

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

In the matter of the failure of Ace Energy,)	Docket No. 23-CONS-3195-CPEN
LLC (Operator) to comply with K.A.R.)	
82-3-407 at the Grundy B #5 SWD well in)	CONSERVATION DIVISION
Greenwood County, Kansas.)	
_____)	License No. 34998

In the matter of the failure of Ace Energy,)	Docket No. 23-CONS-3268-CPEN
LLC (Operator) to comply with K.A.R.)	
82-3-407 at the Grundy B #5 SWD well in)	CONSERVATION DIVISION
Greenwood County, Kansas.)	
_____)	License No. 34998

MOTION TO CONSOLIDATE

COMES NOW, Ace Energy, LLC (“Operator”), by and through its counsel of record, Jonathan A. Schlatter and Jackson C. Ely of Morris, Laing, Evans, Brock & Kennedy, Chtd., and pursuant to K.A.R. 82-1-224 submits this Motion to Consolidate the above captioned matter with the proceedings in the State Corporation Commission of Kansas (“Commission”) Docket No. 23-CONS-3017-CPEN (consolidated with Commission Docket Nos. 23-CONS-3029-CPEN, 23-CONS-3087-CPEN, 23-CONS-3135-CPEN, and 23-CONS-3143-CMSC). Operator states and alleges to the Commission as follows:

1. K.A.R. 82-1-224 states “[t]wo or more dockets may be consolidated for hearing on a common record if the commission deems it to be in the public interest to do so.”¹
2. The Commission has already sought to consolidate multiple dockets pertaining to disputes between Operator and Staff, including consolidating two dockets together already in this proceeding and consolidating five dockets together in the 23-CONS-3017-CPEN (consolidated) proceeding. These dockets have been consolidated for the good cause of judicial efficiency.

¹ K.A.R. 82-1-224(b).

3. The matters pertaining to the two consolidated dockets at issue in this proceeding each revolve around the operation of the Grundy B #5 SWD well in Greenwood County, Kansas, specifically the alleged unauthorized injection at said Grundy B #5 SWD well arising out of one or more alleged failed mechanical integrity test (“MIT”).

4. The matters at issue in 23-CONS-3135-CPEN, which has already been consolidated with 23-CONS-3017-CPEN (consolidated), also revolve around the operation of the exact same well, the Grundy B #5 SWD well in Greenwood County, Kansas, specifically allegations of either unauthorized injection or filing a false U3C report.

5. Staff has already put the same matters at issue here into dispute in the 23-CONS-3017-CPEN (consolidated) docket, specifically by its inclusion of the field inspection report for the Grundy B #5 SWD well in Exhibit RD-1, which was attached to the Pre-Filed Testimony of Ryan Duling in said 23-CONS-3017-CPEN (consolidated) docket, which stated “Grundy B #5 SWD is an unauthorized disposal well... This well failed a Mechanical Integrity Test (MIT) on 9/18/2022.”² The exact same failed MIT is referenced in both Penalty Orders pertaining to this consolidated docket and the Penalty Order for 23-CONS-3268-CPEN.

6. Given that the allegations in this consolidated docket relate to Operator’s alleged failure to show a successful MIT, which is exactly the same as the allegation set forth in the Exhibit to Mr. Duling’s Pre-Filed Testimony in 23-CONS-3017-CPEN (consolidated), the exact same evidence is pertinent to both proceedings.

7. The same well is at issue in both proceedings, the same allegations have been made in both proceedings, the same MIT results are incorporated into both proceedings, the same evidence will be pertinent at both proceedings, and the same parties comprise both proceedings. Any argument that this docket 23-CONS-3195-CPEN (consolidated) should not be consolidated

² See, Exhibit RD-1, at 257 of 667 (relevant portions, p.1 and p. 257, attached hereto as Exhibit A).

with 23-CONS-3017-CPEN (consolidated) is meritless as both dockets revolved around the exact same act of alleged unauthorized injection.

8. Maintaining separate proceedings for dockets which are clearly related to one another is prejudicial to Operator and causes Operator to incur more expenses to defend itself twice against the same issue. Maintaining separate proceedings also creates the unfair opportunity for Staff to have two bites at the same apple and may create the issue of two separate outcomes arising out of the same incident. Such procedural flaws are prejudicial to Operator's due process rights.

9. There will be no improper delay to the proceedings of 23-CONS-3017-CPEN (consolidated) by the effect of consolidating these proceedings. Instead, consolidation furthers the efficiency of justice as Operator is entitled to a hearing in all the aforementioned dockets as a matter of law and conducting one hearing is obviously more judicially efficient than conducting multiple hearings on the exact same well, the Grundy B #5 SWD well in Greenwood County, Kansas, which address evidence of the exact same MIT results.

10. Further, as Staff has asserted the same allegations in both proceedings, the same evidence pertaining to this proceeding may not be used in 23-CONS-3017-CPEN (consolidated) or the principles of collateral estoppel will be violated. Staff will not be prejudiced by the consolidation of these dockets, as Staff will still maintain its ability to present its case against Operator and these issues are not at risk of becoming moot.

11. The identical subject matter, evidence common to both proceedings, preservation of Operator's constitutional rights, and judicial efficiency all indicate that consolidating these matters is proper and necessary.

CONCLUSION

For the foregoing reasons, Operator submits this Motion to Consolidate to request that the Commission consolidate the dockets in this proceeding with the proceedings in Docket 23-CONS-3017-CPEN (consolidated).

Respectfully submitted,

MORRIS, LAING, EVANS, BROCK
& KENNEDY, CHARTERED

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CERTIFICATE OF SERVICE

I, Jackson C. Ely, hereby certify that on this 7th day of August, 2023, I caused the original of the foregoing **Motion to Consolidate** to be electronically filed with the Conservation Division of the State Corporation Commission of the State of Kansas, and served to the following by means of electronic service:

Jonathan A. Myers, Assistant General Counsel
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/s/ Jackson C. Ely
Jackson C. Ely, #29037

EXHIBIT A

KCC OIL/GAS REGULATORY OFFICES

Inspection Date: 01/13/2023 District: 3 Incident Number: 8230

☐ New Situation ☒ Lease Inspection
☒ Response to Request ☐ Complaint
☐ Follow-up ☒ Field Report

Operator License No: 34998 API: Q3: Q2: Q1:
Operator Name: Ace Energy LLC. SEC 18 TWP 26 RGE 19 RGEDIR: E
Address: 11704 Aberdeen Rd. FSL:
City: Leawood FEL:
State: Kansas Zip Code: 66211-2921 Lease: Allen Hauser Well No.:
Phone contact: County: AL

Reason for Investigation:

Request from Wichita Legal Staff pertaining to Docket# 22-Cons-3143-CMSC

Problem:

To confirm location, well status, and number of wells on operator well inventory.

Persons contacted:

KCC Staff

Findings:

Research of the Allen Hauser lease located in 18-26-19E Allen County found Ace Energy, LLC License # 34998 to be the operator. Operator's well inventory shows four (4) producing oil wells, and two (2) authorized Enhanced Oil Recovery (EOR) wells, permit # E30769. I performed a lease inspection on January 13, 2023, and referenced nine (9) wells with GPS. The wells that were located consisted of four (4) inactive oil wells, two (2) inactive fully equipped EOR wells, and three (3) inactive wells that are not currently on operator's well inventory. I also referenced the main electric meter that supplies electricity to the lease. The meter appears to be off and not in service and the main disconnect for the lease is shut off at the meter. Kansas Geological Survey (KGS) sale records show no reported oil sales since August 2020. The KGS sale records are attached to this report.

Actions / Recommendations

Follow-up Required ☐

Deadline Date:

Submit field report and supporting documentation to District #3 Compliance Officer Ryan Duling.

Photo's Taken:

11

☒ RBDMS ☒ KGS ☐ KOLAR **Report Prepared By:** Ryan Hermreck
☐ District Files ☐ Courthouse **Position:** E.C.R.S.

EXHIBIT A

KCC DISTRICT III OFFICE FIELD REPORT PHOTO ID FORM



Operator: Ace Energy

Lease: Grundy B

County: GW

Subject: # 5 SWD

FSL: 4062'

FEL: 2715'

API#: 15-073-22198-00-00

Date: 01/17/2023

Staff: Triboulet

KLN: 34998

Legal: Sec 7 T27S R 11E SE NE NW

PIC ID#: 11

PIC Orientation: pic taken towards the South

Latitude: 37.71893

Longitude: -96.2447

Time: 1:21

Additional Information: Grundy B # 5 SWD is an unauthorized disposal well, permit #D-24701 constructed with 5.5" casing, and 2.5" tubing that is inactive. This well failed a Mechanical Integrity Test (MIT) on 9/18/2022. This well has no surface control, No Temporary Abandonment (TA) application has been filed. See attached photo numbered (11).