

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Pat Apple, Chairman
Shari Feist Albrecht
Jay Scott Emler

In the Matter of a General Investigation) Docket No.: 17-CONS-3362-CINV
into Potential Commission Rulemaking)
Regarding Responsibility for Abandoned) CONSERVATION DIVISION
Wells.)

STATEMENT OF THE AMERICAN ASSOCIATION OF PETROLEUM LANDMEN

COMES NOW, the American Association of Petroleum Landmen (“AAPL”), and
requests leave from the Commission to submit the attached statement from the AAPL President,
to the Commission in the above-captioned docket.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this 7th day of **August, 2017**, she caused the above and foregoing **Statement of the American Association of Petroleum Landmen** to be filed with the Kansas Corporation Commission, Conservation Division, in accordance with the Commission's e-filing rules, and that she caused a true and correct copy of the same to be served via electronic mail, to the following persons at the addresses shown:

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August 7, 2017

Kansas Corporation Commission
1500 SW Arrowhead Road
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**Re: KCC Dkt No. 17-CONS-3356-CINV
Orphan Well Responsibility**

Dear Commissioners:

The American Association of Professional Landmen ("AAPL"), is a nationwide organization of over 16,000 landman members, with 44 local affiliate organizations, including Intervener, the Wichita Association of Petroleum Landmen ("WAPL"). The AAPL's mission is to promote the highest standards of performance for all land professionals, and to advance their stature and to encourage sound and ethical stewardship of energy and mineral resources.

AAPL echoes the statements provided in this docket by the Wichita Association of Petroleum Landmen, and additionally, wishes to provide the following information to the Commission:

Although orphaned wells are not a condition exclusive to Kansas, we at AAPL are not aware of any state that holds a lessee responsible for an orphan well, absent a clear and direct physical nexus, where the lessee has committed an act on the property that has altered the physical condition of the well. As the Commission has already been informed by several parties, the landman function does not involve physical entry onto the leased property. A landman typically researches property ownership in the public record, and then attempts to procure a written lease from the owner(s). That lease document is then delivered and/or signed over to a potential operator-developer, thereby vesting title to the lease in that operator-developer. Other work performed by a landman will likely involve curing title defects with the lease, or otherwise securing mineral and surface rights, none of which require the landman's physical presence on the property.

Having read the Commission's 2008 *Quest* case, we note that it is a thorough consideration of evidence, legal theories and public policy, culminating in a reasoned and balanced mandate. The *Quest* case established a clear foundation of trust and cooperation between the industry and agency for the public benefit of identifying orphan wells; to then allow the Commission to assess the level of potential risk imposed by each newly identified well. That balanced approach that gives individual parties an incentive to cooperate with the agency, is consistent with the nationwide regulatory and legislative trend in recent decades, of establishing privileges, exemptions and safe harbors for those persons and industries who may not be directly responsible for the existence and/or reporting of a condition, but may have access and information of use to the agency in identifying the property for possible remediation. What

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makes these programs effective is the trust and confidence with which the parties are able to conduct their respective day-to-day businesses; and that they can, without fear of prosecution or penalization, assist the agency in its information gathering duty, all for the public good. It is implicit in such a policy that the policy not be unilaterally rolled back or suspended, exposing those cooperating parties who trusted the policy to penalties. Such would be the case if written leases currently of record are used to hold landmen responsible for orphan wells that they had no physical role in drilling or operating. The alternative to the current *Quest* safe harbor is an adversarial setting, in which the parties' incentive is to not find or report orphan wells that they had no hand in drilling or operating; and to craft written leases that exclude such wells from the lease.

In summary, if the Commission wishes to drastically modify its policy from what is established in the *Quest* case, we believe it should be done with the same level of consideration and input that went into the *Quest* case. In other words, the Commission should hear and review evidence substantiating a need, or lack thereof, for proposed modifications; and if a need for change is established, then consider existing law, policy, and scholarly input in the shaping of those modifications.

AAPL believes that the Commission Staff's proposed rule will have a negative and wasteful impact on oil and gas leasing and development in Kansas, as well as on the Commission's statutory mission to find, assess, and remediate orphan wells. Landmen will be compelled to modify their leases and practices so as to protect themselves from undue risk and liability. Allegations of individual landman responsibility for abandoned wells are bound to be vigorously contested. This will cause waste and suppressed development, while at the same time, frustrating the public interest by making it more difficult for the Commission to locate, identify, assess and contain the risk posed by orphan wells.

We urge the Commission to retain its safe harbor policies and cooperative environment, that is conducive to identifying orphan wells, and focuses responsibility on those who are directly, physically responsible for the orphan wells.

Thank you for allowing the American Association of Professional Landmen to state our views on this important matter.

Very truly yours,



David W. Miller

President

American Association of Professional Landmen