

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

In the Matter of the Application of)	Docket No. 22-CONS-3422-CUNI
Meridian Energy, Inc. for an Order)	
Authorizing the Unitization and Unit)	CONSERVATION DIVISION
Operation of the Simon Says Unit)	
<u>to be located in Rawlins County, Kansas</u>)	License No. 33937

**REPLY TO STAFF’S RESPONSE TO OPERATOR’S FIRST RESPONSE
TO THE COMMISSION’S INFORMATION REQUEST**

Meridian Energy, Inc. (“Operator”) submits this Reply to Staff’s Response to Operator’s First Response to the Commission’s Information Request (“Reply”). In support of its Reply, Operator states and alleges as follows:

BACKGROUND

1. On May 9, 2022, Operator submitted an Application for an Order Authorizing the Unitization and Unit Operation of the Simon Says Unit to be located in Rawlins County, Kansas (“Application”). The Application seeks to unitize the N/2 & SE/4 of Section 7, and the N/2 SW/4 of Section 8, all in Township 5 South, Range 33 West, Rawlins County, Kansas (“Unit Area”), limited in depth to the stratigraphic equivalent of the top of the Topeka formation to the base of the Arbuckle expected to be encountered between the depths of 3,750’ and 4,800’ measured from surface.¹ Operator seeks to compel the Simon Says Unit pursuant to K.S.A. 55-1304(a)(2).²

2. As evidenced by the record in this docket, notice was provided to all interested parties and duly published in the appropriate newspapers in accord with K.A.R. 82-3-135a. The protest period prescribed by K.A.R 82-3-135a(e) expired on May 29, 2022. No protests were filed prior to the expiration of the protest period, and none have been submitted since.

¹ Application, ¶¶ 3-4 (May 9, 2022).

² *Id.*, at ¶ 10.

3. There being no protests to the Application, Operator filed a Motion for Summary Proceedings on June 14, 2022, requesting that the Commission utilize summary proceedings pursuant to K.S.A. 77-537 to grant the Application so as to avoid unnecessarily incurring the time and expense associated with conducting an evidentiary hearing. On June 21, 2022, Staff submitted its Response to Operator's Motion for Summary Proceedings, indicating it had no objection to the use of summary proceedings, and further stating its support for the Application. Notably, Staff stated that it "is satisfied that the grant of such Application complies with the applicable statutory and regulatory requirements."³

4. On June 30, 2022, the Commission issued an Order Requesting Additional Information asking Operator to furnish information demonstrating the multiple formations sought to be unitized constitute a pool, as that term is defined by K.S.A. 55-1302(b), or, alternatively, to advise the Commission of its legal authority to grant a compulsory unitization application covering multiple pools.

5. On August 5, 2022, Operator submitted its First Response to the Commission's Information Request providing the Commission with legal authority and policy applications for granting the Application. Specifically, Operator noted that any concerns regarding the authority to compel a unit comprised of multiple pools could be overcome through the filing of multiple applications seeking to compel a different unit for each pool underlying the Unit Area.⁴

6. On August 19, 2022, Staff submitted its Response to Operator's First Response to the Commission's Information Request. In its response, Staff cited to several prior compulsory unitization applications that the Commission had denied, in part, on the grounds that the applicant

³ Response to Operator's Motion for Summary Proceedings, ¶ 5 (June 21, 2022).

⁴ First Response to the Commission's Information Request, pp. 3-4 (August 5, 2022).

sought to unitize more than one pool.⁵ Notably, Staff stated that it “has considered Operator’s application on a formation by formation basis and determined it would recommend approval of Operator’s applications if Operator was required to file applications for each formation to be a part of the unit.”⁶

7. The Commission has not ruled on Operator’s Motion for Summary Proceedings or on the merits of the Application as of the time of this Reply.

STATEMENT OF FACTS AND LAW

1. The Commission can treat the Application, as amended, as multiple compulsory unitization applications.

There is a consensus that the Application should be granted because it will prevent waste, protect correlative rights, and not pollute fresh water.⁷ All stakeholders, except for one, have approved Operator’s Plan for Unit Operations submitted with the Application.⁸ No party, interested or otherwise, has opposed or protested the Application. At this point, the only obstacle appears to be the Commission’s concern that it does not have the statutory authority to grant the Application if it would compel a unit covering more than one pool. As to that issue, the consensus is that if the Application were treated as multiple applications separately seeking to unitize each individual formation underlying the Unit Area, then the Commission would have the authority to grant each individual application and compel multiple units covering the same Unit Area. As noted above, Staff has already stated its approval of this course.⁹

⁵ Response to Operator’s First Response to the Commission’s Information Request, ¶¶ 5-6 (August 19, 2022).

⁶ *Id.*, at ¶ 4.

⁷ See generally, the Application; see also, Staff’s Response to Operator’s Motion for Summary Proceedings, last paragraph.

⁸ See, Application, ¶ 13.

⁹ See n. 6, supra.

There being a consensus on how to proceed to address the Commission’s concern, Operator offers its First Amendment to Application attached hereto as Exhibit A. The First Amendment to Application operates to break the pending Application into six unique applications, each seeking to compel a unit as to one of six different formations underlying the Unit Area believed to contain a pool, or part thereof, containing commercially recoverable hydrocarbon reserves.¹⁰ The six formations sought to be unitized, and the stratigraphic top and bottom where each formation is expected to be encountered beneath the Unit Area, are described below (each a “Unitized Formation”):

<u>Formation</u>	<u>Stratigraphic Top</u>	<u>Stratigraphic Bottom</u>
Topeka	3,750’	3,957’
Lansing	3,957’	4,319’
Pawnee	4,319’	4,389’
Cherokee	4,389’	4,529’
Mississippian	4,529’	4,750’
Arbuckle	4,750’	4,800’

Because each Unitized Formation contains a pool or part thereof, the Commission unquestionably has the right to compel a unit as to each Unitized Formation underlying the Unit Area.

2. The Commission can grant the Application, as amended, without further action on the part of Operator or Staff, and without further notice.

As noted in prior briefing, the mineral and leasehold rights beneath the Unit Area are uniformly owned as to all depths.¹¹ Consequently, the Plan of Unit Operations requires no revision because it already covers each Unitized Formation, and can be separately applied to each Unitized Formation as a master agreement. This also means that the percentage of royalty owners and working interest owners who consent to the Plan of Unit Operations remains the same as stated in

¹⁰ See K.S.A. 55-1303 (“Any working interest owner may file an application with the commission requesting an order for the unit operation of a pool or part thereof.”)(emphasis added).

¹¹ First Response to the Commissions Information Request, n. 3.

the original Application. As such, all of the requisites to be included in the Application and the matters to be found by the Commission in order to compel a unit (or units) are satisfied.¹²

Additional notice of these proceedings is not necessary. The Unit Area and Unitized Formations are unchanged and the substance of the Application, as amended, is identical to when it was originally mailed and published for notice. As a result, there are no additional parties entitled to notice and there is no reason to provide additional notice to any stakeholder, because their rights are unaffected regardless of whether there is one unit or six. If the Commission accepts the First Amendment to Application, the motion for summary Proceedings remains ripe and the Commission may take action on that Motion and the Application, as amended, without further action on the part of Operator or Staff. Accordingly, the Commission may grant the Application, as amended.

3. The orders cited by Staff in its Response are non-precedential and distinguishable from these proceedings.

In its response brief, Staff cited to Commission orders denying the C12 Kansas Oil, LLC (“C12”) Post Rock Unit, and the Lario Oil & Gas Company (“Lario”) Feiertag Unit¹³ compulsory unitization applications. Staff noted that each application was denied, in part, on the grounds that more than one pool was at issue. As a threshold matter, Operator reminds the Commission that under KAPA its prior orders “shall not be used as precedent in any subsequent adjudication against a person who was not a party to the original adjudication. . .”¹⁴ Additionally, each of those applications is distinguishable from the present Application. Those applications were contested matters, timely protested by stakeholders, which is not the case here. Those applications sought approval pursuant to K.S.A. 55-1304(a)(1) as secondary or tertiary oil recovery operations, which

¹² See K.S.A. 55-1303, -1304, -1305.

¹³ Respectively, Docket Nos. 15-CONS-009-CUNI and 17-CONS-3516-CUNI.

¹⁴ K.S.A. 77-415(b)(2)(A).

the protesting parties testified would have an adverse effect on existing production resulting in waste and the violation of correlative rights. The present Application seeks to form a unit pursuant to K.S.A. 55-1304(a)(2) for the purpose of drilling new wells. The new drilling activities proposed would not cause waste or violate correlative rights if the Application were granted. In sum, the present Application contains novel facts and circumstances for the Commission to consider, and which are entirely different from those before the Commission in the applications filed by C12 and Lario.

CONCLUSION

A course has been charted that should alleviate any concerns the Commission may have that it lacks authority to grant the Application, as amended. Operator requests that the Commission accept its First Amendment to Application and, upon doing so, grant Operator's Motion for Summary Proceedings and enter an Order Granting the Application without further notice or action on the part of Operator or Staff.

Respectfully submitted,

MORRIS, LAING, EVANS, BROCK
& KENNEDY, CHARTERED

By: 

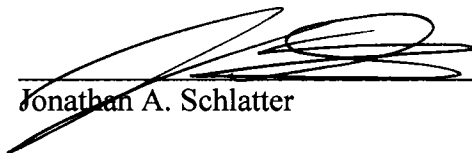
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VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

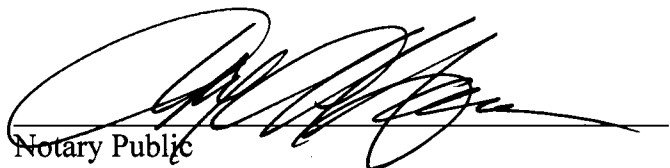
Jonathan A. Schlatter, being of lawful age and being first duly sworn upon his oath, deposes and says:

That he is the attorney for Meridian Energy, Inc.; he has read the above and forgoing Reply to Staff's Response to Operator's First Response the Commission's Information Request and is familiar with its contents, and that the statements made therein are true and correct to the best of his knowledge and belief.



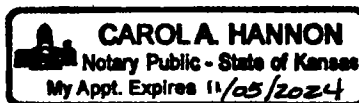
Jonathan A. Schlatter

SIGNED AND SWORN to before me this 16th day of September, 2022.



Notary Public

My Appointment expires: 11/05/2024



CERTIFICATE OF SERVICE

I, Jonathan A. Schlatter, hereby certify that on this 16th day of September, 2022, I caused the original of the foregoing **Reply to Staff's Response to Operator's First Response to the Commission's Information Request** and its Exhibit A to be electronically filed with the Conservation Division of the State Corporation Commission of the State of Kansas, and caused true and correct copies of the same to be emailed to the parties set forth below.

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Jonathan A. Schlatter

EXHIBIT A

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

In the Matter of the Application of) Docket No. 22-CONS-3422-CUNI
Meridian Energy Inc. for an Order)
Authorizing the Unitization and Unit) CONSERVATION DIVISION
Operation of the Simon Says Unit)
to be located in Rawlins County, Kansas) License No. 33937

FIRST AMENDMENT TO APPLICATION

Meridian Energy, Inc. (“Meridian”) submits this First Amendment to Application seeking to amend and supplement the application it submitted in the captioned docket on May 9, 2022 (“Application”), as follows:

1. Paragraph 4 of the Application is hereby amended and replaced in its entirety to read as follows:

“4. Meridian proposes to operate the oil and gas leases as six distinct units underlying the Unit Area, with each unit comprised of the following formations, the stratigraphic top and bottom of which are expected to be encountered beneath the Unit Area at the depths indicated below:

<u>Formation</u>	<u>Stratigraphic Top</u>	<u>Stratigraphic Bottom</u>
Topeka	3,750’	3,957’
Lansing	3,957’	4,319’
Pawnee	4,319’	4,389’
Cherokee	4,389’	4,529’
Mississippian	4,529’	4,750’
Arbuckle	4,750’	4,800’

Each of the foregoing units shall hereinafter be referred to individually as the ‘Unitized Formation.’”

2. The exploratory and development drilling program described in paragraph 5 of the Application, will be conducted within each Unitized Formation.

3. The mineral rights beneath the Unit Area are uniformly owned as to all depths by the royalty owners described in the Unit Agreement, and the leasehold rights beneath the Unit Area are owned by Meridian as to all depths. As such, oil produced from the Simon Says Unit will be allocated among the various interest owners across the various tracts according to their tract participations as described in paragraphs 6 and 8 of the Application, regardless of which Unitized Formation the oil is produced from.

4. The Plan described in paragraph 12 of the Application covers all of the Unitized Formations, and shall separately govern the unitization and unit operation of the Simon Says Unit as to each Unitized Formation. The Plan has been approved as to each Unitized Formation by those persons who will pay 87.18% of the costs of unit operations, and by 87.18% of the owners of the production or proceeds credited to royalties. Notably, the Plan does not prevent segregating the unitized depths into multiple units, nor is any party's rights affected by treating the Simon Says Unit as multiple units.

5. As evidenced by the certificate of service attached to the Application, and by the publisher's affidavits filed in this docket, notice of the Application has been provided as required by K.S.A. 55-1310, K.S.A. 55-605, and K.A.R. 82-3-135a, and is lawful and proper in all respects.

6. Paragraph 16 of the Application is hereby amended and replaced in its entirety to read as follows:

"16. Meridian requests that the Simon Says Unit be treated as six different units, each comprised of the six Unitized Formations underlying the Unit Area above-described in paragraph 4. To that end, Meridian requests that the Commission treat the Application as the simultaneous filing of six separate applications requesting an

Order authorizing the unitization and unit operation for each Unitized Formation underlying the Unit Area pursuant to K.S.A. 55-1301, *et seq.*”

WHEREFORE, Meridian prays that the Commission docket this First Amendment to Application, and allow the Application to be amended and supplemented as provided for herein, and to make such other and further rulings and orders as it deems necessary and proper.

Respectfully submitted,

MORRIS, LAING, EVANS, BROCK
& KENNEDY, CHARTERED

By: 

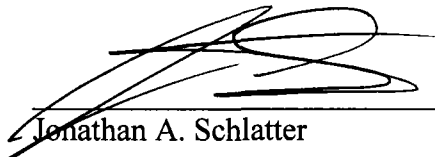
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VERIFICATION

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 Meridian Energy, Inc.; he has read the above and forgoing First Amendment to Application 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 16th day of September, 2022.



Notary Public

My Appointment expires: 11/05/2024

