

**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 Barracuda) Docket No.: 25-CONS-3156-CPEN
Operating Company (Operator) to comply)
with K.A.R. 82-3-604 at the Horchem) CONSERVATION DIVISION
lease in Gove County, Kansas.)
_____) License No.: 33593

PENALTY ORDER

The Commission finds Operator has violated K.A.R. 82-3-604 at the captioned lease, assesses a \$500 penalty, directs Operator to come into compliance, 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 pursuant to K.S.A. 55-155.

2. K.S.A. 55-162 and K.S.A. 55-164 provide 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. 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.

3. K.A.R. 82-3-604(a) provides that each operator shall notify the appropriate district office within 24 hours of discovery or knowledge of any oil field-related discharge of five or more barrels of saltwater, oil, or refuse into an emergency pit or diked area.

4. K.A.R. 82-3-604(b) provides that each operator of an emergency pit or diked area shall remove any fluid from the pit or diked area within 48 hours after discovery or knowledge of a discharge, or as authorized by the appropriate district office.

5. K.A.R. 82-3-604(c) provides that for the purposes of the regulation, the point of “discovery or knowledge” shall mean the point when the operator knew or reasonably should have known of the discharge.

6. K.A.R. 82-3-604(d) provides that failure to timely notify the district office in accordance with subsection (a), or failure to timely remove fluids in accordance with subsection (b), shall be punishable by a \$250 penalty for the first violation, a \$500 penalty for the second violation, and a \$1,000 penalty and operator license review for the third violation.

II. FINDINGS OF FACT

7. Operator is licensed to conduct oil and gas activities in Kansas and is responsible for the Horchem lease (Subject Lease), located in Section 27, Township 15 South, Range 26 West, Gove County, Kansas.

8. On September 27, 2024, Commission Staff discovered an unreported discharge in excess of five barrels into a diked area around the tank battery on the Subject Lease.¹ Commission Staff sent a Notice of Violation (NOV) letter to Operator on September 27, 2024, giving an October 11, 2024, deadline to clean up the discharge and submit a Report of Incident form.²

¹ Exhibit A.

² Exhibit B.

9. On October 14, 2024, Commission Staff conducted an inspection of the Subject Lease and found that fluid remained in the diked area around the tank battery.³ Operator has also failed to submit a Report of Incident form.

III. CONCLUSIONS OF LAW

10. The Commission concludes that it has jurisdiction over Operator and this matter under K.S.A. 55-152 and K.S.A. 74-623.

11. Operator committed one violation of K.A.R. 82-3-604(a) because Operator did not notify the appropriate District Office within 24 hours of discovery or knowledge of oil-field related discharges into the diked area at the Subject Lease. Under K.A.R. 82-3-604(d), a first violation of this regulation carries a \$250 penalty. Accordingly, the Commission concludes Operator should be assessed a \$250 penalty for this violation.

12. Operator committed one violation of K.A.R. 82-3-604(b) because Operator failed to remove fluids from the diked area at the Subject Lease within 48 hours after discovery or knowledge, or as authorized by the appropriate District Office. Under K.A.R. 82-3-604(d), a first violation of this regulation carries a \$250 penalty. Accordingly, the Commission concludes Operator should be assessed a \$250 penalty for this violation.

THEREFORE, THE COMMISSION ORDERS:

- A. Operator shall pay a \$250 penalty for one violation of K.A.R. 82-3-604(a).
- B. Operator shall pay a \$250 penalty for one violation of K.A.R. 82-3-604(b).
- C. Operator shall submit a Report of Incident form for the discharge.
- D. Operator shall dispose of any fluids remaining in the diked area at the Subject Lease.

³ Exhibit C.

E. If any fluids remain in the diked area at the Subject Lease after 30 days from the date of this Order, then Staff is directed to dispose of the fluids and assess the costs to Operator, and Operator shall pay an additional \$5,000 penalty.

F. Operator may request a hearing on the above issues by submitting a written request, pursuant to K.S.A. 55-164, K.S.A. 77-537, and K.S.A. 77-542, to the Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202, within 30 days from the date of service of this Order. A request for hearing must comply with K.A.R. 82-1-219.


G. Failure to timely request a hearing will result in a waiver of Operator's right to a hearing. If no party timely requests a hearing, then this Order shall become final. If Operator is not in compliance with this Order and the Order is final, then Operator's license shall be suspended without further notice and shall remain suspended until Operator complies. The notice and opportunity for a hearing on this Order shall constitute the notice required by K.S.A. 77-512 regarding license suspension. A party may petition for reconsideration of a final order pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).

H. Credit card payments may be made by calling the Conservation Division at 316-337-6200. Checks and money orders shall be payable to the Kansas Corporation Commission. Payments shall be mailed to the Kansas Corporation Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202. Payments must reference the docket number of this proceeding.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 10/31/2024



Lynn M. Retz
Executive Director

Mailed Date: 10/31/2024

TSK

KCC OIL/GAS REGULATORY OFFICES

Date: 09/27/24

District: 04

Case #: _____

- ☐ New Situation
☐ Response to Request
☒ Follow-Up

- ☐ Lease Inspection
☐ Complaint
☐ Field Report

Operator License No: 33593

API Well Number: _____

Op Name: Barracuda Operating Company

Spot: NW Sec 27 Twp 15 S Rng 26 ☐ E / ☒ W

Address 1: PO Box 405

Feet from ☐ N / ☒ S Line of Section

Address 2: _____

Feet from ☒ E / ☐ W Line of Section

City: Ness City

GPS: Lat: _____ Long: _____ Date: 9/27/24

State: KS Zip Code: 67560 -0405

Lease Name: Horchem A Well #: _____

Operator Phone #: (785) 798-3122

County: Gove

Reason for Investigation:

Follow up on Suspended Operator

Problem:

Lease is active and producing under a suspended Operator

Persons Contacted:

Findings:

Follow up inspection found the Horchem A lease was actively operating. The Horchem A 1 was actively operating during inspection. The Horchem A 2 was not active during inspection, but had power on and dial set on Auto for a time clock. Horchem Tank identification sign has wrong section, range and County listed. The tank battery has had an unreported spill. Still has fluids in the dike and can see where saltwater ran out of tank dike and soaked into the ground behind tank battery.

Action/Recommendations:

Follow Up Required ☒ Yes ☐ No ☐

Date: _____

I will forward to Compliance for further review.

Verification Sources:

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> RBDMS | <input checked="" type="checkbox"/> KGS | <input checked="" type="checkbox"/> TA Program |
| <input checked="" type="checkbox"/> T-I Database | <input checked="" type="checkbox"/> District Files | <input type="checkbox"/> Courthouse |
| <input checked="" type="checkbox"/> Other: <u>KOLAR</u> | | |

Photos Taken: Yes

By: 

M Shane Jones

Retain 1 Copy District Office
 Send 1 Copy to Conservation Division

September 27, 2024 at 11:59:40 AM
Quinter KS 67752
United States

Horchem A Tank Battery

GPS: 3872105, -100.20858

3166' NSL & 5169' WEL

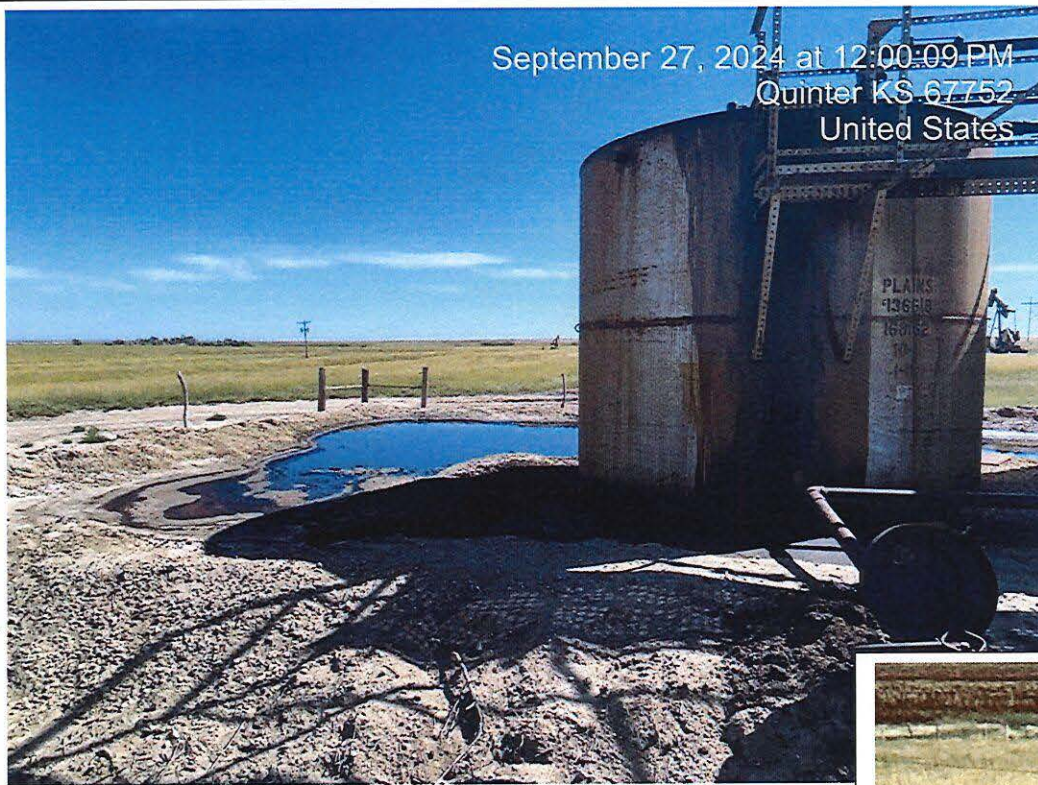
NW SW SW NW 27-15-26W

Gove Co., KS

Barracuda Operating # 33593

*(Unreported discharge, some
either ran over the dike on the
backside or soaked thru.)*

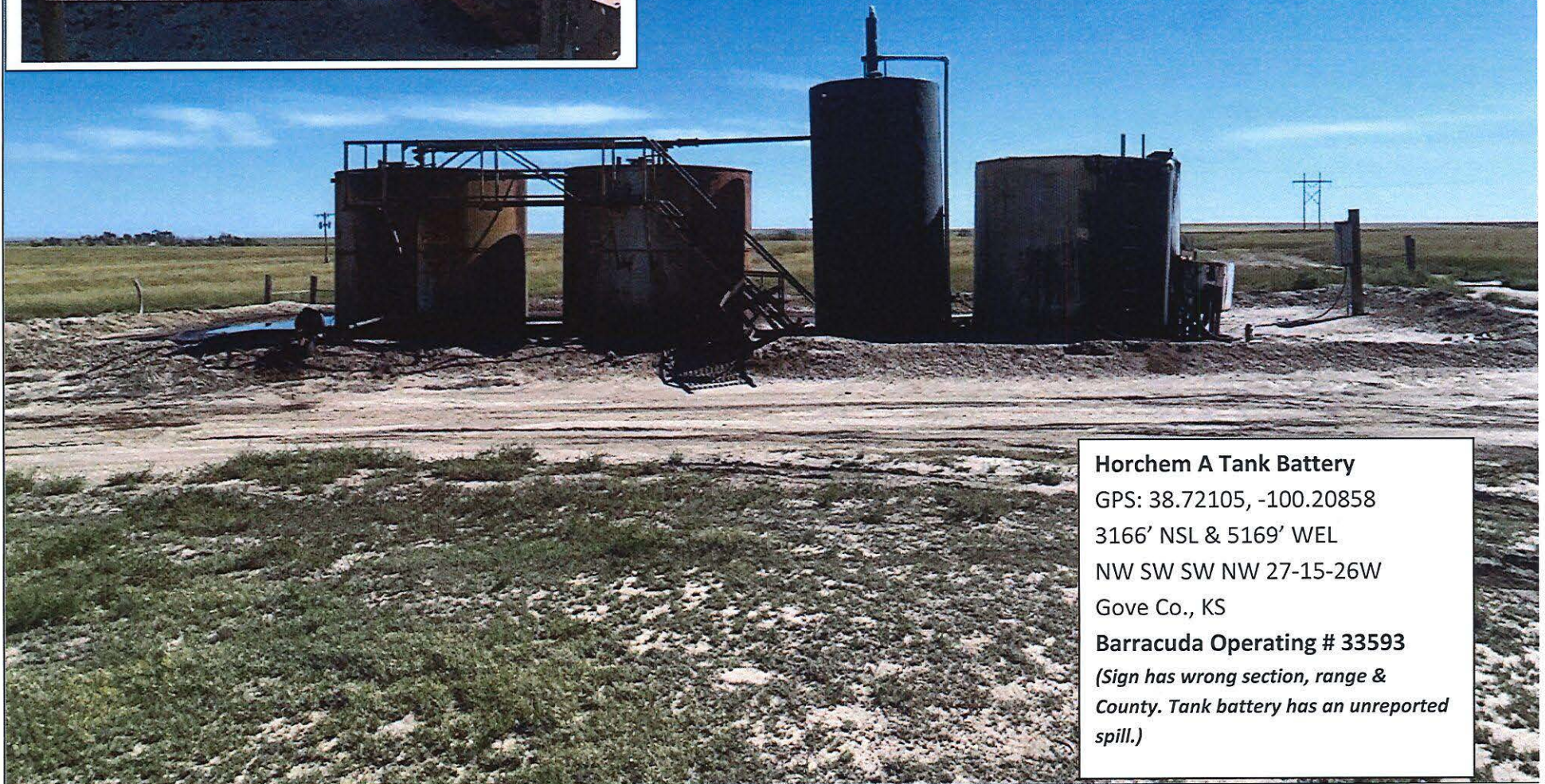




Horchem A Tank Battery
GPS: 3872105, -100.20858
3166' NSL & 5169' WEL
NW SW SW NW 27-15-26W
Gove Co., KS
Barracuda Operating # 33593
*(Unreported discharge, some either
ran over the dike on the backside or
soaked thru.)*



September 27, 2024 at 11:57:54 AM
Ellis KS 67637
United States



Horchem A Tank Battery

GPS: 38.72105, -100.20858

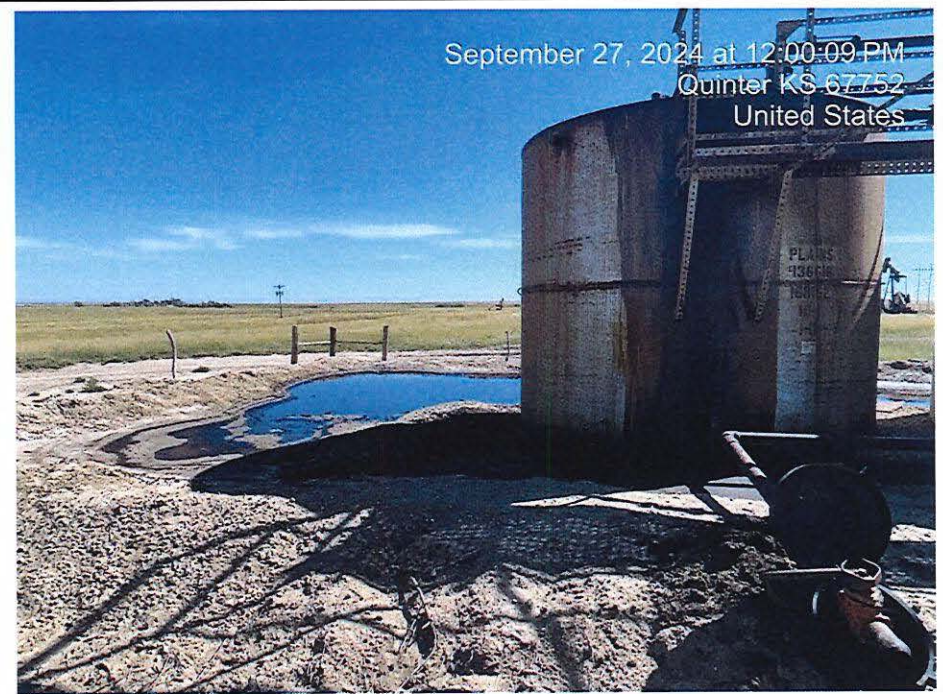
3166' NSL & 5169' WEL

NW SW SW NW 27-15-26W

Gove Co., KS

Barracuda Operating # 33593

*(Sign has wrong section, range &
County. Tank battery has an unreported
spill.)*



Horchem A Tank Battery

GPS: 38.72105, -100.20858

3166' NSL & 5169' WEL

NW SW SW NW 27-15-26W

Gove Co., KS

Barracuda Operating # 33593

*(Unreported spill, you can see on the
backside of the dike where fluids
escaped.)*

NOTICE OF VIOLATION

09/27/2024

Barracuda Operating Co. # 33593
Brian Gable
PO Box 405
Ness City, KS 67560-0405
(785) 798-3122

Re: Horchem Tank Battery
NW/ 27-15-26W
Gove Co., KS

Following a lease inspection conducted 9/27/2024, on the above captioned lease, it has been determined that you are currently in violation of the General Rules and Regulations of the Kansas Corporation Commission regarding the conservation of crude oil and natural gas. Specifically, you are in violation of K.A.R. 82-3-604. **Each operator shall notify the appropriate district office within 24 hours of discovery or knowledge of any oil field-related discharge of five or more barrels of saltwater, oil, or refuse into an emergency pit or diked area.** We are referring this violation to our Legal Staff with a penalty recommendation.

Each operator must remove fluid from the pit or diked area within 48 hours after the discovery of the discharge or as authorized by the appropriate district office. Removal of the fluid must be completed by 10/11/2024. Failure to bring the lease into compliance by that date will result in this matter being referred to our Legal Staff with a recommendation for an additional penalty and other possible action.

Enclosed is a Report of Incident form to be completed by the operator and returned to the District office by 10/11/2024. *This form is for informational purposes only and not to be construed as to supersede regulatory requirements for reporting.* Your cooperation in this matter is appreciated. Should you have any questions, you may reach me by writing the KCC District Office #4, 2301 East 13th, Hays, Kansas 67601 or by calling (785) 261-6250.

Sincerely,


M Shane Jones

cc: file
enclosure

KCC OIL/GAS REGULATORY OFFICES

Date: 10/14/24

District: 04

Case #: _____

☐ New Situation
☐ Response to Request
☒ Follow-Up

☐ Lease Inspection
☐ Complaint
☐ Field Report

Operator License No: 33593

Op Name: Barracuda Operating Company

Address 1: PO Box 405

Address 2: _____

City: Ness City

State: KS Zip Code: 67560 -0405

Operator Phone #: (785) 798-3122

API Well Number: _____

Spot: NW SW SW NW Sec 27 Twp 15 S Rng 26 ☐ E / ☒ W

3166' Feet from ☐ N / ☒ S Line of Section

5160' Feet from ☒ E / ☐ W Line of Section

GPS: Lat: 38.72105 Long: 100.20855 Date: 10/14/24

Lease Name: Horchem A Tank Battery Well #: _____

County: Gove

Reason for Investigation:

follow up on unreported discharge clean up

Problem:

Operator was sent an Unreported Discharge NOV with a deadline of 10/11/2024. As of todays follow up no clean up.

Persons Contacted:

NOV sent to Barracuda Operating # 33593

Findings:

Follow up on discharge found no signs Operator has attempted to pick up any free fluids. I have yet to receive incident report back or hear from the Operator. Appears fluids are just soaking away. NOV for Unreported Discharge was sent to the Operator with a deadline for clean up and return of the incident report of 10/11/2024. I originally found the discharge on 9/27/2024. Sent NOV for Unreported Discharge 10/2/2024.

Action/Recommendations:

Follow Up Required ☒ Yes ☐ No ☐

Date: _____

I will forward to Compliance for further review and proceed accordingly.

Verification Sources:

<input checked="" type="checkbox"/> RBDMS	<input checked="" type="checkbox"/> KGS	<input checked="" type="checkbox"/> TA Program
<input type="checkbox"/> T-I Database	<input checked="" type="checkbox"/> District Files	<input type="checkbox"/> Courthouse
<input checked="" type="checkbox"/> Other: <u>KOLAR</u>		

Photos Taken: Yes

By: _____

M Shane Jones

Retain 1 Copy District Office
Send 1 Copy to Conservation Division



October 14, 2024 at 11:42:04 AM
Quinter KS 67752
United States

Horchem A Tank Battery
GPS: 38.72105, -100.20855
3166' NSL & 5160' WEL
NW SW SW NW 27-15-26W
Gove Co., KS
Barracuda Operating # 33593
*(Unreported Discharge yet to be
cleaned up, NOV deadline was
10/11/2024)*

CERTIFICATE OF SERVICE

25-CONS-3156-CPEN

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 10/31/2024.

BRIAN GABEL
BARRACUDA OPERATING COMPANY
PO BOX 405
NESS CITY, KS 67560-0405
bgabel@gbta.net

TRISTAN KIMBRELL, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
CENTRAL OFFICE
266 N. MAIN ST, STE 220
WICHITA, KS 67202-1513
tristan.kimbrell@ks.gov

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kraig.stoll@ks.gov

RICHARD WILLIAMS
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/S/ KCC Docket Room
KCC Docket Room