

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

Before Commissioners: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Susan K. Duffy

In the matter of the failure of Benjamin M. Giles)	Docket No: 20-CONS-3039-CPEN
("Operator") to comply with K.A.R. 82-3-407)	
At the Paulsen #8B in Butler County, Kansas)	CONSERVATION DIVISION
)	
_____)	License No: 5446

**PETITIONER'S REPLY TO
STAFF'S RESPONSE TO PETITIONER'S PETITION FOR INTERVENTION**

MWM Oil Co., Inc. ("Petitioner") files this Reply to Staff's Response to Petitioner's Petition for Intervention.

In its Response, Staff does not quibble with the legal requirements for intervention. The only condition in dispute is whether: "The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities, or other legal interest may be substantially affected by the proceedings . . ." K.A.R. 82-1-225(a)(2). Oddly, Staff argues that Petitioner's working interest in the Paulsen #8B well is not a legal right, duty, privilege, immunity, or other legal interest that might be substantially affected by the proceeding. Staff's position is incorrect, and ignores the basic duties, obligations, and property rights inherent in all lease operations, and its position cannot be sustained without sending a chilling message to rights of working interest owners across Kansas.

Staff's assessment that Petitioner's interest "cannot be substantially affected by a penalty order assessed against Operator" is not correct, and the idea that Operator's obligations to the Commission are wholly separate from the property rights of the working interest owners is a misconception. The operator of any given lease operates that lease at the behest of the working

interest owners. While legal ramifications from this docket may literally be assessed against Operator's license, to say the consequences would not directly and substantially affect Petitioner's legal interest would be to ignore reality.

The Penalty Order entered in this docket requires the Paulsen 8B to either pass an MIT or be plugged, and also orders a large fine to be paid. Petitioner is the party who would bear the entire cost of these operations, and who will pay the fine. If the well were to be plugged, the value of the lease to be sold at auction would be less to the detriment of Petitioner. As such, Petitioner's rights are clearly substantially affected by these proceedings.

As to the environmental issues alluded to in Staff's Response, Staff has continuously refused to articulate exactly what issues exist at the Paulsen 8B well, despite numerous opportunities to do so. Staff refuses to engage in conversation about specific environmental concerns, contrary to directives at two pre-hearing conferences. Given a third opportunity in its Response, Staff again fails to give a description beyond a vague assertion of "environmental issues which require immediate attention."

This attitude is in spite of the fact that Petitioner caused the only known environmental issue at the Paulsen 8B to be corrected. Previously, saltwater was leaking from the tanks of the Paulsen 8B. Upon notice, Petitioner paid for a vendor to empty the saltwater tank and to properly dispose of its contents, curing the issue. Contrary to Staff's position, Petitioner's actions in this regard support its contention that it is the party in the best position to aid in bringing the lease into compliance, as it is essentially the purse strings of the operator (albeit, the purse is situated in bankruptcy).

Regardless, if there are other environmental issues on the lease, and Operator is found to have caused such issues, Petitioner could be saddled with the consequences, substantially affecting

its legal interest. Petitioner is entitled to know what these mysterious environmental issues are. Staff's ambiguous allegations that Paulsen 8B "has environmental issues which require immediately attention[,] " are not only unsubstantiated, they are also reckless because such allegations are very likely to drive away any potential bidder at auction, reducing the likelihood the lease will sell at auction to the irreparable detriment of Petitioner.

WHEREFORE, for the reasons set forth above, Petitioner respectfully requests the Commission grant Petitioner's Petition for Intervention.

Respectfully submitted,

MORRIS, LAING, EVANS, BROCK
& KENNEDY, CHARTERED

By: 

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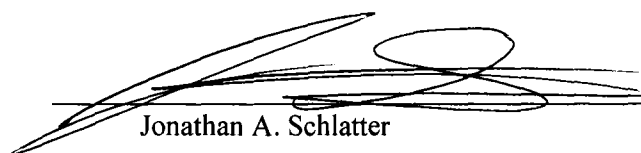
Attorney for MWM Oil Co., Inc.

VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

Jonathan A. Schlatter, being of lawful age and being first duly sworn upon his oath, deposes and says:

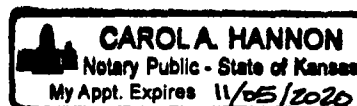
That he is the attorney for MWM Oil Co., Inc.; he has read the above and forgoing Reply and is familiar with its contents, and that the statements made therein are true and correct to the best of his knowledge and belief.


Jonathan A. Schlatter

SIGNED AND SWORN to before me this 31st day of October, 2019.


Notary Public

My Appointment expires: 11/05/2020



CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 31st day of October, 2019, I caused the original of this **Reply** to be electronically filed with the Conservation Division of the State Corporation Commission of the State of Kansas, and caused a true and correct copy of the same be electronically served to the following parties:

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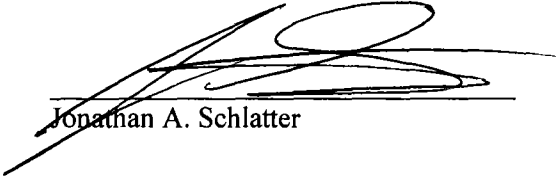
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