

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

In the matter of the Application of Canaday Oil)	Docket No: 24-CONS-3103-CUNI
Corporation for an Order Authorizing the)	
Unitization and Unit Operation of the Irons)	CONSERVATION DIVISION
Morrow Sand Unit in Clark County, Kansas)	
_____)	License No: 5303

MOTION FOR RECONSIDERATION

COMES NOW, the Protestors, Karen Byerley and Louise West, by and through Robert Eisenhower of Johnston, Eisenhower, Eisenhower & Lynch, LLC, and hereby files their motion for reconsideration pursuant to K.S.A. 77-529. In support of their motion for reconsideration, Protesters state and alleges as follows:

1. On or about July 2, 2024, the Commission entered a Final Order granting the application of Canaday Oil Corporation for an order authorizing unitization and unit operation of the Irons Morrow Sand Unit in Clark County, Kansas.

2. At the hearing held on operator's application, Protester, Karen Byerley, testified that it was her position that Canaday Oil Corporation failed to comply with K.S.A. 55-1304. As correctly noted in the dissent filed by Commissioner, Dwight D. Keen, Canaday Oil Corporation failed to comply with all three of the requirements of K.S.A. 55-1304, specifically:

- i. That unitized management is economically feasible and reasonably necessary to prevent waste within the reservoir and thereby increase substantially the ultimate recovery of the oil or gas;
- ii. That the value of estimated additional recovery of oil or gas substantially exceeds the estimated additional costs incident to conducting such operations;
- iii. The proposed operation is fair and equitable to all interest owners.

3. At the hearing on the application to approve this unit, Applicant provided no historical data that would support the figures used in their calculations supporting their position that the granting of said application would result in an economically feasible plan to substantially increase the ultimate recovery of oil or gas from the unitized acreage.

In particular, the testimony of both the President of Canaday Oil Corporation, Grant M. Canaday, and a geologist hired by Canaday Oil Corporation, Richard Saenz, admitted that within six miles of the proposed unit, a highly successful operator in the State of Kansas, David Murfin, was unsuccessful developing an economically feasible unit in Clark County. Mr. Murfin is a highly successful operator in the State of Kansas as opposed to the testimony of Grant Canaday of Canaday Oil Corporation, wherein he testified:

That he operates approximately 20 wells in the State of Kansas with a daily production of approximately 25 barrels of oil. The fact that Mr. Canaday is an operator of 20 wells which produced an average of 1.2 barrels per day should concern the Kansas Corporation Commission as to the viability of any plan set forth by Canaday Oil Corporation for unitization.

4. Anyone involved in the oil and gas business, will admit that maps drawn by geologists claiming that a drill site location is an economically feasible drill site are present in the drilling of any new well. Unfortunately, a number of such wells are either dry holes or produce approximately 1.2 barrels per day.

In the testimony of staff geologist, Jacob Eastes, he acknowledged that another geologist could draft a map which would show that this unit is not economically feasible.

5. With respect to element two of K.S.A. 55-1304, Protesters acknowledge that Applicant's estimated cost of recovery is exceeded by the additional revenue which they hope (emphasis ours) to obtain from this unit. It is the position of Protesters that they are sure that Canaday Oil Corporation "hoped" that the 20 wells drilled in Kansas by said company would make more than 1.2 barrels per day. That has not been the case in any of such wells.

6. Finally, it is the position of the Protesters that this proposed unit is not fair and equitable to any of the Protesters. The Applicant admits that it does not have a valid oil and gas lease covering any of the Protesters' property. Applicant also admits it had valid oil and gas lease on this property from 2012 to 2017. During the time Canaday Oil Corporation owned the oil and gas lease, they did absolutely nothing as far as producing this well. The Applicant did leave pipes, sucker rods and other miscellaneous oilfield equipment on the Protesters' property but as far as oil and gas production, there was none. The Protesters' property appeared to be of no value to the Applicant during the time they had a valid oil and gas lease on the Protesters' property. However, now years later, it is the position of the Applicant, and apparently the Kansas Corporation Commission, they should be entitled to unitize unleased property into a unit whose viability is only supported by the testimony of a geologist hired by the Applicant and by the Applicant itself, who has:

- a) Never operated a gas unit such as this in the State of Kansas; and
- b) Based on the history of the Applicant that the 20 wells it is currently operating in the State of Kansas shows no ability to generate the kind of production needed to make this unit economically feasible and reasonably necessary as required by K.S.A. 55-1304.

7. As stated by Commissioner Keen in his dissent, Applicant's contentions regarding the certification of this unit with respect to future oil productivity are "conclusory, contrived and fanciful guesstimates, advanced without any underlying substantial detail, engineering studies or reports or technical geological data or other factual support". Commissioner Keen goes on to state that "with respect to whether tracts one and five should be included within the proposed unit, operator's witnesses' testimonies were not credible, compelling or convincing".

8. It is the burden of the Applicant to provide testimony and actual facts to meet the requirements of K.S.A. 55-1304. No such testimony or facts were presented at the hearing held on the application filed by Canaday Oil Operation.

9. It is beyond belief that an Applicant who had a valid oil and gas lease between 2012 and 2017 can now, 7 years later, ask the Kansas Corporation Commission to allow them to include these Protesters' land in a proposed unit without the consent of these Protesters.

WHEREFORE, Protesters, Karen Byerley and Louise West, request that the Kansas Corporation Commission reconsider their ruling of July 2, 2024 granting the application of Canaday Oil Corporation in the above-entitled case.

Respectfully submitted,

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& LYNCH, LLC.

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CERTIFICATE OF SERVICE

24-CONS-3103-CUNI

I, the undersigned, certify that a true copy of the attached Motion Reconsideration has been served to the following by means of first class mail and/or electronic service on July 17, 2024.

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