

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

BEFORE COMMISSIONERS: Shari Feist Albrecht, Chair
 Jay Scott Emler, Commissioner
 Dwight Keen, Commissioner

In the Matter of the Application of RJM) Docket No. 18-CONS-3305-CUIC
Company for a Permit to Authorize the)
Disposal of Saltwater Into the Doll #3) CONSERVATION DIVISION
Well, located in the SW/4 of Section 27,)
Township 18 South, Range 11 West,) License No. 30458
Barton County, Kansas)

**APPLICANT’S MOTION TO STRIKE AND RESPONSE TO PROTESTANTS’
MOTIONS TO DENY APPLICANT’S MOTION TO DISMISS THE PROTESTS FILED
HEREIN**

COMES NOW, the Applicant, RJM Company, and moves the Commission to strike the
Motions to Deny Applicant’s Motion to Dismiss the Protests Filed Herein and, in the alternative,
responds to such motions.

Applicants’ Motion to Strike

1. Applicant filed a motion to dismiss the protests filed herein on June 1, 2018. This
motion was served on all parties in this matter, other than the two protestants (Elizabeth Fischer
and Cynthia Evans) who failed to comply with K.A.R. 82-3-135b(a) by failing to include
addresses in their letters of protest.

2. When Applicant viewed the Commission’s online docket today, it noticed for
the first time that protestants Kathy Carroll, Andy Prosser, Royceann Mather, Cindy Hoedel,
and Charles and Lynne Hunter have apparently each filed pleadings in this matter, entitled
“Motion to Deny Applicant’s Motion to Dismiss the Protests Filed Herein” (Protestants’
Motions to Deny).

3. None of the Protestants' Motions to Deny were served upon Applicant, as required by K.A.R. 82-1-216(b)(1).¹ The language of K.A.R. 82-1-216(b) makes clear that the protestants, as parties in this matter, and not the Commission, are personally obligated to serve all documents they file in this matter upon the other parties in this matter, including Applicant. Further, this regulation requires strict compliance.² Protestants' *pro se* status in this matter does not excuse their compliance with this mandatory regulation.³

4. Because this Commission cannot ignore the legal requirements contained in K.A.R. 82-1-216, the Commission does not have jurisdiction to entertain the Protestants' Motions to Deny.⁴ As such, Protestants' Motions to Deny should be stricken from the record.

Applicants' Response to Protestants' Motions to Deny

5. None of Protestants' Motions to Deny properly respond to Applicant's Motion to Dismiss the Protests Filed Herein. In fact, the generalized nature of all of these protestants' apparent concerns, which they simply repeat in their letter-writing campaign, protesting a number of similar applications filed by Applicant and other operators, is evidenced by the form attached as page 2 of protestant Andy Prosser's Motion to Deny. Despite this coaching, Protestants' Motions to Deny still fail to state facts sufficient to grant them legal standing to protest the Application in this matter.

6. Applicant incorporates the arguments and authorities in Applicant's Motion to Dismiss the Protests Herein in response to each of the Protestants' Motions to Deny.

¹ These pleadings were apparently filed on June 5 (by protestants Kathy Carroll and Andy Prosser), June 8 (by protestants Royceann Mather and Cindy Hoedel), and June 11 (by protestants Charles and Lynne Hunter), so the time for service by mailing has well passed. Further, none of Protestants' Motions to Deny contain certificates of service, indicating they were served on other parties in this matter.

² K.A.R. 82-1-216(b).

³ See *Mangiaracina v. Guitierrez*, 11 Kan.App.2d 594, 595, 730 P.2d 1109 (1986); *Order Denying Petition for Reconsideration*, Docket 10-WSEE-226-COM, ¶ 31 (“[A] *pro se* litigant cannot ignore the procedural rules adopted by statute or in an agency's rules and regulations and must comply with these requirements.”)

⁴ *Accord Fiorella v. Fiorella*, 228 P.3d 442 (Kan. Ct. App. April 22, 2010).

WHEREFORE, Applicant respectfully requests that the Protestants' Motions to Deny be stricken or, in the alternative, be denied, and for such other and further relief as the Commission deems just and equitable.

Respectfully submitted:

TRIPLETT WOOLF GARRETSON, LLC

By /s/ Amy Fellows Cline

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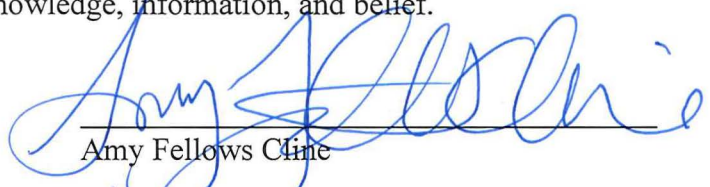
Facsimile: (316) 630-8101

Attorneys for RJM Company

VERIFICATION

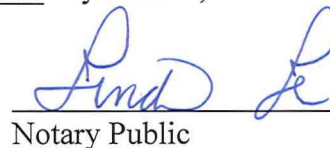
STATE OF KANSAS)
) ss
COUNTY OF SEDGWICK)

Amy Fellows Cline, being first duly sworn upon her oath, deposes and states that she is Counsel for RJM Company, that she has read and is familiar with the foregoing, and that the statements therein are true to the best of her knowledge, information, and belief.



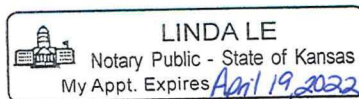
Amy Fellows Cline

Submitted and sworn to before me on this 21st day of June, 2018.



Notary Public

My Commission Expires:



CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of June, 2018, the above **Applicant's Motion to Strike and Response to Protestants' Motions to Deny Applicant's Motion to Dismiss the Protests Filed Herein** was sent via electronic mail, addressed to the following:

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