

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

In the Matter of the Application of TDR)	Docket No.: 20-CONS-3043-CUIC
Construction, Inc. for a permit to authorize the)	
enhanced recovery of saltwater into the)	CONSERVATION DIVISION
Moldenhauer #W-42 well, located in Franklin)	
County, Kansas.)	License No.: 32218

In the Matter of the Application of TDR)	Docket No.: 20-CONS-3079-CUIC
Construction, Inc. for a permit to authorize the)	
enhanced recovery of saltwater into the)	CONSERVATION DIVISION
Moldenhauer #30 and Moldenhauer #45 wells,)	
located in Franklin County, Kansas.)	License No.: 32218

RESPONSE TO MOTION TO COMPEL

The Staff of the State Corporation Commission of the State of Kansas (“Staff” and “Commission,” respectively), files this response to Ms. Shteamer’s and Mr. Yeargain’s (collectively “Protestants”) Motion to Compel, which was filed on November 12, 2019 (Motion). The Commission should deny Protestant’s Motion because (i) the information sought in data request #14 is not “clearly relevant” to the subject matter of this docket, as required by the Discovery Order issued on October 16, 2019,¹ and (ii) the Motion is moot with regard to the attachments relating to data requests #4 and #8. In further support of Staff’s response, Staff states the following:

¹ Protective and Discovery Order, ¶ 15 (“Discovery Order”).

I. BACKGROUND

1. On July 10, 2019, TDR Construction, Inc. (“Operator”) filed an Application in Docket Number 20-CONS-3043-CUIC, seeking authorization to inject saltwater into the Squirrel formation at the Moldenhauer #W-42 well, located in Franklin, County, Kansas.²

2. On August 5, 2019, Protestants filed a Protest of TDR Construction, Inc.’s Application in the 20-CONS-3043-CUIC docket.³

3. On August 30, 2019, TDR Construction, Inc. (“Operator”) filed an Application in Docket Number 20-CONS-3079-CUIC, seeking authorization to inject saltwater into the Squirrel formation at the Moldenhauer #30 and Moldenhauer #45 wells, located in Franklin, County, Kansas.⁴

4. On September 5, 2019, Protestants filed a Protest of TDR Construction, Inc.’s Application in the 20-CONS-3079-CUIC docket.⁵

5. On October 16, 2019, the 20-CONS-3043-CUIC and the 20-CONS-3079-CUIC dockets were consolidated, and the Discovery Order was issued.⁶

6. On October 21, 2019, Protestants issued their initial Information Request to the Commission’s Conservation Division, consisting of fourteen (14) questions (First Set of Discovery).

7. On October 24, 2019, Staff submitted objections to Protestant’s First Set of Discovery, specifically on Data Requests #1, #2, #7, #8, #9, #11, #13, and #14. The basis for these objections varied from the request being unreasonably broad as to time and scope, the request

² Application of Operator in 20-CONS-3043-CUIC (July 10, 2019).

³ Protest of TDR Construction, Inc.’s Application in 20-CONS-3043-CUIC (Aug. 5, 2019).

⁴ Application of Operator in 20-CONS-3079-CUIC (Aug. 30, 2019).

⁵ Protest of TDR Construction, Inc.’s Application in 20-CONS-3079-CUIC (Sept. 5, 2019).

⁶ See Prehearing Officer Order Consolidating Dockets, Regarding Electronic Service, and Setting Procedural Schedule (Oct. 16, 2019); See Discovery Order (Oct. 16, 2019).

being unnecessarily burdensome, the form of the question calling for speculation, the materials requested not being “clearly relevant” to the matter before the Commission, or any combination of the above. Notwithstanding those objections, Staff stated they would provide a response to all requests except Data Request #14, which is the subject of the Motion to Compel. A copy of Staff’s objections is attached hereto as **Attachment A**.

8. On October 28, 2019, Staff provided information in response to Data Requests #3, #4, #5, #6, #7, #8, #9, #12, and #13 from the First Set of Discovery. Staff also informed Protestant at that time that certain Staff had been out of the office, and as such, Staff was still in the process of gathering the data for the remaining questions. A copy of the email to Protestants is attached hereto as **Attachment B**. Staff ultimately provided the information for the remaining requests from the First Set of Discovery on November 5, 2019, except Data Request #14, to which Staff originally objected to in its entirety.

9. On November 4, 2019, Protestants sent an additional nineteen (19) Data Requests to Commission Staff to respond to by November 8, 2019 (Second Set of Discovery). Data Requests #4 and #8 are subject to the Motion to Compel.

10. On November 7, 2019, Staff objected to Data Requests #1, #2, #11, #12, #13, #14, and #17 from the Second Set of Discovery. The basis for these objections varied from the request being unreasonably broad as to time and scope, the request being unnecessarily burdensome, the materials requested not being “clearly relevant” to the matter before the Commission, or any combination of the above. Notwithstanding those objections, Staff stated they would provide a response to all requests except Data Requests #11, and #17. A copy of Staff’s objections to the Second Set of Discovery is attached hereto as **Attachment C**.

11. On Friday, November 8, 2019, Staff provided responses to the Second Set of Discovery, except for the two questions objected to, but those are not part of Protestants' Motion. However, when providing the responses, Staff counsel inadvertently failed to attach three (3) documents responsive to questions #4 and #8.

12. On November 11, 2019, Protestants' sent an email to Staff counsel indicating that Protestants' were planning to file a motion to compel against Staff regarding question #14 from the First Set of Discovery and for failure to include the attachments on questions #4 and #8 on the Second Set of Discovery. November 11, 2019 was a legal holiday and the Commission's offices were closed, and as such Staff counsel did not receive the email until November 12, 2019. A copy of that email is attached hereto as **Attachment D**.

13. On November 12, 2019, Staff counsel discovered it failed to provide attachments for questions #4 and #8 from the Second Set of Discovery and immediately rectified the situation by providing the attachments. A copy of the email providing the documents to Protestants is attached hereto as **Attachment E**.

14. Also on November 12, 2019, Protestants filed the subject Motion to Compel against Commission Staff, requesting the Commission compel Staff to answer Data Request #14 from the First Set of Discovery, and supply attachments for requests #4 and #8 in Staff's from the Second Set of Discovery. As noted previously, the Motion to Compel with regard to questions #4 and #8 from the Second Set of Discovery is moot because the requested documents have been provided. Therefore, the only outstanding matter for the Commission pertains to question #14 from the First Set of Discovery.

II. DISCUSSION

15. The matter before the Commission in this docket involves the Applications to amend the injection permits filed by TDR Construction for the Moldenhauer #W-42, the Moldenhauer #30, and the Moldenhauer #45, which are governed by K.A.R. 82-3-403.

16. K.A.R. 82-3-403 sets forth the factors to be considered by Commission Staff before granting approval of Disposal or Enhanced Recovery Wells like the Moldenhauer wells at issue. Specifically, K.A.R. 82-3-403 states:

(a) Permitting factors. When a permit authorizing injection is issued, the following factors shall be considered by the conservation division:

- (1) Maximum injection rate;
- (2) maximum surface pressure, formation pressure, pressure at the formation face, or all of the above;
- (3) the type of injection fluid and the rock characteristics of the injection zone and the overlying strata;
- (4) the adequacy and thickness of the confining zone or zones between the injection interval and the base of the lowest fresh and usable water; and
- (5) the construction of all oil and gas wells within a ¼-mile radius of the proposed injection well, including all abandoned, plugged, producing, and other injection wells, to ensure that fluids introduced into the proposed injection zone will be confined to that zone. If deemed necessary by the conservation division to ensure the protection of fresh and usable water, this radius may be determined pursuant to 40 C.F.R. 146.6(a)(2), as published July 1, 2000, which is hereby adopted by reference.

(b) Conditions for simultaneous injection. Simultaneous injection may be permitted if, in addition to the requirements of subsection (a) above, all of the following conditions are met:

- (1) Injection will not adversely affect offsetting production or endanger fresh and usable groundwater.
- (2) Injection pressure is limited to less than the local injection formation fracture gradient.
- (3) The injection well is continuously cemented across the injection and producing intervals.
- (4) The well demonstrates mechanical integrity.

(c) Protection of fresh and usable water. Before any formations may be approved for use, determinations shall be made that these formations are separated from fresh and usable water formations by impervious beds to give adequate protection to the fresh and usable water formations.

(d) In reviewing applications for injection wells, the protection of hydrocarbons and water resources and oil and gas advisory committee recommendations concerning safe depths for injection for all producing areas in the state shall be considered by the conservation division.

(e) Minimum depth for injection. If no additional information, including well logs, formation tests, water quality data, and water well data, is made available by the operator, table II, "established minimum depths for disposal wells," revised August 1, 1987, and hereby adopted by reference, shall be used by the conservation division in determining the minimum depth for the injection of saltwater.

(f) For all injection well applications that require wellhead pressure to inject fluids, filed on and after December 8, 1982, the operator shall inject the fluids through tubing under a packer set immediately above the uppermost perforation or open-hole zone, except as specified in K.A.R. 82-3-406. A packer run on the tubing shall be set in casing opposite a cemented interval at a point immediately above the uppermost perforation or open-hole interval.

(g) Design approval. If the application requests design approval, approval of the design of the proposed well may be obtained before actual construction of the well.

(1) Each applicant shall be notified by the conservation division of its approval of the well design if both of the following conditions are met:

(A) All requirements set forth in K.A.R. 82-3-401(a), K.A.R. 82-3-402(a), and K.A.R. 82-3-403(a) have been met.

(B) The design of the proposed well will protect fresh and usable water.

(2) Upon completion of each well, the applicant shall submit a copy of the well completion report, on the form furnished by the commission, to the conservation division. The application for the injection of fluid into the proposed well for injection purposes shall be approved, if there are not significant differences between actual construction and the approved designed construction of the proposed well and if the mechanical integrity of the well has been tested according to K.A.R. 82-3-407.

(h) Emergency authority. Emergency authority to inject or dispose of fluids at an alternate location, if a facility is shut in for maintenance, testing, or repairs, or by order of the commission, may be granted by the conservation division.

17. The information sought in Data Request #14 is not relevant to the Commission's determination as to the permits requested by TDR. Specifically, the data request states:

"Please provide us with all KCC staff reports and memos related establishing the facts that led to the concerns of the KCC in the case: United States of America before the Federal Energy Regulatory Commission Southern Star Central Gas Pipeline, Inc. Docket no. CP06-49-000; Notice of Intervention, Protest And Request For Technical Conference Of The Kansas Corporation Commission. In section "VII. Protest", the KCC expresses concerns about the leaking of abandoned or old wells that are similar to our concerns about old and abandoned wells. We do not wish to see discussions of legal strategies used in the case."

18. As noted, the Discovery Order was limited to matters that are "clearly relevant",⁷ which is consistent with K.A.R. 82-1-234a(a) that states "[d]iscovery shall be limited to matters that are clearly relevant to the proceeding involved." Additionally, "data requests must be designed to elicit material facts within the knowledge of the parties."⁸ Data request #14 seeks information regarding a 2006 federal natural gas storage migration case involving an interstate pipeline company that has no bearing on whether the Commission should issue a permit to TDR for saltwater injection.

19. The data request is unreasonably broad in that Petitioners fail to articulate reasons as to how a federal case regarding natural gas storage migration is clearly relevant to the Applications filed by TDR. The request is unnecessarily burdensome because it requests materials from approximately thirteen years ago. The Kansas Records Retention Schedules provide that the amount of time records are required to be kept by the Commission relating to Federal Energy Regulatory Commission matters is five calendar years.⁹ As such, the documents requested pre-date the retention policy.

⁷ *Id.* at ¶ 15.

⁸ *Id.*

⁹ Series ID 0179-143.


20. Moreover, as an update for the Commission, notwithstanding the unqualified objection Staff launched with regard to the relevance of the material sought in Data Request #14, Staff did inquire as to whether any known files continue to exist relating to the referenced FERC matter. Staff was unable to locate any such files.

21. With regard to Data Request #4 and #8, as noted previously, Staff has provided the requested information, and as such, the Motion to Compel with regard to those two data requests is moot.

22. In conclusion, Staff respectfully requests the Commission deny Protestants' Motion to Compel because, as pertaining to Data Request #14, the materials sought are not clearly relevant to the matter before the Commission, and moreover, due to the age of the materials sought, Staff was unable to locate any such documents. Further, with regard to Data Requests #4 and #8, Staff has provided the requested information.

WHEREFORE, Staff requests the Commission deny Protestant's Motion, and for any such further relief as the Commission may deem just and proper.

Respectfully submitted,



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BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the matter of the Application of)	Docket No: 20-CONS-3043-CUIC
TDR Construction, Inc. for a)	
permit to authorize the enhanced)	CONSERVATION DIVISION
recovery of saltwater into the)	
Moldenhauer #42 well, located)	License No. 32218
<u>in Franklin County, Kansas</u>)	

In the Matter of the Application of)	Docket No. 20-CONS-3079-CUIC
TDR Construction, Inc. for a)	
permit to authorize the enhanced)	CONSERVATION DIVISION
recovery of saltwater into the)	
Moldenhauer #30 and)	License No. 32218
Moldenhauer #45 wells, located in)	
Franklin County, Kansas)	

INFORMATION REQUEST

COME NOW Scott Yeargain and Polly Shteamer, Protestants in these dockets, who respectfully request that the Conservation Division of the Corporation Commission provide responses to them (Scott Yeargain and Polly Shteamer) by October 28, 2019:

1. Has the KCC done baseline water testing in the upper Marais des Cygnes watershed upstream of Rural Water 6 of Franklin County? Please provide a copy of any report of such.

OBJECTION: Staff objects to this question in its entirety on the grounds that it is unreasonably broad as to time and scope, is unnecessarily burdensome, and the form of the question calls for speculation. Additionally, the materials requested

are not “clearly relevant” to the matter before the Commission, as required by the Commission’s Discovery Order (see, ¶ 15). Notwithstanding the objection, Staff will provide a response.

RESPONSE:

2. Has the KCC tested any water or irrigation well or any river or creek in the Marais des Cygnes watershed upstream of Rural Water 6 of Franklin County following a complaint relating to oil and gas activities. Please provide a copy of the complaint.

OBJECTION: Staff objects to this question in its entirety on the grounds that it is unreasonably broad as to time and scope, and is unnecessarily burdensome. Notwithstanding the objection, Staff will provide a response.

RESPONSE:

3. Please provide us with a copy of area permit E-18352 and all the documents supporting this permit.

RESPONSE:

4. Please provide the most current Mechanical Integrity Reports for all the wells on the Moldenhauer lease.

RESPONSE:

5. Please provide the most current test results/reports that show the quality of the bonding of the cement to the borehole and the well casing for all the wells on the Moldenhauer lease.

RESPONSE:

6. Please describe cap formation for the Squirrel Formation in the area of the Moldenhauer lease. For example, the name, lithography, permeability, porosity, depth, and the presence of any know faults in this cap formation within a 10 mile radius from the Moldenhauer lease.

RESPONSE:

7. Please provide a map (rather than a list of sections or partial sections that contain sensitive groundwater areas) of the areas considered sensitive groundwater areas by the for the northeast ¼ of Franklin County.

OBJECTION: Staff objects to this question on the grounds that the form of the question calls for speculation as to the requested information. Notwithstanding the objection, Staff will respond.

RESPONSE:

8. Please list all wells without a known operator within five miles of the Moldenhauer lease.

OBJECTION: Staff objects to this question on the grounds that the materials requested are not “clearly relevant” to the matter before the Commission, as required by the Commission’s Discovery Order (see, ¶ 15). Notwithstanding the objection, Staff will provide a response.

RESPONSE:

9. Please list any and all abandoned wells within 5 miles of the Moldenhauer lease that the state of Kansas has either paid to have plugged or that the KCC has had to require the operator to plug after a complaint.

OBJECTION: Staff objects to this question in its entirety on the grounds that the form of the question calls for speculation as to the requested information, the question is unreasonably broad, and is unduly burdensome. Additionally, the materials requested are not “clearly relevant” to the matter before the Commission, as required by the Commission’s Discovery Order (see, ¶ 15). Notwithstanding the objection, Staff will provide a response.

RESPONSE:

10. Please describe the equipment and processes that the KCC uses to search for abandoned or unknown wells in KCC district 3. Please list the circumstances under which the KCC will begin a search.

RESPONSE:

11. K.S.A. 55-178 and K.S.A. 55-179 provides for a process by which citizens can file a complaint and the KCC will begin an investigation of a well suspected of causing pollution. Please provide a list any such complaints that have been filed on such suspected wells within 5 miles of the Moldenhauer lease. If an investigation was done by the KCC, please include the investigator’s report.

OBJECTION: Staff objects to this question in its entirety on the grounds that it is unreasonably broad as to time and scope, and is unnecessarily burdensome. Notwithstanding the objection, Staff will provide a response.

RESPONSE:

12. Has LIDAR technology been used by any Kansas state agency to look for abandoned oil and gas wells in Kansas?

RESPONSE:

13. Does KCC follow the IOGCC's (Interstate Oil and Gas Compact Commission) "Plugging Prioritization Schedule for orphaned and Abandoned Well Sites" suggested method for listing and prioritizing abandoned wells that need to be plugged?

OBJECTION: Staff objects to this question on the grounds that the materials requested are not "clearly relevant" to the matter before the Commission, as required by the Commission's Discovery Order (see, ¶ 15). Notwithstanding the objection, Staff will provide a response.

RESPONSE:

14. Please provide us with all KCC staff reports and memos related establishing the facts that led to the concerns of the KCC in the case: United States of America before the Federal Energy Regulatory Commission Southern Star Central Gas Pipeline, Inc. Docket no. CP06-49-000; Notice of Intervention, Protest And Request For Technical Conference Of The Kansas Corporation Commission. In section "VII. Protest", the KCC expresses concerns about the leaking of abandoned or old wells that are similar to our concerns about old and abandoned wells. We do not wish to see discussions of legal strategies used in the case.

OBJECTION: Staff objects to this question in its entirety on the grounds that it is unreasonably broad, is unnecessarily burdensome, requests materials more than ten years old, and involves a case of natural gas storage migration, which is not at issue in this matter. As such, the materials requested are not "clearly relevant" to the matter before the Commission, as required by the Commission's Discovery Order (see, ¶ 15).

RESPONSE:

15. In the KCC document "Appendix "B" - Eastern Surface Casing Order #133,891-C" Area 2 rule 1., is the "20' of steel surface pipe" considered the surface casing or is the production string casing considered the surface casing? Regarding this same rule, in the area of the Osage Aquifer have "special casing

and cementing requirements” ever been required by the KCC? Please give examples of the circumstance under which the KCC would require the “special casing and cementing requirements” as spoken of in the rule.

RESPONSE:

Respectfully submitted,

/s/ Polly Shteamer

Polly Shteamer
2263 Nevada Road
Ottawa, Kansas 66067
2263 Nevada Road

/s/ Scott Yeargain

Scott Yeargain
2263 Nevada Road
Ottawa, Kansas 66067

CERTIFICATE OF SERVICE

We hereby certify that a copy of the above and foregoing was sent via U.S. Mail, postage prepaid, hand-delivery, or electronically, this 21st day of October, 2019 to:

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Lance Town
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PO Box 716
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From: [Kelcey Marsh](#)
To: "Scott Yeargain"; Jon Myers; "pshteamer@gmail.com"; Keith Brock
Cc: [Jake Eastes](#); [Michael Glamann](#); [Rene Stucky](#); [Lesli Baker](#)
Subject: RE: Discovery Requests from Protestants in Moldenhauer Dockets Before KCC
Date: Monday, October 28, 2019 4:38:04 PM
Attachments: [KCC Discovery Answers pt. 1.pdf](#)
[Attachment A - Area Permit.pdf](#)
[Attachment B - MIT.pdf](#)
[Attachment C - Cement Tickets.pdf](#)
[Attachment D - Franklin County.pdf](#)
[Attachment E - Faulting.pdf](#)
[Attachment F - BasementFaulting.pdf](#)
[Attachment G - Wells.xlsx](#)

Scott and Polly,

Attached is the KCC's responses to your discovery requests. Some of our Staff has been out of the office recently, so there are a few questions we are still gathering data for. However, we are hoping to have it gathered by the end of the week. The Excel document contains the responses to paragraphs 8 and 9. The wells with the status marked "PF" are the response to paragraph 9. The remainder of the wells are the response to paragraph 8. Wells where the "well number" portion of the API number begins with #7 have been merged from another data source and have not been independently verified by the KCC.

Please let me know if you have any questions,

KM

Kelcey Marsh
Litigation Counsel



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BEFORE THE STATE CORPORATION COMMISSION
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In the matter of the Application of) Docket No: 20-CONS-3043-CUIC
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Moldenhauer #30 and) License No. 32218
Moldenhauer #45 wells, located in)
Franklin County, Kansas)

INFORMATION REQUEST

COME NOW Scott Yeargain and Polly Shteamer, Protestants in these dockets, who respectfully request that the Conservation Division of the Corporation Commission provide responses to them (Scott Yeargain and Polly Shteamer) for the following:

1. For the area in the Marais des Cygnes watershed in Franklin County Kansas, please provide a list of investigations done by the KCC and a copy of the investigator's report pursuant to K.S.A. 55-180.

RESPONSE: **OBJECTION:** Staff objects to this question in its entirety on the grounds that it is unreasonably broad as to time and scope, and is unnecessarily burdensome. Additionally, the materials requested are not "clearly relevant" to the

matter before the Commission, as required by the Commission's Discovery Order (see, ¶ 15). Notwithstanding the objection, Staff will provide a response.

2. Please provide a list of actions from 1/1/2000 to 11/1/2019 that have been initiated by the KCC pursuant to:

K.S.A. 55-156. "Protection of water prior to abandoning of well; penalty for noncompliance. Prior to the abandonment of any well which has been drilled, is being drilled or may hereafter be drilled, the operator shall protect usable groundwater or surface water from pollution and from loss through downward drainage by plugging the well, in accordance with the rules and regulations adopted by the commission. Failure to comply with such rules and regulations shall be a severity level 10, nonperson felony.

With regard to this query we wish the Commission's Staff to include any actions directed to Blunk I-10, API 15-059-27130 and Blunk I-11, API 15-059-27144 and to the entirety of the McGinnis lease, Twp. 17S, R 21 E, S. 32, NE, Franklin county.

RESPONSE: **OBJECTION:** Staff objects to this question on the grounds that it is unreasonably broad as to time and scope. Further, the materials requested are not "clearly relevant" to the matter before the Commission, as required by the Commission's Discovery Order (see, ¶ 15). Notwithstanding the objection, Staff will provide a response.

3. Please provide any evidence you have that the approved rate of 40 bbls per day per EOR well and the approved pressure of 650 psi approved on the area permit #E-18352, for the Moldenhauer lease, will not cause channeling in the reservoir targeted.

RESPONSE:

4. K.A.R. 82-3-106(d)(4); states "The use of any material other than a Portland cement blend shall be prohibited." Please provide a reference to any KCC regulation or exception that allows the use something other than a Portland blend cement to be used in cementing a surface casing string under Alternative II cementing requirements. If the KCC has provided an exception to this regulation

for any well in the Upper Marais des Cygnes Watershed, please provide a list of such wells and the reasons for allowing the exception.

RESPONSE:

5. The following data request is a clarification and extension of **data request #5** In our discovery requests of October 21, 2019. The response was cement tickets for the wells in the question. Cement tickets do not contain the information requested, which is “results/reports that show the quality of the bonding of the cement to the borehole and the well casing for all the wells in the Moldenhauer lease.” K.A.R. 82-3-106(d)(2) Surface casing and cement; states “the annular space between the surface casing and the borehole shall be filled with a Portland cement blend and maintained at surface level.”

- (a) Please provide a list of any and all K.A.R. oil and gas regulations that require a test for the bonding of the cement casing to the borehole and/or the casing of a well or that exempt a well from such a requirement.
- (b) Please provide a wireline bonding log (for bonding of cement as in the original question) for all the wells in the Moldenhauer lease. This is a repeat of the original request #5, which I hope is now clear. I do not mean by “wireline bonding log” the wireline gamma ray/neutron logs.
- (c) Appendix “B” - Eastern Surface Casing Order #133,891-C Area 2 states; “a bond log may be required on the long string from the operator by the KCC.” Please provide any bond log that has been performed in Area 2 in response to the requirement by the KCC.

RESPONSE:

6. Please provide any and all wireline logs providing formation fluid sampling and any related reports for wells on the Moldenhauer lease and within ½ mile of the Moldenhauer lease.

RESPONSE:

7. Please provide for all the lists in Attachment G in your response to our first set of Molderhauer lease discovery questions (specifically **request #8 and request #9**), a legend that explains the headings used and any and all abbreviations used in that attachment whether in the headings, the body, or the filter choices of these lists.

RESPONSE:

8. The following question is a clarification and extension of **request #10** in our discovery requests of October 21,2019. Additionally, provide any and all forms which may be used by employees of the KCC for reports during a search for or investigation of abandoned wells.

RESPONSE:

9. The following request is a clarification and extension of **request #12** in our discovery requests of October 21,2019. Your response says “not to our knowledge”, however this response is not signed. On whose knowledge is this answer based? Additionally, do you have knowledge extending beyond the KCC conservation division?

RESPONSE:

10. The following question is a clarification and extension of **data request #13** in our requests of October 21,2019. Please describe in detail and provide any and all forms that might be used in establishing the prioritization schedule

(reference K.S.A. 55-192(b)(3)) for plugging abandoned wells with funds for the Abandoned oil and gas well fund established pursuant to K.S.A. 55-192.

RESPONSE:

11. For each year 1996 through 2019 inclusive, please name the amount and source of funds that were deposited into the Abandoned Oil and Gas Well Fund.

RESPONSE: **OBJECTION:** Staff objects to this question in that it is unreasonably broad as to time and scope, and is unnecessarily burdensome. Additionally, the materials requested are not “clearly relevant” to the matter before the Commission, as required by the Commission’s Discovery Order (see, ¶ 15). The subject matter of this docket is the injection application filed by TDR Construction, Inc. at the Moldenhauer lease, not the abandoned oil and gas well fund.

12. For each year 1996 through 2019 inclusive, please name the amount spent from Abandoned Oil and Gas Well Fund on plugging or re-plugging abandoned wells.

RESPONSE: **OBJECTION:** Staff objects to this question in that it is unreasonably broad as to time and scope. Additionally, the materials requested are not “clearly relevant” to the matter before the Commission, as required by the Commission’s Discovery Order (see, ¶ 15). The subject matter of this docket is the injection application filed by TDR Construction, Inc. at the Moldenhauer lease, not the abandoned oil and gas well fund. Notwithstanding the objection, Staff will provide a response.

13. For each year 1996 through 2019 inclusive, please list the number of wells that were plugged or re-plugged with funds from the Abandoned Oil and Gas Well Fund.

RESPONSE: OBJECTION: Staff objects to this question in that it is unreasonably broad as to time and scope. Additionally, the materials requested are not “clearly relevant” to the matter before the Commission, as required by the Commission’s Discovery Order (see, ¶ 15). The subject matter of this docket is the injection application filed by TDR Construction, Inc. at the Moldenhauer lease, not the abandoned oil and gas well fund. Notwithstanding the objection, Staff will provide a response.

14. For each year 1996 through 2019 inclusive, please list the number of wells that were added to the Abandoned well list.

RESPONSE: OBJECTION: Staff objects to this question in that it is unreasonably broad as to time and scope. Additionally, the materials requested are not “clearly relevant” to the matter before the Commission, as required by the Commission’s Discovery Order (see, ¶ 15). The subject matter of this docket is the injection application filed by TDR Construction, Inc. at the Moldenhauer lease, not the abandoned oil and gas well fund. Notwithstanding the objection, Staff will provide a response.

15. For each year 1996 through 2019 inclusive, please list the amount of funds removed from the Abandoned Oil and Gas Well Fund that were not spent for the purposes delineated in K.S.A 55-192.

RESPONSE:

16. Is there a fund in addition to the Abandoned Oil and Gas Well Fund administered by the KCC that provides for the plugging of abandoned wells that have been abandoned since July 1, 1996 or wells that might be abandoned in the future?

RESPONSE:

17. Please provide any and all emails, reports and/or correspondence from the KCC to the Oil and Gas Advisory Committee or any of its members between the dates 11/1/2018 through 11/4/2019 that deals with the Abandoned Oil and Gas Well Fund.

RESPONSE: **OBJECTION:** "Staff objects to this question in that it is unreasonably broad, and is unnecessarily burdensome." Further, Staff objects to this question on the grounds that the materials requested are not "clearly relevant" to the matter before the Commission, as required by the Commission's Discovery Order (see, ¶ 15). The subject matter of this docket is the injection application filed by TDR Construction, Inc. at the Moldenhauer lease, not the abandoned oil and gas well fund.

18. This is an extension of the information requested in question 3 in our first discovery questions filed 10/21/19. What type of information does the KCC require from the operator before granting of an Area Permit - Notice of Enhanced Recovery Project. Please provide the information/reports or studies does the KCC base its judgement of the appropriateness of the maximum approved for the injection rate and the maximum approved injection pressure in area permit E-18,352.

RESPONSE:

19. What is the fracture gradient for the Squirrel formation in the area of the Moldenhauer lease. Please provide us with the technical report or studies on which this information is based.

RESPONSE:

Respectfully submitted,

/s/ Polly Shteamer

Polly Shteamer

2263 Nevada Road

Ottawa, Kansas 66067

/s/ Scott Yeargain

Scott Yeargain

2263 Nevada Road

Ottawa, Kansas 66067

CERTIFICATE OF SERVICE

We hereby certify that a copy of the above and foregoing was sent via U.S. Mail, postage prepaid, hand-delivery, or electronically, this 4th day of November, 2019 to:

Michael Glamman
m.glamann@kcc.ks.gov

Jake Eastes
j.eastes@kcc.ks.gov

Kelcey Marsh
k.marsh@kcc.ks.gov

Jonathan R. Myers
j.myers@kcc.ks.gov

Rene Stucky
r.stucky@kcc.ks.gov

Keith Brock
kbrock@andersonbyrd.com

Lesli Baker
lesli@dbdoil.com

Lance Town
TDR Construction, Inc.
PO Box 716
Louisburg, Kansas 66053

/s/ Polly Shteamer
Polly Shteamer
2263 Nevada Road
Ottawa, Kansas 66067

/s/ Scott Yeargain
Scott Yeargain

2263 Nevada Road
Ottawa, Kansas 66067

Kelcey Marsh

From: Scott Yeargain <syeargai2@gmail.com>
Sent: Monday, November 11, 2019 3:09 PM
To: Kelcey Marsh
Subject: Responses to Protestors' requests in Moldenhauer dockets

This is an EXTERNAL EMAIL. Think before clicking a link or opening attachments.

Kelcey,

Good afternoon. I wish to thank you for mailing to us Staff's responses to our second set of requests in these dockets. You mailed these responses on Friday, November 8th. So, thank you.

Kelcey, regarding Staff's responses, Rene answers our request #4; in his response he says "Also see Attachment Q4." We do not find Attachment Q4. In addition, in response to our inquiry #8, Troy Russell replies "See Attachment Q8a and Q8b." We find no such attachments. We are requesting that you send, or resend, those attachments. And we thank you for this.

And, another matter. In our first set of inquiries, dated October 21, our inquiry #14 we requests staff "reports and memos" related to establishing the facts that led to the concerns of staff in FERC docket CP06-49-000. We are interested in section VII of that docket. Our thinking is that staff's concerns there align with our own. We believe that staff's concerns there will articulate failure profiles and parameters not dissimilar to the conditions present in Moldenhauer: UIC wells, older abandoned wells, perhaps abandoned and plugged wells (plugged to the standards of Commission's 1940's regulations), presence of gas and oil in geologic proximity. Our research indicates that E.E. Jones was the grantee of an oil and gas lease to H.C. McLain in section 29, the Moldenhauer section, dated July 15, 1924. This is section 29, Twp. 15S, R. 21E. This lease is recorded on p. 153 of book 6-B in the Franklin county recorder's office. Staff did state in its response to our request #14 that "Staff is still in the process of gathering this data, and we hope to be able to deliver it by the end of the week." We received this last quoted sentence from Staff on October 28th; the end of that week was Nov. 1; today's date is November 11th. We have not received Staff's response. This is just a head-up, Kelcey that we will file a motion to compel tomorrow morning, the 12th, and in doing so will attempt to make the case that our request is relevant to the docket and not available by any means other than through the Staff. If you have any questions regarding the relevance of this requested information to the docket please do not hesitate to call Polly (9136497388) or me (7854187615). Kelcey, deadline for compel motions in these dockets is noon tomorrow (the 12th). I'll say that if we do not receive the requested information by 10 am tomorrow morning, we will file a motion to compel.

I hope you are well, Kelcey. We're having fall calves here. Unkind weather for this. I have the near-birth mothers in the close-by lot where they have access to the barn; should be 10F here in the morning with some snow on the ground. Hopefully no births tonight.

Scott

Kelcey Marsh

From: Kelcey Marsh
Sent: Tuesday, November 12, 2019 8:10 AM
To: 'Keith Brock'; 'Scott Yeargain'; Michael Glamann; Jake Eastes; Jon Myers; Rene Stucky; 'Lesli Baker'; 'Polly Shteamer'
Cc: Paula Murray; Terri Pemberton
Subject: RE: Protestants' Discovery Requests related to Moldenhauer Dockets (3043 and 3079)
Attachments: Q4.pdf; Q8a.pdf; Q8b.pdf

All,

I apologize, I forgot to add the attachments to the email that I sent out Friday. Here they are.

Sincerely,
KM

From: Kelcey Marsh
Sent: Friday, November 08, 2019 4:53 PM
To: 'Keith Brock' <KBrock@andersonbyrd.com>; Scott Yeargain <syeargai2@gmail.com>; Michael Glamann <m.glamann@kcc.ks.gov>; Jake Eastes <j.eastes@kcc.ks.gov>; Jon Myers <j.myers@kcc.ks.gov>; Rene Stucky <r.stucky@kcc.ks.gov>; Lesli Baker <lesli@dbdoil.com>; Polly Shteamer <pshteamer@gmail.com>
Cc: Paula Murray <p.murray@kcc.ks.gov>; Terri Pemberton <t.pemberton@kcc.ks.gov>
Subject: RE: Protestants' Discovery Requests related to Moldenhauer Dockets (3043 and 3079)

All,

Attached are Staff's responses to the second round of discovery requests made by Scott and Polly.

Thank you,
KM

From: Keith Brock <KBrock@andersonbyrd.com>
Sent: Friday, November 08, 2019 1:38 PM
To: Scott Yeargain <syeargai2@gmail.com>; Michael Glamann <m.glamann@kcc.ks.gov>; Jake Eastes <j.eastes@kcc.ks.gov>; Kelcey Marsh <k.marsh@kcc.ks.gov>; Jon Myers <j.myers@kcc.ks.gov>; Rene Stucky <r.stucky@kcc.ks.gov>; Lesli Baker <lesli@dbdoil.com>
Subject: RE: Protestants' Discovery Requests related to Moldenhauer Dockets (3043 and 3079)

This is an EXTERNAL EMAIL. Think before clicking a link or opening attachments.

Mr. Yeargain,

Please find attached the responses to the second discovery requests and a notice of service of such responses.

Keith Brock
Anderson & Byrd, LLP
216 S. Hickory, P.O. Box 17
Ottawa, KS 66067
Phone: (785) 242-1234

Fax : (785) 242-1279

From: Scott Yeargain [<mailto:syeargai2@gmail.com>]

Sent: Monday, November 4, 2019 10:32 AM

To: m.glamann@kcc.ks.gov; Jake Eastes; k.marsh@kcc.ks.gov; Jon Myers; Rene Stucky; Keith Brock; Lesli Baker

Subject: Protestants' Discovery Requests related to Moldenhauer Dockets (3043 and 3079)

All,

Please find the requests referenced above attached.


Thank you,

Scott Yeargain

VERIFICATION

STATE OF KANSAS)
) ss.
COUNTY OF SEDGWICK)

Kelcey A. Marsh, of lawful age, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas; that he has read and is familiar with the foregoing *Response to Motion to Compel*, and attests that the statements therein are true to the best of his knowledge, information and belief.



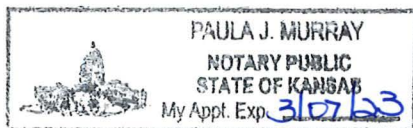
Kelcey A. Marsh, S. Ct. #28300
Litigation Counsel
State Corporation Commission
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 15 day of Nov, 2019.



Notary Public

My Appointment Expires: 3/07/23



CERTIFICATE OF SERVICE

20-CONS-3043-CUIC, 20-CONS-3079-CUIC

I, the undersigned, certify that a true copy of the attached Response to Motion to Compel has been served to the following by means of electronic service on November 15, 2019.

LESLI BAKER
TDR CONSTRUCTION, INC.
PO Box 716
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lesli@dbdoil.com

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SCOTT YEARGAIN
2263 NEVADA RD
OTTAWA, KS 66067
syeargai2@gmail.com

/s/ Paula J. Murray

Paula J. Murray