

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

Before Commissioners: Pat Apple, Chairman
Shari Feist Albrecht
Jay Scott Emler

In the matter of certain administrative penalties) Docket No: 17-CONS-3430-CREG
for the Conservation Division of the State of) (148,207-C), (C-21,335)
Kansas.)
) CONSERVATION DIVISION
)
) License No: N/A

ORDER CANCELLING ALL PREVIOUS ORDERS IN THIS DOCKET

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds and concludes as follows:

1. On March 21, 1990, the Commission issued an Order in this docket (1990 Order), noting that on October 7, 1985, on June 10, 1986, and on April 27, 1987, the Commission had issued previous Orders in this docket establishing specific administrative penalties for violations of certain Commission rules and regulations.¹ The 1990 Order explained that the provisions of the previous Orders had been incorporated into the Kansas Administrative Regulations and provided specific penalties for violations of K.A.R. 82-3-103(b), K.A.R. 82-3-106(c)(2)(B)(ii), and K.A.R. 82-3-113(b).²

2. On December 27, 2016, Commission Conservation Staff (Staff) filed a Motion to Cancel All Previous Orders in this Docket, noting the uncertainty as to whether the aforementioned 1985, 1986, and 1987 Orders were ever formally cancelled.³ The Motion stated that the 1990 Order has not been cancelled, and that K.A.R. 82-3-103(b) and K.A.R. 82-3-106

¹ See Order, ¶ 2 (Mar. 21, 1990), attached hereto as Attachment A.

² *Id.*, ¶¶ 2-5.

³ Motion to Cancel All Previous Orders in this Docket, ¶ 2 (Dec. 27, 2016).

have been amended since 1990.⁴ The Motion also stated that, although K.A.R. 82-3-113(b) has not been amended, penalties rarely arise under it, and the Commission does not require its provisions to levy appropriate penalties.⁵ Based on these facts, Staff argued “it would be appropriate and useful for the Commission to formally cancel the previous orders in this docket.”⁶

3. On May 2, 2017, Staff filed a Status Update, recounting the procedural background of this docket and stating that it is “currently awaiting a determination from the Commission and is prepared to provide additional information necessary to proceed in this docket.”⁷

4. The 1990 Order ruled that “[t]he Commission retains jurisdiction of the subject matter and the parties for the purpose of entering such further order or orders as from time to time it may deem proper.”⁸ K.S.A. 55-164(a) gives the Commission authority to impose a penalty for violations of chapter 55 of the Kansas Statutes Annotated or of any Commission rule, regulation, or order. Thus, the Commission agrees with Staff that the aforementioned previous Orders in this docket have no current application, and finds that they should be rescinded. The Commission also finds that the docket should be closed.

THEREFORE, THE COMMISSION ORDERS:

- A. All previous Orders in this docket are hereby rescinded and the docket is closed.
- B. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it may deem necessary.

⁴ *Id.*, ¶ 2.

⁵ *Id.*

⁶ *Id.*, ¶ 3.

⁷ Staff’s Status Update, ¶ 3 (May 2, 2017).

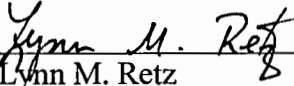
⁸ *See* Order, p. 2.

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: JUN 22 2017

MJD



Lynn M. Retz
Secretary to the Commission

CERTIFICATE OF SERVICE

I certify that on 6/22/17, I caused a complete and accurate copy of this Order to be served via United States mail, with the postage prepaid and properly addressed to the following:

N/A

and delivered by e-mail to:

Joshua D. Wright, Litigation Counsel
KCC Central Office

Dustin L. Kirk, Deputy General Counsel
KCC Topeka Office

/s/ Paula J. Murray
Paula J. Murray
Legal Assistant
Kansas Corporation Commission