
Wichita, KS 67202
Telephone: (316) 265-9311
Facsimile: (316) 265-2955
jkennedy@martinpringle.com
Attorneys for Patrick Development Corporation

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 8th day of January, 2015, a true and correct copy of the above and foregoing was sent via email to:

Jonathan R. Myers
Litigation Counsel
Kansas Corporation Commission
266 N. Main St., Ste. 220
Wichita, KS 67202-1513
j.myers@kcc.ks.gov

Lane R. Palmateer
Prehearing Officer
Kansas Corporation Commission
266 N. Main St., Ste. 220
Wichita, KS 67202-1513
l.palmateer@kcc.ks.gov


Jeff Kennedy, #12099