

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

In the matter of resolving various regulatory) Docket No. 21-CONS-3193-CPEN
violations associated with Haas Petroleum,) 21-CONS-3201-CPEN
LLC (Operator).) 22-CONS-3031-CPEN
) 22-CONS-3034-CPEN
)
) CONSERVATION DIVISION
)
_____) License No. 33640

In the matter of the application of Haas) Docket No. 22-CONS-3099-CMSC
Petroleum, LLC (Operator) for an Operator's)
License Renewal.) CONSERVATION DIVISION
)
_____) License No. 33640

PRE-FILED REBUTTAL TESTIMONY OF

TROY RUSSELL

ON BEHALF OF COMMISSION STAFF

SEPTEMBER 16, 2022

1 **Q. Are you the same Troy Russell who has previously pre-filed testimony on November 8,**
2 **2021, December 20, 2021, and January 7, 2022 regarding the violations committed by**
3 **Haas Petroleum, LLC (Operator)?**

4 A. Yes.

5 **Q. What is the purpose of your rebuttal testimony in these matters?**

6 A. The purpose of my rebuttal testimony is to discuss certain comments contained in the pre-
7 filed testimony of Ms. Rhonda Epps, given on behalf of Operator on July 29, 2022, in Docket
8 21-CONS-3193-CPEN (Docket 21-3193), Docket 21-CONS-3201-CPEN (Docket 21-3201),
9 Docket 22-CONS-3031-CPEN (Docket 22-3031), Docket 22-CONS-3034-CPEN (Docket
10 22-3034), and Docket 22-CONS-3099-CMSC (Docket 22-3099) (Consolidated Dockets).

11 **Q. On page 3, lines 14 – 18, of her testimony Ms. Epps claims that Operator has plugged 25**
12 **wells, filed temporary abandonment (TA) applications for 26 wells, returned 28 wells to**
13 **service, and transferred 63 wells since December 2021. Do those numbers coincide with**
14 **commission records?**

15 A. No, these numbers are not accurate. The Commission's Risk Based Data Management System
16 (RBDMS) shows that 23 wells were plugged from December 2021 to September 7, 2022. The
17 most recently plugged well was on August 18, 2022. Ten of the wells plugged were enhanced
18 oil recovery (EOR) wells in Woodson, Franklin, and Miami counties. Three of the wells
19 plugged were saltwater disposal (SWD) wells in Woodson and Coffey counties. Lastly, 10 of
20 the wells plugged were oil wells in Franklin, Miami, and Coffey counties. To date, Operator
21 has filed Well Plugging Report (CP-4) forms for nine of the Underground Injection Control
22 (UIC) wells and nine of the oil wells.

1 During this same timeframe, Staff has approved 12 TA applications but has denied 33 TA
2 applications. Additionally, 18 TA applications are still pending and need to be processed.
3 Lastly, District Staff received email notifications from Operator that 48 wells were returned
4 to service within this time frame. Of the 48 wells identified by Operator, Staff confirmed eight
5 actually were not returned to service. Further, none of the 48 wells were subject to the
6 Consolidated Dockets.

7 **Q. On page 3, line 19, of her testimony Ms. Epps claims that Operator addressed 142 wells**
8 **since December 2021. Does that include all of the wells at issue in the penalty orders in**
9 **the Consolidated Dockets?**

10 A. No. During this time frame, only eight of the 23 wells for which the Conservation Division
11 has plugging records addressed violations associated with the Consolidated Dockets. As
12 stated in my testimony above, Conservation records confirm that only 12 TA applications
13 have been approved, five of which addressed violations associated with the Consolidated
14 Dockets. Additionally, I think it would be helpful to point out that Staff has made penalty
15 recommendations for 41 violations of K.A.R. 82-3-111 and 3 violations of K.A.R. 82-3-407
16 since December 1, 2021. This is in addition to the 18 (32 initially) wells that remain in
17 violation after a failed mechanical integrity test and 61 (77 initially) inactive wells that remain
18 in violation without approved TA status, without being plugged, or without being returned to
19 service in the Consolidated Dockets stretching back to late 2020.

20 **Q. Throughout her testimony, Ms. Epps claims that Operator is blacklisted and/or viewed**
21 **as an enemy or adversary by Staff. Do you believe these statements are accurate?**

22 A. No. I have responded to every contact made to me from Operator, and Field Staff have been
23 directed to provide any information and guidance to Operator in order to resolve both the

1 docketed violations and new occurrences of violations. The District #3 Office has never
2 “blacklisted” an operator, and we do not view Operator as an enemy or adversary. District
3 Staff pride themselves on applying Commission rules and regulations fairly and consistently
4 to every operator in District #3.

5 **Q. Do you believe that District Staff’s attitude toward Operator is an emotional and hostile**
6 **response as depicted by Ms. Epps on page 5 of her testimony?**

7 A. No. I do not know which upper level KCC Staff she references in her testimony, beginning
8 on page 5, line 8. However, our responses have been neither emotional nor hostile but simply
9 based upon regulatory responsibilities, and as I state above, I have responded to every contact
10 from Operator.

11 **Q. In her testimony, Ms. Epps implies that Staff should be forced to enter into a compliance**
12 **agreement with Operator. First, what is a compliance agreement?**

13 A. A compliance agreement is a formal agreement between Staff and an operator to return wells,
14 which have been prioritized based upon potential environmental risk, to compliance with the
15 Commission’s rules and regulations over a set period of time. These agreements can be
16 beneficial to both Staff and the operator, because wells are being brought into compliance,
17 and the operator is able to address wells over a pre-determined time period allowing the
18 Operator to maintain current operations and remain a viable entity.

19 **Q. Would Staff enter into a compliance agreement with an operator who has concealed**
20 **environmental violations?**

21 A. No. Staff identifies potential operators with whom to enter into compliance agreements based
22 upon the track record of the operator and the extent of possible violations identified by Staff

1 and/or the operator. Staff relies on the integrity of the Operator as well as the assessment of
2 potential environmental impacts, in the evaluation of potential compliance agreements.

3 **Q. On page 5, lines 4-6 of her testimony, Ms. Epps states that if KCC District 3 field staff**
4 **were given the autonomy to work with her to address any regulatory issues that exist**
5 **with Operator's wells a compliance agreement could be implemented.**

6 A. The District Program Managers and I have discussed at length the nature and seriousness of
7 these violations with Field Staff during the extensive investigation and compilation of
8 documentation supporting the penalty recommendations. At no time has any District Staff
9 member expressed an interest in pursuing a compliance agreement with Operator due to the
10 egregious nature of the violations that have occurred. Based upon the scale and nature of the
11 violations, Staff has felt it necessary to present its documentation of these actions by Operator,
12 including knowingly falsifying MITs to obtain satisfactory results, to the Commissioners so
13 that they may render an appropriate decision.

14 **Q. On page 8, line 22 through page 10, line 18 of her testimony, Ms. Epps goes into detail**
15 **about the three ways she claims that Staff unlawfully assigned 1,064 wells to Operator.**
16 **Do you believe those statements are accurate?**

17 A. No. The first category Ms. Epps identifies in her testimony are abandoned wells that Staff
18 found within a quarter-mile of Operator's authorized injection wells. Under K.A.R. 82-3-
19 403(a)(5), the Commission's regulations listing the permitting factors to be considered when
20 issuing injection authorization include the construction of all oil and gas wells within a
21 quarter-mile radius of the proposed injection well, including all abandoned, plugged,
22 producing, and other injection wells, to ensure that fluids introduced into the proposed
23 injection zone will be confined to that zone. Here, the discovery and existence of abandoned

1 wells within the quarter-mile area of review would result in an operator not being granted a
2 permit and or the permitted wells within the AOR being shut in until the abandoned wells
3 were addressed. In order for Operator to continue using its injection wells, these wells will
4 need to be plugged, or Operator will need to add the wells to its well inventory and either
5 obtain approved TA status at the wells or return the wells to service once casing integrity has
6 been verified.

7 The second category in Ms. Epps' testimony appears to discuss other abandoned wells that
8 were located on Operator's leases. Throughout the course of their investigations, Staff
9 documented all wells that fell within the lease boundaries. Wells that were not on Operator's
10 license but were located within the lease boundaries or associated with a previous company
11 in which Mark Haas was a primary principle, were also listed under Haas. Additionally, there
12 were wells that were actively being produced by Operator but not on its inventory. While no
13 penalty recommendations were made concerning any of these wells, they were identified as
14 wells that normally would have led to an NOV being generated to the Operator to determine
15 if Operator had obtained these leases through an assignment or if a new lease was acquired.
16 On September 7, 2022, the Kansas Online Automated Reporting system (KOLAR) listed
17 1,482 wells on Operator's license. This would refute Ms. Epps statement that District Staff
18 has added any wells to Operator's well inventory. The Commission's RBDMS database
19 indicates 2,013 well records associated with Operator's license. This includes all well statuses
20 including plugged and abandoned wells, wells with expired intents-to-drill, permitted wells
21 and wells with no previous known records. However, these are additional wells that Operator
22 could be held responsible for if the wells are not actually plugged, have actually been drilled,
23 are under the physical control of Operator, or were present when Operator took the lease on

1 assignment. This is based upon the lease inspections performed by Staff that documented
2 unplugged wells which previously had a status of plugged, expired intent-to-drill, or permitted
3 well.

4 The third category listed in Ms. Epps testimony discusses leases she claims Operator no
5 longer owns or operates. However, the wells on those leases remain listed on Operator's
6 license. Thus, Operator is responsible for those wells. Additionally, many of the wells on
7 those leases are out of compliance with the Commission's rules and regulations and were out
8 of compliance at the time Operator filed a Request for Change of Operator Transfer of
9 Injection or Surface Pit Permit (T-1) form. The compliance issues attached to these wells do
10 not allow the wells to be brought into compliance by simply transferring the wells to another
11 operator. The compliance status of these wells is subject to these ongoing dockets and are a
12 result of Operator's years of poor operating practices. Staff is waiting to process the T-1s until
13 the Commission rules on the compliance issues involved in these dockets.

14 **Q. On page 21, lines 8-13 of her testimony, Ms. Epps states that she believes Operator is in**
15 **compliance with Chapter 55 of the Kansas Statutes Annotated, and amendments**
16 **thereto, all rules and regulations adopted thereunder and all Commission orders and**
17 **enforcement agreements. Is her statement accurate?**

18 A. I do not believe Ms. Epps can make that claim when her testimony acknowledges that there
19 are wells that remain out of compliance with the Commission's rules and regulations. While
20 Staff contends there are many other wells at issue, Ms. Epps acknowledges that there are 321
21 wells that are currently out of compliance with the Commission's rules and regulations on
22 page 18 of her testimony. Additionally, there are 18 UIC wells and 61 inactive wells in the
23 Consolidated Dockets that remain out of compliance with the Commission's Penalty Orders

1 in those dockets. While the environmental issues in these dockets are egregious violations that
2 would be avoided and or be quickly addressed by a reasonably prudent operator, the fact that
3 Operator has failed to remedy all of the environmental issues after a period of two years and
4 has incurred additional penalty recommendations for three violations of K.A.R. 82-3-407 and
5 41 violations of K.A.R. 82-3-111 is even more egregious.

6 **Q. Please summarize your recommendations.**

7 A. I believe the information gathered by District #3 Staff through their thorough inspection of
8 Operator's leases clearly indicates that Operator is out of compliance with Chapter 55 of the
9 Kansas Statutes Annotated, and amendments thereto, and all of the Commission's rules and
10 regulations. Further, Ms. Epps testimony fails to refute that Operator has wells on its license
11 that remain out of compliance with the Commission's rules and regulations.

12 Given the length of time the Consolidated Dockets have gone on, it can be easy to forget
13 what led to these dockets in the first place. At a multitude of wells, Operator knowingly
14 fabricated equipment used to connect to the wellhead for the purpose of testing the integrity
15 of casing by pressuring the annular space between the casing and tubing to the packer seating
16 depth. This fabrication was accomplished by welding a plug inside the nipple making the
17 connection. The nipple is a short length of pipe threaded on both ends which connects the
18 wellhead to the device utilized to create the pressure within the interval being tested. When
19 Commission Staff contacted Operator's field agent concerning the whereabouts of these
20 fabricated pieces, they were told they had been destroyed and thrown in the Verdigris River.
21 This field agent is still employed by Operator.

22 In addition to the use of fabricated testing equipment, it was readily apparent that Operator
23 submitted multiple FALSE unwitnessed "satisfactory" Casing Mechanical Integrity Test

1 (U-7) forms. This became apparent based upon Staff's field inspections of the wells and based
2 upon Operator's actions. Many of the wells did not have a wellhead present or were in such
3 poor condition that testing equipment could not be hooked onto the well and there were
4 obvious holes in the surface casing or tubing protruding several feet above the
5 casing/wellheads. Operator's actions included filing pre-test failures to buy additional time
6 and then filing Plugging Application (CP1) forms scheduling wells to be plugged without re-
7 testing the wells. Of the wells that were re-tested, several failed and only three have been
8 repaired and satisfactorily re-tested.

9 Ultimately, District #3 has approximately 10,000 UIC wells and 58,000 known wells and
10 nine field staff to monitor those wells. The Conservation Division relies heavily on self-
11 reporting of critical witnessing activities by the oil and gas industry. The actions and lack of
12 integrity by Operator and the potential ramifications to the oil and gas industry are significant.
13 There is a growing perception among the general public that somehow the oil & gas industry
14 is not environmentally responsible and Operator's actions will only exacerbate this
15 perception. Based on Operator having wells out of compliance with the Commission's rules
16 and regulations, as well as the nature of the egregious violations that led to these proceedings,
17 Staff's recommendation is that the penalty orders in the Consolidated Dockets be affirmed
18 and Operator's application for license renewal be denied.

19 **Q. Does this conclude your rebuttal testimony?**

20 **A.** Yes.

CERTIFICATE OF SERVICE

21-CONS-3193-CPEN, 21-CONS-3201-CPEN, 22-CONS-3031-CPEN,
22-CONS-3034-CPEN, 22-CONS-3099-CMSC

I, the undersigned, certify that a true and correct copy of the attached Prefiled Rebuttal Testimony of Troy Russell has been served to the following by means of electronic service on September 16, 2022.

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/s/ Paula J. Murray

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