

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of the Application of Midstates) Docket No: 18-CONS-3195-CUIC
Energy Operating, LLC to authorize injection of)
saltwater into the Squirrel formation at the Hadl) CONSERVATION DIVISION
#I-1 and Hadl #I-2 enhanced recovery wells,)
located in Section 36, Township 13 South,) License No. 35503
Range 20 East, Douglas County, Kansas.)

**ORDER ON MIDSTATES' MOTION TO STRIKE MOTION TO COMPEL FILED
BY G.M. ZEMANSKY, PH.D.**

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission makes the following findings and conclusions:

BACKGROUND:

1. On October 12, 2017, Midstates Energy Operating, LLC (Midstates) filed an Application with the Commission seeking a permit to authorize the injection of saltwater into the Squirrel formation at the Hadl Lease, well numbers I-1 and I-2, located in Section 36, Township 13 South, Range 20 East, Douglas County, Kansas.¹

2. On March 28, 2018, G.M. Zemansky and Thad Holcombe for WAT filed Information Request No.: 1. On April 12, 2018, G.M. Zemansky filed Repeat of Incomplete Portions of MidStates Response to Information Request No. 1 and New Information Request No.: 2.

3. On April 19, 2018, the Commission issued its *Order on Midstates' Motion to Dismiss Protests*, ordering that G.M. Zemansky's and Thad Holcombe's protest (and WAT's

¹ Midstates Energy Operating, LLC, Application for Injection Well, p. 1 (Oct. 12, 2017) (Application).

protest by implication, since Dr. Zemansky and Mr. Holcombe are the only two persons who claimed affiliation with WAT), among other protests, be dismissed from this proceeding.²

4. On April 20, 2018, Dr. Zemansky filed a Motion to Compel Midstates, asking the Commission to “compel MidState’s [sic] to provide accurate, complete, and substantial answers to all items of [Dr. Zemansky’s] information request (both repeated Information Request No. 1 and Information Request No. 2) as well as requested documents where applicable as soon as possible and no later than April 25, 2018.”³

5. On April 20, 2018, Midstates filed a Motion to Strike Motion to Compel Filed by G.M. Zemansky, Ph.D., arguing that, because neither Gil Zemansky nor The Water Advisory Team (WAT) are parties to this docket by virtue of the aforementioned Commission Order dismissing their protest, they do “not have requisite standing to file pleadings in this docket and the Motion to Compel Midstates should therefore be stricken from the record herein.”⁴ Midstates also argued that based on Dr. Zemansky’s and WAT’s non-party status, Midstates “has no duty or responsibility to respond to requests for information submitted by him/it.”⁵

DISCUSSION:

6. The Commission finds that, because Dr. Zemansky, Thad Holcombe, and WAT are not parties to this docket by virtue of the Commission’s April 19, 2018, Order dismissing their protest, they have no standing for further participation in this docket. Thus, they have no standing to issue discovery requests or to ask the Commission to compel any party to respond to discovery requests they have previously filed.⁶ Therefore, the

² *Order on Midstates’ Motion to Dismiss Protests*, ¶¶ 28, 36 (Apr. 19, 2018) (Order).

³ Motion to Compel Midstates, p. 2 (Apr. 20, 2018).

⁴ Motion to Strike Motion to Compel Filed by G.M. Zemansky, Ph.D., ¶ 1 (Apr. 20, 2018) (Motion to Strike).

⁵ Motion to Strike, ¶ 1.

⁶ See K.S.A. 77-522(a); K.A.R. 82-1-234a(a).

Commission agrees with Midstates that it has no duty to respond to discovery requests by Dr. Zemansky, Thad Holcombe, or WAT.

7. The Commission also finds that, pursuant K.A.R. 82-1-204(f), the Motion to Compel Midstates is already part of the “formal record” or “record.” Therefore, based on the Commission’s discretion to admit evidence into the record pursuant to K.A.R. 82-1-230(a), the Commission will not formally strike the Motion to Compel Midstates from the record. However, the Commission denies the April 20, 2018, Motion to Compel Midstates.


THEREFORE, THE COMMISSION ORDERS:

- A. Dr. Zemansky’s Motion to Compel Midstates is denied.
- B. Midstates has no duty to respond to any discovery requests within Dr. Zemansky’s Motion to Compel Midstates.
- C. The parties have fifteen (15) days, plus three (3) days if mailed service, in which to petition the Commission for reconsideration.⁷
- D. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 05/10/2018



Lynn M. Retz
Secretary to the Commission

Mailed Date: 05/11/2018

MJD

⁷ K.S.A. 55-162; K.S.A. 55-606; K.S.A. 77-529(a)(1); *see* K.S.A. 66-118b.

CERTIFICATE OF SERVICE

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I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail and electronic service on 05/10/2018.

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