

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

In the matter of whether the license of Thor) Docket No. 24-CONS-3001-CSHO
Operating, LLC (Operator) should be revoked.)
) CONSERVATION DIVISION
)
) License No. 36020

In the matter of the failure of Quito, Inc.) Docket No. 24-CONS-3072-CPEN
(Operator) to comply with K.A.R. 82-3-120.)
) CONSERVATION DIVISION
)
) License No. 33594

In the matter of the failure of Quito, Inc. and/or) Docket No. 24-CONS-3086-CMSC
Thor Operating, LLC to comply with K.A.R. 82-)
3-120 and K.A.R. 82-3-133.) CONSERVATION DIVISION
)
) License No. 33594 & 36020

**RESPONSE TO MOTION TO QUASH AND MOTION IN LIMINE AND
MOTION TO CONTINUE PROCEDURAL SCHEDULE**

Comes Now Staff of the Kansas Corporation Commission (Staff and Commission, respectively), and files its response to the Motion to Quash and Motion in Limine filed on behalf of Thor Operating, LLC (Operator) and respectfully motions for a continuance of the procedural schedule in this docket. In support of its Motion, Staff states the following:

1. On December 7, 2023, the Commission issued a Presiding Officer Order Setting Procedural Schedule, wherein the following procedural schedule was adopted:

Commission Staff Pre-Filed Direct Testimony	Due: January 12, 2024
Operator Pre-Filed Direct & Rebuttal Testimony	Due: February 9, 2024
Commission Staff Pre-Filed Rebuttal Testimony	Due: March 1, 2024
Evidentiary Hearing before the Commission	To Be Determined

2. On December 21, 2023, Staff filed its Motion to Compel requesting that the Commission compel Operator to respond to various data requests. It is still Staff's position that

Operator should be compelled to respond to those requests for the reasons described in Staff's Motion.

3. On December 28, 2023, Operator filed its Reply to Motion to Compel, Motion to Quash, and Motion in Limine. Staff believes that granting such motions would be inappropriate at this time. The basis for Operator's motion to quash and motion in limine is an attempt to limit the evidence which indicates Mr. Goetz is being used as a work-around to the Commission's rules and regulations by Mr. McCann (whose own license has been denied and revoked by the Commission). The Commission has determined that the purpose of Docket 24-3001 shall be to consider whether Operator's license should be revoked and whether the wells should be transferred to Operator's license.¹ Staff believes that the information it seeks helps fulfill that purpose and that it would be improper to limit testimony relevant to that purpose from either party.

4. For example, attached to this filing as Exhibit A, is a copy of the Operating Agreement executed between Operator and Kansas Production Company, Inc. for the Sears lease. Kansas Production Company is another entity that belongs to Mr. McCann.² The Operating Agreement indicates that Kansas Production Company is responsible for bearing and paying all costs and liabilities incurred in operations under the agreement. Additionally, the Operating Agreement limits the actions Operator can take at the lease without Mr. McCann's consent. This example demonstrates why Staff should be able to further investigate the relationship between Operator and Mr. McCann. If Mr. McCann can direct the Operator's oil and gas operations, then there may be implications that Operator is not complying with K.S.A. 55-155 and K.A.R. 82-3-120.

5. Further, Staff notes that Operator failed to serve its Reply to Motion to Compel, Motion to Quash and Motion in Limine upon Staff. On September 7, 2023, the presiding officer

¹ Order Designating Presiding Officer and Setting Prehearing Conference, ¶2 (July 13, 2023).

² Reply to Motion to Compel, Motion to Quash, and Motion in Limine, ¶7 (Dec. 28, 2023).

issued an order regarding electronic service. The presiding officer's order states that service of all documents and orders may be made by email, and that to the extent practicable, any electronically served document or order shall be attached to the email and served in pdf format.³ This is separate from filing the document in the docket. The presiding officer's order states that filing of documents with the Commission must still be done either through the Commission's "e-filing express" system, or by mail or hand delivery to the Commission.⁴ While Operator's Reply to Motion to Compel, Motion to Quash and Motion in Limine appears to have been filed in the docket, Staff has not received service of the document by mail or electronically. Staff's position is that Operator has failed to properly serve the document by mail or electronic service. It would be improper to consider a document that has not been properly served upon the parties as directed by the Commission.

6. Lastly, Staff believes it is appropriate to continue the procedural schedule until the Commission has had an opportunity to review and rule on the motions before it. If Staff's Motion to Compel is granted by the Commission, then Staff would request that the parties have a status conference after Operator has provided complete responses to Staff's Requests to determine the procedural schedule moving forward. If Staff's Motion to Compel is denied, then Staff requests that its pre-filed direct testimony deadline be at least one week after the date of denial, and for the rest of the procedural schedule to be adjusted accordingly.

³ Presiding Officer Order Regarding Electronic Service, ¶1 (Sept. 7, 2023).

⁴ *Id.* at ¶2.

WHEREFORE, for the reasons described above, Staff respectfully requests that Operator's Motion to Quash and Motion in Limine be denied. Staff also requests that the procedural schedule be adjusted as suggested by Staff above, and for such additional further relief as the Commission may find appropriate.

Respectfully Submitted,

/s/ Kelcey Marsh
Kelcey A. Marsh, S. Ct. No. 28300
Litigation Counsel
Kansas Corporation Commission
266 N. Main, Suite 220
Wichita, KS 67202
Phone: 316-337-6200
k.marsh@kcc.ks.gov

OPERATING AGREEMENT

Agreement made and entered into by and between Thor Operating, LLC, hereafter referred to as "Operator" and Kansas Production Company, Inc., hereafter referred to as "Non-Operator".

RECITALS:

WHEREAS, the Non-Operator is the owner of oil and gas leases, oil and gas interests identified in Exhibit "A-1", and the oil and gas wells identified in Exhibit "A-2", and the parties hereto have reached an agreement for the operation, exploration and development of the leases, interests and/or wells for the production of oil and gas to the extent as hereafter provided;

NOW THEREFORE, it is agreed as follows:

1. Definitions. As used in this agreement, the terms "oil and gas lease", "lease" and "leasehold" shall mean the oil and gas lease or leases covering the tracts of land identified in Exhibit "A-1" attached hereto. The term "wells" shall mean the oil and/or gas production wells, and the enhanced oil recovery and/or disposal wells identified in Exhibit "A-2".
2. Interests of Parties. The interests of the parties, and all costs and liabilities incurred in operations under this agreement, shall be borne and paid as set forth in Exhibit "B" attached hereto.
3. Operator. Thor Operating, LLC is designated as the operator of the leases and wells, and shall conduct and direct and have full control of all operations on the leases and wells as permitted and required by applicable governmental statutes, rules and regulations, and within the limits of this agreement. It shall conduct all such operations in a good and workmanlike manner, but it shall have no liability as Operator to the other parties for losses sustained or liabilities incurred, except such as may result from its gross negligence or willful misconduct.
4. Term of Agreement. Subject to each of the terms and provisions of this Operating Agreement, the initial term of this Agreement shall be for a period of one (1) year. Upon expiration of the initial term, this Agreement shall automatically renew

on a month-to-month basis, on the first day of each calendar month, unless terminated by either party in the manner set forth below.

4. Compensation of Operator. Operator shall receive the following compensation for its services hereunder: Two Hundred Fifty and no/100s Dollars per month or one-half of one percent (.5%) of the value of net sales of oil (or gas) from the leases and wells operated by Thor (eg. gross sales amount to the working interest owner's interest less severance, excise or other taxes withheld), whichever is greater.

5. Removal of Operator. If Operator terminates its legal existence, or is no longer capable of serving as Operator, fails or refuses to carry out its duties hereunder or becomes insolvent, bankrupt or is placed in receivership, Operator may be removed by the affirmative vote of a majority of the owners of working interest in the leases, as shown in Exhibit "B", attached hereto.

6. Selection of Successor Operator. Upon the removal of Operator, the successor operator shall be selected by the affirmative vote of the parties owning a majority interest in the leases based upon ownership as shown on Exhibit "B" attached hereto.

7. Expenditures and Liabilities of Parties.

Liability of Parties. The liability of the parties shall be several, not joint or collective. Each party shall be responsible only for its obligations, and shall be liable for only its proportionate share of the costs of developing and operating the leases. It is not the intention of the parties to create, nor shall this agreement be construed as creating, a mining or other partnership association, or to render the parties liable as partners.

Payments and Accounting. Operator shall promptly pay and discharge expenses incurred in the development and operation of the leases pursuant to this agreement, and shall charge each of the parties hereto with their respective proportionate shares of the expense. Operator shall keep accurate records showing expenses incurred and charges and credits made and received.

Operator, at its election, may demand and receive from the other parties payment in advance of their respective shares of the estimated amount of the expense

to be incurred in operations hereunder during the next succeeding month by giving an itemized statement of such estimated expense to each Non-Operator.

Payment of Operator's invoices, including estimated expenses, shall be due within fifteen (15) days after date of such invoice or estimate.

Limitation of Expenditures. Without the consent of all parties, no well shall be drilled, deepened, re-worked or plugged back where the reasonably estimated cost thereof is in excess of the sum of \$5,000.00.

8. Acquisition, Maintenance or Transfer of Interest.

Surrender of Leases. The leases covered by this agreement shall not be surrendered in whole or in part unless all parties consent thereto. If any party desires to surrender its interest in any lease or any portion thereof, and other parties do not agree or consent thereto, the party desiring to surrender shall assign, without warranty of title, express or implied, all of its interest in such lease, or portion thereof, and any well, material and equipment which may be located thereon and any rights in production thereafter secured, to the parties not consenting to such surrender. Upon assignment of such interest, the party assigning such interest shall be relieved from all obligations thereafter accruing, and the assigning party shall have no further interest in the assigned premises or the equipment or production therefrom. The assignee shall pay to the assignor the reasonable salvage value of the assignor's interest in any wells and equipment attributable to the assigned interest.

Maintenance of Uniform Interest. Without the prior consent of the remaining parties, no party shall sell, encumber, transfer or make other disposition of its interest in the leases, wells, equipment and production unless such disposition covers the entire interest of the party in all leases, equipment and production.

9. Notices. All notices authorized hereunder shall be given to the parties at their addresses set forth in Exhibit B attached hereto. Notices may be given by mail, facsimile or e-mail transmission. Each party shall have the right to change its address at any time, and from time to time, by giving written notice thereof to all other parties.

10. Governing Law. This agreement shall be governed by and construed in accordance with the laws of the State of Kansas.

11. Effective Date. This agreement shall be effective for all purposes as of March 20, 2023.

In witness whereof, the parties have executed this agreement the day and year set forth opposite their signatures below.

Dated: March 1, 2023

Thor Operating, LLC
Scott Joe Goetz
Scott Joe Goetz, Managing Member

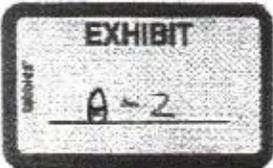
Dated: March 1, 2023

Kansas Production Company, Inc.
Mark W. McCann
Mark W. McCann, President

Exhibit "A-1"

Sears Lease

LESSOR: Mary Grace Sears, a widow, a/k/a Grace Sears
LESSEE: Tomkat, Ltd.
DATE: May 17, 1977
RECORDED: Book 41 of Leases, Page 633
PROPERTY: Insofar as the lease covers S/2 NE/4 and N/2 SE/4 of Section 23; W/2, N/2 of the NE/4; SW/4 of the NE/4, and W/2 of the SE/4 of Section 24; N/2 of the NW/4 and the NW/4 of the NE/4 of Section 25; all in Township 34S, Range 10E, Chautauqua County, Kansas



Site Fee
Must Be Filed For All Wells

KDOR Lease No.: 101519
 * Lease Name: SEARS * Location: 23-34S-10E, 24-34S-10E, + 25-34S-10E

Well No.	API No. (YR DRLD/PRE 67)	Footage from Section Line (i.e. FSL = Feet from South Line)		Type of Well (Oil/Gas/TNJ/WSW)	Well Status (PROD/TA'D/Abandoned)
1	15-019-20939-00-00	3673 FSL ^{Circle:} FSL (FNL)	2539 FEL ^{Circle:} FEL (FWL)	OIL	IN
2	15-019-20940-00-00	2114 FSL FSL (FNL)	2423 FEL FEL (FWL)	OIL	PR
5	15-019-21018-00-00	2576 FSL FSL (FNL)	2437 FEL FEL (FWL)	OIL	PR
1-A	15-019-24206-00-00	2822 FSL FSL (FNL)	2097 FEL FEL (FWL)	OIL	PR
KHCA-23	15-019-25571-00-00	2517 FSL FSL (FNL)	501 FEL FEL (FWL)	OIL	PR
22	15-019-25580-00-01	2629 FSL FSL (FNL)	1764 FEL FEL (FWL)	OIL	PL
24	15-019-26131-00-01	1935 FSL FSL (FNL)	527 FEL FEL (FWL)	OIL	PR
25	15-019-26132-00-00	1813 FSL FSL (FNL)	1145 FEL FEL (FWL)	OIL	PL
28	15-019-26184-00-00	1835 FSL FSL (FNL)	1839 FEL FEL (FWL)	OIL	PR
30	15-019-26185-00-01	3223 FSL FSL (FNL)	555 FEL FEL (FWL)	OIL	PR
0	15-019-19607-00-00	1806 FSL ^{Circle:} FSL (FNL)	4927 FEL ^{Circle:} FEL (FWL)	EOR	AI
14	15-019-24640-00-03	3191 FSL FSL (FNL)	5164 FEL FEL (FWL)	OIL	IN
26	15-019-26135-00-01	2539 FSL FSL (FNL)	5107 FEL FEL (FWL)	EOR	AI
27	15-019-26143-00-01	3185 FSL FSL (FNL)	4509 FEL FEL (FWL)	EOR	AI
31	15-019-26181-00-00	3150 FSL FSL (FNL)	3826 FEL FEL (FWL)	OIL	PR
32	15-019-26182-00-00	3104 FSL FSL (FNL)	3241 FEL FEL (FWL)	OIL	PR
33	15-019-26211-00-00	984 FSL FSL (FNL)	4471 FEL FEL (FWL)	OIL	PR
35	15-019-26223-00-01	3790 FSL FSL (FNL)	3748 FEL FEL (FWL)	EOR	AI
36	15-019-26224-00-00	1787 FSL FSL (FNL)	3257 FEL FEL (FWL)	OIL	PR
37	15-019-26225-00-00	2377 FSL FSL (FNL)	2637 FEL FEL (FWL)	OIL	PR
40	15-019-26242-00-00	1651 FSL FSL (FNL)	1937 FEL FEL (FWL)	OIL	PR
M-2	15-019-27178-00-00	1642 FSL FSL (FNL)	4672 FEL FEL (FWL)	OIL	PR
M-3	15-019-27179-00-00	246 FSL FSL (FNL)	3858 FEL FEL (FWL)	OIL	PR
M-1	15-019-27013-00-00	4867 FSL ^{Circle:} FSL (FNL)	4869 FEL ^{Circle:} FEL (FWL)	OIL	PR
		FSL/FNL	FEL/FWL		

EXHIBIT "B"

Exhibit to Operating Agreement between Thor Operating, LLC and Kansas Production Company, Inc.

Name	Working Interest Ownership
Thor Operating, LLC	-0-
Kansas Production Company, Inc.	100%

CERTIFICATE OF SERVICE

24-CONS-3001-CSHO, 24-CONS-3072-CPEN, 24-CONS-3086-CMSC

I, the undersigned, certify that a true and correct copy of the attached Response to Motion to Quash and Motion in Limine and Motion and to Continue Procedural Schedule has been served to the following by means of electronic service on January 11, 2024.

NANCY BORST
KANSAS CORPORATION COMMISSION
CENTRAL OFFICE
266 N. MAIN ST, STE 220
WICHITA, KS 67202-1513
n.borst@kcc.ks.gov

RYAN DULING
KANSAS CORPORATION COMMISSION
DISTRICT OFFICE NO. 3
137 E. 21ST STREET
CHANUTE, KS 66720
r.duling@kcc.ks.gov

JOHN R. HORST, ATTORNEY AT LAW
JOHN R. HORST
207 W. Fourth Ave.
P.O. Box 560
Caney, KS 67333
jrhorst48@yahoo.com

KELCEY MARSH, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
CENTRAL OFFICE
266 N. MAIN ST, STE 220
WICHITA, KS 67202-1513
k.marsh@kcc.ks.gov

JONATHAN R. MYERS, ASSISTANT GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
266 N. Main St., Ste. 220
WICHITA, KS 67202-1513
j.myers@kcc.ks.gov

TROY RUSSELL
KANSAS CORPORATION COMMISSION
DISTRICT OFFICE NO. 3
137 E. 21ST STREET
CHANUTE, KS 66720
t.russell@kcc.ks.gov

/s/ Paula J. Murray

Paula J. Murray