

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

In the matter of the petition of Daylight)	Docket Nos.: 25-CONS-3040-CMSC
Petroleum, LLC (Operator) to open a docket)	
pursuant to K.S.A. 55-605(a) regarding a fluid)	CONSERVATION DIVISION
leak in Section 16, Township 30 South, Range)	
16 East, Wilson County, Kansas.)	License No.: 35639

**RESPONSE TO SECOND MOTION TO FILE LATE-EXHIBIT
OF DAYLIGHT PETROLEUM, LLC**

Staff of the Kansas Corporation Commission (Staff and Commission, respectively) hereby submits its Response to the Second Motion to File Late-Exhibit of Daylight Petroleum (Second Motion). In support of its Response, Staff states as follows:

1. On February 20, 2025, the Commission held a hearing regarding the captioned matter. At the end of the hearing, Commissioner Keen closed the record regarding this matter.¹

2. On April 17, 2025, Operator submitted its Motion to File Late-Filed Exhibit of Daylight Petroleum, LLC (Motion). Specifically, Operator's Motion sought to introduce a water sampling report taken after the hearing was held in this matter. To date, the Commission has not admitted the exhibit into the record.

3. On May 29, 2025, the Commission issued an Order. The Order determined that pollution was being caused, and found that Operator, more likely than not, caused the pollution through an abandoned well.² Additionally, the Commission found Operator's monitoring proposal to be inadequate and directed the parties to explore alternative measures to locate and plug the well that would minimize property damage.³

4. On June 25, 2025, Operator submitted its Second Motion. The Second Motion seeks to admit a groundwater sampling report from June 2025 into the formal record. The

¹ Evidentiary Hearing Transcript, p. 328:20-23 (Mar. 6, 2025).

² Order, ¶¶6-8 (May 29, 2025).

³ *Id.* at ¶18.

Second Motion also makes a conclusory statement that ongoing pollution or loss of usable water is not occurring based upon the last two quarterly samples showing a decrease in chloride concentrations.⁴

5. Operator's Second Motion should be denied. As Staff stated in its response to Operator's Motion, filing a motion to enter an exhibit into the record after the record has been closed is highly inappropriate and prejudicial against Staff. The Second Motion makes conclusory statements regarding the exhibit without affording Staff the opportunity to review the exhibit or perform any cross examination regarding the exhibit. One issue with Operator's Motion was its failure to lay any foundation for the admittance of the exhibit. Operator attempts to correct that issue by stating the exhibit should be admitted because Staff required Operator to drill the monitoring wells and take quarterly samples from the wells.⁵ However, that still does not lay any foundation to admit the exhibit because no one who testified at the hearing would have had knowledge of the proposed exhibit at the time that the hearing occurred. Further, Staff requiring an operator to drill the monitoring wells and collect samples in order to determine the impact to fresh and usable water and providing Operator additional time to locate and plug an abandoned well are not sufficient reasons to admit an exhibit into the record after a hearing has been held and a Commission Order has been issued.

6. Operator's Second Motion should also be denied because the exhibit referenced in Operator's Second Motion is moot to the case at this stage of the proceeding. The Second Motion alleges that the chloride concentrations demonstrate that the ongoing pollution or loss of usable water is not occurring.⁶ This statement in the Second Motion confirms that Operator caused pollution to occur from the abandoned well beneath the building. However, that

⁴ Second Motion to File Late-Filed Exhibit of Daylight Petroleum LLC, ¶8 (June 25, 2025).

⁵ *Id.* at ¶7.

⁶ *Id.* at ¶8.

determination has already been made by the Commission in its Order. As stated above, the Commission's Order determined that Operator caused pollution to occur from an abandoned well beneath the building.⁷ That determination causes Operator to be responsible for the proper care and control of the abandoned well. Since these findings have already been made by the Commission, Operator's Second Motion does not add any value to the record and should be determined to be moot. Based on the information above, Operator's Second Motion must be denied and the exhibit attached to the Second Motion must not be entered into the record.

WHEREFORE, Staff respectfully submits this Response to Operator's Second Motion and respectfully requests the Commission deny Operator's Second Motion and for any other relief the Commission deems just and equitable.

Respectfully Submitted,

/s/ Kelcey Marsh
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⁷ See Order at ¶¶6-8.

CERTIFICATE OF SERVICE

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I, the undersigned, certify that a true and correct copy of the attached Response has been served to the following by means of electronic service on July 7, 2025.

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