

# BEFORE THE OIL & GAS COMMISSION

VICTOR McKENZIE DRILLING, LLC,	:	
	:	Appeal No. 1013
Appellant,	:	
	:	
-vs-	:	Review of Chief's Order 2022-72
	:	
	:	
DIVISION OF MINERAL RESOURCES	:	<b><u>ORDER OF THE COMMISSION TO</u></b>
MANAGEMENT,	:	<b><u>WITHDRAW APPEAL OR TO</u></b>
	:	<b><u>SHOW CAUSE WHY APPEAL</u></b>
	:	<b><u>SHOULD NOT BE DISMISSED</u></b>
Appellee.	:	<b><u>FOR FAILURE TO PROSECUTE</u></b>

Appearances: Vickie L. Gibson, Appellant *pro se*; Brian Ball, Gene Park, Assistant Attorneys General, Counsel for Appellee Division of Oil & Gas Resources Management.

This matter comes before the Oil & Gas Commission upon appeal by Vickie L. Gibson, *pro se*, on behalf of Victor McKenzie Drilling, LLC (“Victor McKenzie”) from Chief’s Order 2022-72 (“Order”). Victor McKenzie is the owner of the Dilts Max Ex A1 1 Well, which is not a horizontal well, located in Harrison Township, Perry County, Ohio. Victor McKenzie is registered as a limited liability company in Ohio. Ms. Gibson and her son, Shaun Gibson, indicate that they are professionally affiliated with Victor McKenzie’s operations.

On May 16, 2022, Ms. Gibson - without benefit of counsel - filed with the Commission a letter which was interpreted by the Commission as a *Notice of Appeal* on behalf of Victor McKenzie. At a status conference on June 8, 2022, Ms. Gibson and/or Mr. Gibson appeared on behalf of Victor McKenzie. Ms. Gibson and Mr. Gibson are not attorneys. During the call the Commission’s Executive Director advised that, “appearances before the commission shall be in person or by an attorney admitted to practice before the Supreme Court of Ohio. **Corporations,**

**limited liability companies, boards and associations shall be represented by counsel.”** (See O.A.C. §1509-1-04(B); emphasis added.) Ms. Gibson and/or Mr. Gibson indicated an intention to retain an attorney for this appeal to move forward.

The Commission scheduled another status conference on June 28, 2022, to provide Victor McKenzie an opportunity to retain counsel. At this status conference, Ms. Gibson and/or Mr. Gibson again appeared without an attorney, stating a continued intent to retain the services of an attorney.

The Commission scheduled another status conference for on August 31, 2022. Counsel for the Appellee was present for this conference, but no one appeared on behalf of Appellant at the time specified in the Notice. On September 14, 2022, the Commission issued a *Notice of Deadline for Retaining Counsel & Filing Schedule for Related Motions*. The Commission set October 5, 2022 as the deadline for Victor McKenzie to retain counsel. Victor McKenzie provided no response to this Notice.

On October 19, 2022, the Division filed a *Motion to Dismiss Appeal For Failure to Prosecute*. Specifically, the Division argued that Victor McKenzie has failed to prosecute this appeal by failing to (1) enter the appearance of counsel with the Commission by October 5, 2022 as ordered by the Commission and (2) attend a scheduled pre-hearing conference on August 31, 2022 as noticed by the Commission. The Division seeks the dismissal of this appeal with prejudice for failure to prosecute. Appellant did not respond to the Division’s motion. To date, Victor McKenzie has not filed a withdrawal of appeal #1013.


On December 7, 2022 the Commission issued, via Certified Mail, an Order of the Commission to Withdraw Appeal or to Show Cause Why Appeal Should Not be Dismissed for Failure to Prosecute. Through this order, the Commission required Appellant to either: (1) withdraw appeal #1013, or (2) file a statement showing cause why appeal #1013 should not be dismissed as Appellant has retained counsel to pursue appeal #1013. Appellant was to make such filings in response to the Commission's Order on or before January 4, 2023.

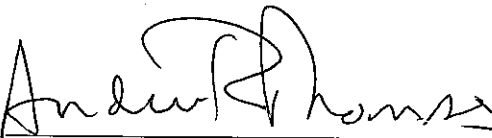
On or before January 4, 2023, Appellant did not withdraw their appeal. Nor did they file a statement showing cause why this appeal should not be dismissed.

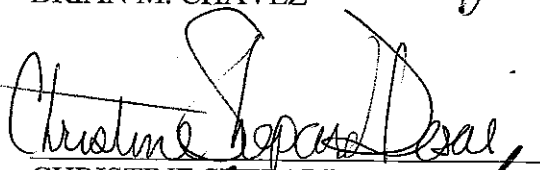
## ORDER

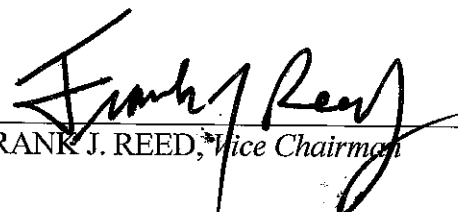
As the Appellant has failed, upon order of the Commission, to show cause why this appeal should not be dismissed, appeal #1013 is hereby **DISMISSED** for Appellant's failure to pursue and prosecute this appeal.

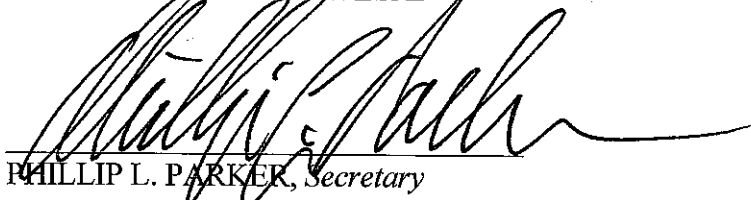
Date Issued: 2/16/2023

  
BRIAN M. CHAVEZ

  
ANDREW R. THOMAS, *Chairman*

  
CHRISTINE SHEPARD-DESAI

  
FRANK J. REED, *Vice Chairman*

  
PHILLIP L. PARKER, *Secretary*

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