

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

In the matter of the failure of Kiowa Gas ) Docket No.: 21-CONS-3318-CPEN  
Company (Operator) to comply with K.A.R. )  
82-3-103 and K.A.R. 82-3-106 at the ) CONSERVATION DIVISION  
DMilleret #2 well in Leavenworth County, )  
Kansas. ) License No.: 33995

**PRE-FILED REBUTTAL TESTIMONY**

**OF**

**TAYLOR HERMAN**

**ON BEHALF OF COMMISSION STAFF**

**OCTOBER 18, 2021**

1 **Q. Are you the same Taylor Herman who pre-filed direct testimony in this docket on**  
2 **September 20, 2021?**

3 A. Yes.

4 **Q. What is the purpose of your rebuttal testimony in this matter?**

5 A. The purpose of my testimony is to discuss the assertions contained in the Pre-Filed Testimony  
6 of Mr. Todd Moore, given on behalf of Kiowa Gas Company (Operator) in Docket 21-CONS-  
7 3318-CPEN (Docket 21-3318).

8 **Q. On page 1 of Mr. Moore's testimony, he states that the Kansas Corporation Commission**  
9 **(Commission) issued a penalty against Operator for failure to plug the DMilleret #2 well**  
10 **(Subject Well). Is this an accurate summary of the Commission's Penalty Order in this**  
11 **docket?**

12 A. Not entirely. The Commission penalized Operator because Operator did not complete  
13 Alternate II cementing within 30 days of the spud date of the Subject Well. The Commission  
14 ordered Operator to pay a \$1,000 fine, and then gave Operator the option of either plugging  
15 the Subject well or completing the well using Alternate II cementing methods. The  
16 Commission did not specifically order Operator to plug the Subject Well, as Operator always  
17 had the option to complete the well using Alternate II methods.

18 **Q. On page 2 of Mr. Moore's testimony, he indicates that Operator employed TDR**  
19 **Construction on July 19, 2021, to plug the Subject Well. Did this occur before or after**  
20 **the Commission issued a Penalty Order in this docket?**

21 A. Operator employed TDR Construction to plug the Subject Well nearly a month after the  
22 Commission issued its Penalty Order. Pursuant to Commission regulations, the deadline for  
23 Alternate II cementing was January 15, 2021. Staff sent a Notice of Violation letter to

1 Operator on April 6, 2021, giving Operator a deadline of April 21, 2021, to complete Alternate  
2 II cementing or plug the Subject Well. The Commission issued its Penalty Order on June 29,  
3 2021. Only then, on July 19, 2021, did Operator employ a company to plug the Subject Well.

4 **Q. Mr. Moore asserts in his testimony that the Subject Well was plugged on September 28,**  
5 **2021. Was the Subject Well plugged on that date?**

6 A. Yes, TDR Construction informed District #3 Staff that the Subject Well was plugged on  
7 September 28, 2021. However, as of the date of this testimony, Operator has yet to file a Well  
8 Plugging Record (CP-4 Form) with the Commission.

9 **Q. Has your recommendation changed based upon Mr. Moore's testimony?**

10 A. No, the Penalty Order should still be affirmed. The Subject Well has been plugged, but  
11 Operator should be assessed a \$1,000 penalty. As I stated in my Pre-Filed Direct Testimony,  
12 a well that has not been completed using Alternate II methods may permit the commingling  
13 of fluids throughout the wellbore, thereby potentially allowing pollution to enter fresh and  
14 usable waters. The deadline for Alternate II cementing for the Subject Well was January 15,  
15 2021, but Operator took more than eight months after that deadline to prevent the well from  
16 being a potential environmental danger. Additionally, Operator did not employ a company to  
17 eliminate the environmental danger posed by the Subject Well until after the Commission had  
18 issued the Penalty Order in this docket.

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

20 A. Yes.

## **CERTIFICATE OF SERVICE**

21-CONS-3318-CPEN

I, the undersigned, certify that a true and correct copy of the attached Prefiled Rebuttal Testimony of Taylor Herman has been served to the following by means of electronic service on October 18, 2021.

JOHN ALMOND  
KANSAS CORPORATION COMMISSION  
DISTRICT OFFICE NO. 3  
137 E. 21ST STREET  
CHANUTE, KS 66720  
j.almond@kcc.ks.gov

ROBERT R. EISENHAUER  
JOHNSTON & EISENHAUER  
113 E THIRD  
PO BOX 825  
PRATT, KS 67124  
johnston.eisenhauer@gmail.com

TRISTAN KIMBRELL, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
CENTRAL OFFICE  
266 N. MAIN ST, STE 220  
WICHITA, KS 67202-1513  
t.kimbrell@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