

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

In the matter of the failure of Quito, Inc.                     )  
("Operator") to comply with K.A.R. 82-3-111 at            )  
the Solomon #3, Solomon #5 in Chautauqua                 )  
County, Kansas.   )  
  )  
  ) License No. 33594

In the matter of the failure of Quito, Inc.                     )  
("Operator") to comply with K.A.R. 82-3-111 at            )  
the Doty #3 in Chautauqua County, Kansas.                 )  
  )  
  ) License No. 33594

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**PRE-FILED REBUTTAL TESTIMONY**

**OF**

**Troy Russell**

**June 10, 2019**

1   **Q.   What is your name and business address?**

2   A.   Troy Russell, 137 West 21<sup>st</sup> Street, Chanute, Kansas 66720.

3   **Q.   By whom are you employed and in what capacity?**

4   A.   I am employed by the Conservation Division of the Kansas Corporation Commission,  
5       District #3 Office, as the District #3 Professional Geologist, Supervisor.

6   **Q.   How long have you worked for the Corporation Commission's Conservation Division?**

7   A.   I have been employed as District Supervisor since April of 2017 and have worked for the  
8       Commission since July of 1997.

9   **Q.   Have you previously testified before this Commission?**

10  A.   Yes.

11  **Q.   Please briefly describe your educational background and work experience.**

12  A.   I received my Bachelor of Science degree in Geology from Kansas State University in 1989.  
13       I began work with the State of Kansas as a Geologist in 1991. I received my professional  
14       geologist (P.G.) license in 1992. I came to work in the Chanute District #3 Office within the  
15       Conservation Division of the KCC in 1997 as a P.G. primarily overseeing site remediation  
16       of environmental impacts to soils and water resources resulting from oil & gas producing  
17       activities. I became the District #3 Supervisor, P.G. in 2017.

18  **Q.   What duties does your position with the Conservation Division involve?**

19  A.   I oversee the daily operations in the District #3 area as related to oil and gas activities. I  
20       supervise two Public Service Administrators, ten Environmental Compliance and Regulatory  
21       Specialists (ECRS), and one Geology Specialist.

1 **Q. Are you familiar with Docket 19-CONS-3271-CPEN and Docket 19-CONS-3272-**  
2 **CPEN?**

3 A. Yes. I have reviewed the documents generated by District Staff pertaining to the CP-111  
4 application filed in September of 2018 for the Solomon #3 and #5 wells and the application  
5 filed in January 2019 on the Doty #3 well. I have also discussed the CP-111 applications for  
6 these wells with Mark McCann verbally and through emails.

7 **Q. What is the purpose of your rebuttal testimony?**

8 A. To address the inconsistencies contained in the direct testimony filed by the Operator.

9 **Q. Have you reviewed Mark McCann's direct prefiled testimony?**

10 A. Yes.

11 **Q. On page 1, line 8, Mr. McCann, states that he has not previously testified before the**  
12 **Commission. Do you agree with this statement?**

13 A. No. Mr. McCann testified before the Commission in Docket 07-CONS-017-CPEN.

14 **Q. On page 2, lines 6-8, Mr. McCann states, "Based on the surface elevation differences, I**  
15 **believe that the fluid levels should be adjusted and that the Solomon wells, #3 and #5,**  
16 **should be approved." Do you agree with Mr. McCann's conclusion?**

17 A. No. The depth requirement is based upon the established depth for Table I for this designated  
18 area. Table I depths, which have been established by Industry, State and Federal entities over  
19 long periods and have been reviewed periodically by the same entities already take into  
20 account both mean sea level (MSL) elevation and geologic structure of groundwater bearing  
21 strata. The fluid level is one of several indicators we evaluate for potential environmental  
22 impact within a well. Well construction requirements for Alternate I or II wells utilize  
23 established Table I data for specific geographic areas. A high fluid level would corroborate

1 potential casing failure or well construction issues that could be verified from a casing  
2 integrity test. The dramatic change in fluid levels from previous years applications submitted  
3 by the Operator is also an indicator of a potential casing failure.

4 **Q. On page 2, line 15, in reference to conversations Mr. McCann had with Staff,**  
5 **Mr. McCann states, “If the wells were placed into production, no additional testing was**  
6 **necessary.” Do you agree with this statement?**

7 A. No. Mr. McCann was told verbally during a conference call on January 10, 2019 and again  
8 in writing on February 4, 2019 that a casing integrity test (CIT) would be required for each  
9 well before they could be considered for temporary abandonment (TA) status or put back  
10 into production. Please see the attached correspondence, labeled as, T.R. Exhibit A.

11 **Q. On page 3, line 1, Mr. McCann stated that he was concerned about the equipment**  
12 **Commission Staff was using to measure the well. To your knowledge, did Commission**  
13 **Staff provide or operate the equipment used to measure the well?**

14 A. No. Commission Staff did not provide any equipment nor operate any equipment utilized by  
15 the Operator to obtain the subject wells’ measurements. The Operator conducted the test  
16 itself.

17 **Q. On page 3, lines 5-6, Mr. McCann states that he measured the subject wells again and**  
18 **reported that information to Staff but, “No response was issued.” Do you agree with**  
19 **that statement?**

20 A. No. If you refer to T.R. Exhibit A, you can see that I responded to Mr. McCann by email the  
21 same day he sent the measurements from his additional testing. Additionally on February 1,  
22 2019, I told Mr. McCann via e-mail that any additional fluid level measurements on the Doty  
23 #3 would need to be witnessed by Staff. That e-mail is attached as T.R. Exhibit B.

**Q. On page 3, line 17-18, Mr. McCann states “The measurement of the fluid level was 215 feet; the KCC Staff wanted 350 feet, which is the basis of the TA application denial.”**

**Do you agree with this statement?**

A. No. Staff would have based their recommendation on the Table I depth for this area which is 300 feet.

**Q. Why did Staff require the fluid level be at least 350 feet from the surface?**

A. The Table 1 for this area is 300 feet. Having a fluid level higher than this indicates the possibility of a casing failure, which poses an environmental risk.

**Q. On page 7, Mr. McCann included a letter he wrote to you dated January 31, 2019. Did you receive this letter?**

A. Yes. Mr. McCann sent the letter as an attachment to an email he sent me on January 31, 2019.

**Q. What was the subject of the letter?**

A. Mr. McCann proposed conducting a pressure test on the Solomon #3, Solomon #5, and the Doty #3 well to a depth of 250 feet.

**Q. Did you respond to Mr. McCann’s letter?**

A. Yes. I responded the same day. My response is attached as T.R. Exhibit C.

**Q. Please summarize your response to Mr. McCann’s letter.**

A. I informed Mr. McCann that his proposal to only test the top 250 feet of casing was not acceptable because all casing integrity test have to test the wells to a depth within 50 feet of the perforations. 250 feet is not within 50 feet of the perforations for the three subject wells. I informed Mr. McCann that no additional extension would be granted for the Solomon subject wells after the February 4, 2019 deadline. I also reminded him that his deadline for the Doty #3 well was February 7, 2019.

1   **Q.   As of today, has the Operator brought any of the three subject wells into compliance?**

2   A.   No.

3   **Q.   Do you have a recommendation regarding the Penalty Orders in these two dockets?**

4   A.   Yes. The Penalty Orders should be affirmed. The Operator failed to plug, produce, or obtain  
5       TA status for the three subject wells and remains in violation of K.A.R. 82-3-111 as of this  
6       date. These wells remain a potential source of pollution to fresh and usable waters identified  
7       under Table I for this area. The assessment of the \$100.00 penalty for each of the three subject  
8       wells in the Commission's Penalty Orders is reasonable and should be upheld.

9   **Q.   Does this conclude your testimony?**

10  A.   Yes.

## Troy Russell

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**From:** Troy Russell  
**Sent:** Monday, February 4, 2019 4:59 PM  
**To:** 'Hotmail Security'  
**Cc:** John Almond  
**Subject:** Solomon #3 and Solomon #5  
**Attachments:** Solomon#3\_10-09-2018.pdf; Solomon#5\_10-09-2018.pdf

Mark,

In response to your letter below. Your NOV deadline to obtain an approved TA, plug or produce the Solomon #3 and Solomon #5 was October 09, 2018 (See Attached). On January 10, 2019 at 11:35 am during a conference call with John Almond, Duane Sims and Myself, you asked for an extension to specifically place the Solomon #3 and Solomon #5 back into production. During this conversation it was explained that a CIT test would need to be completed for each well by **February 4, 2019** before they could be considered for temporary abandonment status or put back into production.

Quito, Inc.  
1613 W 6<sup>th</sup> St.  
Bartlesville, OK 74003  
918-331-6433 Office 918-798-4365 Cell  
mccanncompanies@yahoo.com

02/04/2019

Troy,

I re measured Solomon well number 3 & 5 yesterday.

I realize that this needs to be witnessed for KCC approval.

On number 3, I measured 180' plus an elevation difference of 50' that make 230' which is the same as well 2 in which the fluid level passed and its TA approved.

On number 5, I measured 176' plus an elevation difference of 102' from number 2 which was approved. This established the level at 278' which is greater than number 2 which was approved. We will contact Duane Sims to witness measurement ASAP.

With this new information I assume will not be necessary to put the wells on production by February 5<sup>th</sup> which is our current deadline, Please confirm that you are in agreement (subject to witnessing the test)? We can meet Duane Sims tomorrow if he is available.

Sincerely,



Mark W. McCann

CC John R. Horst - Esquire

CC Jeff Kennedy - Esquire



Sincerely,



**Troy A. Russell**

*District #3 Supervisor, P.G.*

Kansas Corporation Commission

Conservation Division, District III

137 E. 21<sup>st</sup> Street, Chanute Ks 66720

Office: 620-902-6451

Cell: 620-432-6509

## Troy Russell

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**From:** Troy Russell  
**Sent:** Friday, February 1, 2019 9:06 AM  
**To:** Mark W. McCann  
**Subject:** Re: Fluid levels.

Mark

Any additional fluid level measurements for the subject wells on the Doty will need to be witnessed by staff.



*Troy A Russell*  
*District #3 Supervisor, P.G.*  
Kansas Corporation Commission  
Conservation Division, District III  
137 E. 21<sup>st</sup> Street, Chanute Ks 66720  
Office: 620-902-6451  
Cell: 620-432-6509

On Jan 31, 2019, at 5:04 PM, Mark W. McCann <[mccanncompanies@yahoo.com](mailto:mccanncompanies@yahoo.com)> wrote:

EXTERNAL EMAIL. Think before clicking links or opening attachments.  
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After doing some research I discovered today. That the tool that was borrowed from economy at sedan. Is not accurate. It appears to read 100 feet. When actually it's. aprox 121 Which is what most producers in the sedan area use to establish fluid levels for mit testing abc also static fluid level checking. I discovered this information from googling it. I will be releasing the wells in issue. To determine the correct depth to fluid. And if I get a different reading I will call and schedule for it to be witnessed by Kcc. Personal. I will also send you a link from where I Learned about this possibly. Thank you again. We are just trying to survive in these rough times and keep our cost as low as possible. And still be a good stewards of the land. And water protection. Mark

Sent from my iPhone

## Troy Russell

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**From:** Troy Russell  
**Sent:** Thursday, January 31, 2019 2:43 PM  
**To:** 'Hotmail Security'  
**Cc:** John Almond; Duane Sims; Lauren Wright  
**Subject:** RE: Concerning MIT test for Solomon and Doty Wells  
**Attachments:** KCP111D\_011019\_DOTY\_3.pdf;  
Quito\_Inc\_letter\_to\_KCC\_Regarding\_Soloman\_Wells\_and\_Doty\_Well.docx

Tracking:	Recipient	Delivery
	'Hotmail Security'	
	John Almond	Delivered: 1/31/2019 2:43 PM
	Duane Sims	Delivered: 1/31/2019 2:43 PM
	Lauren Wright	Delivered: 1/31/2019 2:43 PM

Mark,

Your proposal to only test the top 250' of the casing is **NOT** acceptable. **All CIT / MIT** tests will have to be tested to a depth within 50' of the perforations, as was explained in our conference call on January 10, 2019. I granted you an additional extension until February 4, 2019 on your stated intentions to put the wells back into **production**. I would not have granted an additional 25 day extension to complete CIT testing. The Solomon #3 and #5 were denied on September 11, 2018. The subsequent NOV generated for each of these denials had deadlines of October 10, 2018 to obtain an approved CP111, produce or plug these wells. KCC District #3 has already allowed you an additional **+90** days from that NOV deadline to bring these two wells into compliance.

If your intention is now to perform CIT / MIT tests on the Solomon #3 and #5 in order to obtain an **approved** CP111 (TA), no additional extension will be granted after the February 4, 2019 extension deadline. District Staff will need to agree on the date and time for you to run this test.

For your information I have attached a copy of the NOV concerning the denied CP111 for the Doty #3 containing a deadline date of February 7, 2019.

Sincerely,



**Troy A. Russell**

*District #3 Supervisor, P.G.*

Kansas Corporation Commission

Conservation Division, District III

137 E. 21<sup>st</sup> Street, Chanute Ks 66720

Office: 620-902-6451

Cell: 620-432-6509

**From:** Hotmail Security <mccanncompanies@yahoo.com>

**Sent:** Thursday, January 31, 2019 11:45 AM

**To:** Troy Russell <t.russell@kcc.ks.gov>

**Subject:** Concerning MIT test for Solomon and Doty Wells

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

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Troy, see attachment below regarding the Solomon 3 and 5 wells and Doty 3 well.

Thanks You,

Mark W. McCann

## **CERTIFICATE OF SERVICE**

19-CONS-3271-CPEN and 19-CONS-3272-CPEN

I, the undersigned, certify that a true copy of the attached Prefiled Rebuttal Testimony of Troy Russell has been served to the following by means of electronic service on June 20, 2019.

JOHN ALMOND  
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/S/ Paula J. Murray  
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Paula J. Murray