

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

In the matter of the failure of Stroke of Luck) Docket No. 22-CONS-3084-CPEN
Energy & Exploration LLC (Operator) to)
comply with K.A.R. 82-3-120.) CONSERVATION DIVISION
)
_____) License No. 35125

PRE-FILED TESTIMONY

OF

NANCY BORST

ON BEHALF OF COMMISSION STAFF

OCTOBER 11, 2021

1 **Q. What is your name and business address?**

2 A. Nancy D. Borst, 266 N. Main St., Suite 220, Wichita, KS 67202.

3 **Q. By whom are you employed and in what capacity?**

4 A. I am employed by the Conservation Division of the Kansas Corporation Commission as an
5 Administrative Specialist in the licensing and legal departments.

6 **Q. Would you please briefly describe your background and work experience?**

7 A. I worked as the Communications Coordinator and Public Information Officer for Kingman
8 County from 2013-2017. Prior to that I was the managing editor of the Kingman Leader-
9 Courier newspaper. I have worked in various roles in journalism for the past 42 years and
10 continue to have a freelance journalism business. I have a bachelor of science degree from the
11 University of Kansas. I have worked for the Kansas Corporation Commission since February
12 2018 as an Administrative Specialist. My primary duties include processing and reviewing
13 license applications, processing open records requests, and processing legal filings.

14 **Q. Have you previously testified before this Commission?**

15 A. Yes.

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

17 A. The purpose of my testimony is to discuss the evidence supporting the Commission's findings
18 relating to the Penalty Order issued by the Commission against Stroke of Luck Energy &
19 Exploration LLC (Operator) in this docket - Docket 22-CONS-3084-CPEN (Docket
20 22-3084).

21 **Q. Please provide a brief overview of the facts in this docket.**

22 A. Operator was penalized for one violation of K.A.R. 82-3-120, because Operator has
23 approximately 28 wells on its expired license. Operator failed to renew its license, obtain a

1 new license and transfer remaining wells onto that license, transfer the remaining wells to
2 another operator, or plug the remaining wells by the deadline provided.

3 **Q. Will you please explain the requirements of K.A.R. 82-3-120?**

4 A. Yes. K.A.R. 82-3-120 provides that each operator in physical control of any oil, gas, injection,
5 or monitoring well or gas storage facility shall maintain a current license even if the well or
6 storage facility is shut-in or idle.

7 **Q. When did Operator's license expire?**

8 A. Operator's license expired on August 30, 2020.

9 **Q. Did Commission Staff send a Notice of Violation (NOV) letter to Operator regarding the**
10 **unplugged wells on Operator's expired license?**

11 A. Yes. On June 24, 2021, Commission Staff sent an NOV letter to Operator requiring Operator
12 to take care of the unplugged wells on its license by July 8, 2021. That letter was attached to
13 the 22-3084 Penalty Order as Exhibit A. Typically this letter would have been sent within two
14 weeks of the license expiration date. However, due to an emergency order issued by Gov.
15 Laura Kelly relating to the COVID-19 pandemic, deadlines for certain types of licenses were
16 stayed, meaning that the KCC could not enforce regulatory license expirations until such time
17 as the emergency order expired, which occurred at the end of May 2021.

18 **Q. Did Operator submit an application to renew its license for 2020-2021?**

19 A. No. All licenses that would have otherwise expired during the governor's emergency order
20 remained active under the emergency order, provided the operator was in good standing at the
21 time of the issuance of the Governor's emergency order. In this instance, Operator was in
22 good standing at the time of the emergency order. However, nothing in the Governor's
23 emergency order prohibited operators from filing/renewing their licenses, and nothing in the

1 order alleviated an operator's obligation to pay the annual licensing fees or otherwise comply
2 with Commission regulations relating to oil and gas production activities. Rather, the order
3 merely allowed operators additional time to renew their respective licenses. Operator has not
4 submitted a license application to renew the license for 2020-2021. The last license renewal
5 application we received from Operator was submitted in 2019 and it was approved.

6 **Q. Could you renew Operator's license if a renewal application was submitted?**

7 No. It is my understanding the Operator's license is suspended due to non-compliance with a
8 Commission approved compliance agreement. Under K.A.R. 82-3-120(g)(1), if the applicant
9 is registered with the federal securities and exchange commission, the applicant shall
10 demonstrate to the commission that the applicant complies with all requirements of K.S.A.
11 55-101 et seq. and amendments thereto, all implementing regulations, and all commission
12 orders and enforcement agreements.

13 Additionally, under K.A.R. 82-3-120(g)(2), if the applicant is not registered with the
14 federal securities and exchange commission, the applicant shall demonstrate to the
15 commission that the following individuals comply with all requirements of K.S.A. 55-101 et
16 seq. and amendments thereto, all implementing regulations, and all commission orders and
17 enforcement agreements: (A) The applicant; (B) any officer, director, partner, or member of
18 the applicant; (C) any stockholder owning in the aggregate more than five percent of the stock
19 of the applicant; and (D) any spouse, parent, brother, sister, child, parent-in-law, brother-in-
20 law, or sister-in-law of any of the individuals specified in paragraphs (g)(2)(A) through (C).
21 Either way, since Operator does not comply with all requirements of K.S.A. 55-101 et seq.
22 and amendments thereto, all implementing regulations, and all Commission Orders and
23 enforcement agreements, we would be unable to renew Operator's license.

1 **Q. Why is it appropriate to penalize Operator for failure to renew a license that you admit**
2 **cannot be renewed?**

3 A. Even though Operator's license is suspended for non-compliance with a Commission-
4 approved compliance agreement, Operator is still responsible for plugging the remaining
5 wells, or transferring the remaining wells to another operator – neither of which has occurred.

6 **Q. Did you have any communications with Operator regarding the unplugged wells on its**
7 **expired license?**

8 A. Yes. I also spoke by phone with Mr. Ken Walker on July 1, 2021, when he called to say he
9 would not be renewing his contractor license #35499 S & P Well Service, Inc., which expired
10 September 30, 2020. Then, on July 23, 2021, Mr. Walker and his attorney, Mr. Stanford
11 Smith, met with Mr. Kelcey Marsh and me at our KCC office to discuss whether he could
12 obtain a contractor license. His purpose for the meeting was to explain that he needed a
13 contractor license so he could make money to fix his operator license issues. Beyond
14 discussing the compliance issues with Operator's license, we did not discuss Operator's
15 license or the renewal of it.

16 **Q. Please summarize your recommendations.**

17 A. I recommend the penalty assessed against Operator by the Commission be affirmed. Operator
18 failed to address the unplugged wells on its expired license by the deadline provided in the
19 NOV, or by the deadline set forth in the Penalty Order in this matter. Additionally, unplugged
20 wells remain on Operator's expired license.

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

22 A. Yes.

CERTIFICATE OF SERVICE

22-CONS-3084-CPEN

I, the undersigned, certify that a true and correct copy of the attached Prefiled Testimony of Nancy Borst has been served to the following by means of first class mail and electronic service on October 11, 2021.

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