

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Application of R & D Oil, LLC	)	Docket No. 18-CONS-3324-CUIC
to Authorize Injection of Saltwater into the Squirrel	)	
Formation at the Roberson Lease, Wells # I-2 and	)	CONSERVATION DIVISION
I-3, Located in Section 8, Township 18 South,	)	
Range 21 East, Franklin County, Kansas.	)	License No.: 3510

**MOTION TO DISMISS PROTESTS**

COMES NOW the Applicant, R & D Oil, LLC by and through its attorney Keith A. Brock, Anderson & Byrd, LLP, and respectfully moves the Kansas Corporation Commission (the "Commission") for an Order Dismissing All Protests filed herein. In support of its Motion, Applicant states:

1. K.A.R. 82-3-135b provides that "protest[s] **SHALL** include a clear and concise statement of the *direct* and *substantial* interest of the protestor in the proceeding, including specific allegations as to the manner in which the grant of the application will cause waste, violate correlative rights, or pollute the water resources of the state of Kansas." (emphasis added).

2. K.A.R. 82-3-135b clearly sets forth several mandatory components that all protest **MUST** contain in order to be valid and to secure consideration before the Commission. Such mandatory components are as follows:

- i. Include a clear and concise statement of the DIRECT and SUBSTANTIAL interest of the protestor in the proceeding; AND
- ii. Include SPECIFIC allegations as to the MANNER IN WHICH the APPLICATION will,
  - a. cause waste;
  - b. violate correlative rights; or
  - c. pollute water resources;

3. Moreover, in *Cross Bar Energy, LLC*, Docket No. 18 CONS 3689 CUIC the

Commission recently issued a Final Precedential Order holding,

3. The Commission orders that, to be considered valid, all protests filed in accordance with K.A.R. 82-3-135a and K.A.R. 82-3-135b must meet the “direct and substantial interest” requirement by demonstrating that each individual protestant has “standing” under Kansas’ traditional two-part test for standing. This means each protestant must demonstrate that, “[1] he or she suffered a cognizable injury and [2] that there is a causal connection between the injury and the challenged conduct.” The Commission orders that this interpretation of K.A.R. 82-3-135a and K.A.R. 82-3-135b shall have precedential effect pursuant to K.S.A. 77-415(b)(2)(A).

The Commission further ruled that, "[t]he Commission’s interpretation of K.A.R. 82-3-135a and K.A.R. 82-3-135b explained in paragraph three (3) above is adopted as precedential pursuant to K.S.A. 77-415(b)(2)(A)."

4. This Docket is not distinguishable from *Cross Bar Energy, LLC*, Docket No. 18 CONS 3689 CUIC , therefore all protests which have been filed in this Docket should be dismissed pursuant to the authority cited and relied upon by the Commission in said *Cross Bar Energy, LLC* docket.

5. All three of the protestants in this Docket reside more than five miles from the wells which are the subject of this Docket. None of the three protests filed in this docket contain any statement or allegation that the protesting parties have a direct and substantial interest in this Docket, nor do such protest contain allegations sufficient to satisfy either portion of the two part test to establish standing as set forth by the Commission in the *Cross Bar Energy, LLC* docket.

6. Since none of the protests filed herein contain any allegations demonstrating that such individuals have standing to participate in these proceedings the Commission must dismiss such protests pursuant to the Final Precedential Order issued in the *Cross Bar Energy, LLC* docket.

7. All three protestants base their protest upon a 1920's map obtained from the Franklin County, cartographer but none of such protests demonstrate or even allege that such protestants would suffer a cognizable injury or that there is a causal connection between such injury and the application

filed in this docket. Moreover, two of the protest filed herein appear to be identical to one another and the third is based upon the same allegations referenced in the other two protests. Therefore, these protestants have done nothing more than join in a letter writing campaign designed to cause needless delay and expense in this Docket an such protests should be dismissed.

WHEREFORE, Applicant moves the Commission for an order dismissing all protests filed in this Docket and further for an order directing Commission Staff to process the application filed herein administratively without a hearing thereon.



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Keith A. Brock, #24130

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Attorneys for Applicant

**VERIFICATION**

STATE OF KANSAS            )  
  ) ss:  
COUNTY OF FRANKLIN    )

Keith A. Brock, of lawful age, being first duly sworn on oath, states:

That he is the attorney for R & D Oil, LLC, named in the foregoing Motion to Dismiss Protests, and is duly authorized to make this affidavit; that he has read the foregoing Motion, and knows the contents thereof; and that the facts set forth therein are true and correct.



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Keith A. Brock

SUBSCRIBED AND SWORN to before me this 12<sup>th</sup> day of April, 2018.



\_\_\_\_\_  
Notary Public

Appointment/Commission Expires:

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing was sent via electronic mail, this 12<sup>th</sup> day of April, 2018, addressed to:

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Keith A. Brock