

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

In the Matter of the Application of Enterra)	Docket No. 24-CONS-3015-CUNI
Resources, LLC, for an Order Authorizing)	
the Unitization and Unit Operation of the)	CONSERVATION DIVISION
Kinsler Morrow Unit to be located in)	
<u>Morton County, Kansas</u>)	License No. 35263

MOTION FOR SUMMARY PROCEEDINGS

Enterra Resources, LLC (“Enterra”) respectfully requests that the State Corporation Commission of the State of Kansas (“Commission”) use summary proceedings pursuant to K.S.A. 77-537 to grant the captioned application. In support of its motion, Enterra states as follows:

BACKGROUND

1. On July 25, 2023, Enterra filed an application (“Application”), pursuant to K.S.A. 55-1301, *et seq.*, requesting an order authorizing the unitization and unit operation of the Kinsler Morrow Unit to be located in Morton County, Kansas.
2. Notice of the Application was mailed to all interested parties that same day. Notice was published in the *Wichita Eagle* and the *Elkhart Tri-State News*, the official newspaper of Morton County, Kansas, on August 3, 2023, and the publisher’s affidavits evidencing the same have been filed in this docket.
3. Accordingly, the time period to submit a written protest to the Application expired at the end of the day on Friday, August 18, 2023.
4. Enterra has received no protest or objection to the Application, and none has been docketed by the Commission.

5. Enterra is ready, willing, and able to commence unit operations on the Kinsler Morrow Unit upon the granting of the Application.

6. On August 1, 2023, the Commission entered an Order Designating Presiding Officer and Setting Prehearing Conference (“PHC Order”), whereunder it designated Jonathan R. Myers, Assistant General Counsel, Kansas Corporation Commission, as Presiding Officer and scheduled a Prehearing Conference for Thursday, August 24, 2023, at 3:30 p.m. by telephone. Notably, paragraph C of the PHC Order states that the Prehearing Conference may be converted into a conference hearing or a summary proceeding for disposition of this matter as provided by the Kansas Administrative Procedure Act (“KAPA”).

LEGAL AUTHORITY

The Commission possesses the power and authority to utilize summary proceedings to grant the Application. No interested person objects to or protests the Application. In fact, 97.4% of the phase 1 royalty interest owners and 94.5% of the phase 2 royalty interest owners, along with 100% of the working interest owners, have affirmatively consented to and approved the proposed plan of unit operation, which exceeds the statutory minimum requirements. Utilizing summary proceedings in lieu of incurring the time and expense associated with an evidentiary hearing would prevent economic waste. The Application complies with all applicable statutes and regulations, has been duly noticed to all interested parties, and contains the factual information necessary for the Commission to enter an order granting the Application. In that regard, the Commission may adopt the plan of unit operations presented in the Application because it is fair, equitable, just and reasonable, and otherwise contains all terms required under K.S.A. 55-1305.

Summary Proceedings are Available

The Commission may utilize summary proceedings to grant the Application upon notice and hearing pursuant to the Kansas Administrative Procedure Act (“KAPA”).¹ Under the KAPA, the PHC Order constitutes the commencement of a noticed hearing pursuant to which an order granting the Application may be entered.² The Commission may utilize summary proceedings, in lieu of a formal hearing, to grant the Application, because:

- (1) the use of summary proceedings does not violate any provision of law;
- (2) the protection of the public interest does not require the Commission to give notice and an opportunity to participate to persons other than the parties;
- (3) the allegations and relevant facts show that the Application is supported to the applicable standard of proof; and
- (4) the order granting the Application can be made effective after the time for requesting a hearing has expired.³

First, no statute or other law prohibits the use of summary proceedings with respect to the subject matter of the Application.

Second, in accordance with K.S.A. 55-1310, K.S.A. 55-605, and K.A.R. 82-3-135a, Enterra has provided notice of the Application to all interested parties and has published notice of the Application in the *Wichita Eagle* and the *Elkhart Tri-State News*, the official newspaper of Morton County, Kansas. No objections or protests have been received by Enterra, nor docketed by the Commission. As such no interested party has timely lodged an objection to the Application. Moreover, Commission Staff’s review of the Application is satisfactory to protect the public interest, and Staff has not indicated any concerns with the Application to date.

¹ K.S.A. 55-1304; K.S.A. 77-511(“a hearing commences when the state agency or presiding office notifies a party that a prehearing conference . . . will be conducted.”); *see e.g.*, Docket No. 20-CONS-3148-CUNI, Order Granting Mot. for Summary Proceedings and Granting Application, ¶¶ 6-7 (Jan. 28, 2020).

² K.S.A. 77-511(c); *see* Order Designating Presiding Officer and Setting Prehearing Conference, ¶ C (October 20, 2020); *see also*, Docket No. 20-CONS-3148-CUNI, Order Granting Mot. for Summary Proceedings and Granting Application, ¶ 7 (Jan. 28, 2020).

³ K.S.A. 77-537(a); *see also* Docket No. 20-CONS-3148-CUNI, Order Granting Mot. for Summary Proceedings and Granting Application, ¶¶ 8-9 (Jan. 28, 2020)

Third, as explained in greater detail below, the Application satisfies the statutory requirements to compel a unit pursuant to K.S.A. 55-1301, *et seq.*, and prescribes a plan of unit operations that is fair, equitable, just and reasonable to all interested parties. Commission Staff's review and recommendation concerning the Application will confirm this fact. Therefore, the Application is supported to the applicable standard of proof.

Fourth, any order issued via summary proceedings can take effect upon the expiration of the time period to request a hearing, satisfying the final element of K.S.A. 77-537. For these reasons, summary proceedings are available to the Commission to grant the Application.

The Application Can Be Granted

The Commission has the authority to issue an order authorizing the unitization and unit operation of a pool or part thereof pursuant to K.S.A. 55-1301, *et seq.*, utilizing summary proceedings, and may rule on the merits of the Application without incurring the time and expense of an evidentiary hearing.

Enterra seeks to form the Kinsler Morrow Unit, which would unitize the oil and gas rights to a pool within the Upper Morrow and Lower Morrow formations ("Unitized Formations") beneath the following described lands situated in Morton County, Kansas ("Unit Area"):

Township 31 South, Range 40 West:

Section 19: S/2

Section 20: S/2

Section 21: All

Section 29: NE/4

Section 30: N/2

Township 31 South, Range 41 West:

Section 24: S/2

Section 25: All

Section 26: SE/4

Section 36: All

The Unitized Formations underlying the Unit Area are found between the measured depths of 4,914' to 5,436' as shown on the Dual Induction Log of the Johns 25-1 well (API No. 15-129-20776) located 4,770' FSL and 1,980' FEL of Section 25-T31S-R41W.

The granting of the Application is necessary to prevent waste and protect correlative rights, and the granting of the Application does not threaten to pollute fresh water. The Application contains all of the requirements prescribed by K.S.A. 55-1303. The Application: (a) describes Unit Area and pool to be unitized (see above), (b) describes the secondary recovery operation that will be conducted, (c) includes a fair, reasonable, and equitable plan of unitization and unit operations, (d) which plan of unitization and unit operations describes how the unit will be supervised and managed, and costs allocated and paid among the working interest owners, and (e) contains all of the facts the Commission must find to grant the Application under K.S.A. 55-1304.

The Application demonstrates to the Commission that: (a) the unitized management, operation and further development of the pool or the part thereof sought to be unitized is economically feasible and reasonably necessary to prevent waste within the reservoir and thereby increase substantially the ultimate recovery of oil or gas, or, alternatively, that the primary production from the pool or a part thereof sought to be unitized has reached a low economic level and, without introduction of artificial energy, abandonment of oil or gas wells is imminent, (b) the value of the estimated additional recovery of oil or gas substantially exceeds the estimated additional cost incident to conducting such operations, and (c) the proposed operation is fair and equitable to all interest owners.⁴

The Unit Agreement and Operating Agreement constituting the proposed plan of unit operations are attached to the Application as Exhibits B and C, respectively, and include all of the

⁴ K.S.A. 55-1304.

terms and conditions required by K.S.A. 55-1305, which terms and conditions are just and reasonable. The plan of unit operations has been approved in writing by those persons who will be required to pay 100% of the costs of the unit operation, and by more than 94% of the owners of the production or proceeds thereof that will be credited to royalties in phase 1 and phase 2.⁵ As such, the percentage of interest owners who consent to the plan of unit operations exceeds the minimum requirements set forth in K.S.A. 55-1305.

For these reasons, the Application contains all of the factual information required for the Commission to enter an order authorizing the unitization and unit operation of the Kinsler Morrow Unit pursuant to the plan of unit operations set forth therein. As such, the Commission has the power and authority to grant the Application while avoiding incurring the time and expense associated with conducting an evidentiary hearing, and may adopt the plan of unit operations proposed by Enterra in the Application.

WHEREFORE, for the reasons set forth above, Enterra respectfully requests that the Commission utilize summary proceedings available under the KAPA to grant the Application, and to provide such further and other relief as the Commission deems just and proper.

Respectfully submitted,

MORRIS, LAING, EVANS, BROCK
& KENNEDY, CHARTERED

By: 

Jonathan A. Schlatter, #24848
300 N. Mead, Suite 200
Wichita, KS 67202-2745
Telephone: (316) 262-2671
Facsimile: (316) 262-6226
Email: jschlatter@morrislaing.com
Attorneys for Enterra Resources, LLC

⁵ Excluding overriding royalties or other like interests which are carved out of the leasehold estate.

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 Enterra Resources, LLC; he has read the above and forgoing Motion for Summary Proceedings 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 21st day of August, 2023.



Notary Public

My Appointment expires: 11/05/2024



CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 21st day of August, 2023, I caused the original of this **Motion for Summary Proceedings** 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:

Jonathan R. Myers, Assistant General Counsel
Kansas Corporation Commission
266 N. Main St., Ste 220
Wichita, KS 67202-1513
j.myers@kcc.ks.gov

Kelcey Marsh, Litigation Counsel
Kansas Corporation Commission
266 N. Main St., Ste 220
Wichita, KS 67202-1513
k.marsh@kcc.ks.gov



Jonathan A. Schlatter