

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

In the matter of the failure of Ace Energy,) Docket Nos.: 24-CONS-3081-CPEN
LLC (Operator) to comply with K.A.R. 82-3-)
407 at the E Larsen #7 and E Larsen #11 wells) CONSERVATION DIVISION
in Allen County, Kansas.)
_____) License No.: 34998

PRE-FILED DIRECT TESTIMONY

OF

DUANE SIMS

ON BEHALF OF COMMISSION STAFF

JANUARY 19, 2024

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

2 A. Duane Sims, 137 E. 21st 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 (KCC
5 or Commission), District #3 Office, as Manager for the Underground Injection Control (UIC)
6 Program, and as an Environmental Compliance and Regulatory Specialist (ECRS).

7 **Q. Would you please briefly describe your background and work experience?**

8 A. I started working for the Conservation Division's District #3 Office as an ECRS in December
9 2007. In December 2019, I was promoted to UIC Program Manager. As an ECRS, I was
10 primarily responsible for the witnessing and monitoring of oil and gas related activities in
11 Chautauqua, Elk, and the west half of Montgomery counties, Kansas. My responsibilities
12 included the witnessing and verification of the drilling and completion of oil, gas, injection,
13 and disposal wells. I investigated spills and complaints directly related to current and
14 historical oil and gas activities in those areas. I also witnessed mechanical integrity tests
15 (MITs) and casing integrity tests (CITs), wells being plugged, and well casing repairs.

16 Now, in addition to my role as UIC Program Manager, I fill in for other ECRSs within
17 District #3 as needed. This generally includes conducting GPS surveys on new and abandoned
18 wells to verify the exact location and the status of wells on operators' well inventories.
19 Further, I work with District Staff and Central Office Staff to complete various projects and
20 requests.

21 **Q. What are your duties as the UIC Program Manager?**

22 A. As UIC Program Manager, I track and monitor approximately 9,500 injection and disposal
23 wells in District #3. I have oversight of the witnessing of routine and non-routine MIT tests.

1 Additionally, I witness UIC wells being plugged or repaired. I provide technical support
2 directly to industry, field, and administrative Staff, in order to implement the District's UIC
3 program. This process involves both the direct review and oversight of District Staff by
4 checking documentation in permits to ensure that KOLAR forms are processed in adherence
5 with the associated permits when MITs are conducted. My position also entails generating
6 written notifications specifying testing deadlines within current tracking cycles on subject
7 wells. I am also responsible for generating the 14-day Notice of Violation (NOV) letters and
8 the failed MIT NOV letters for District #3, and tracking those deadlines to ensure compliance.
9 Finally, I work directly with Field Staff to train them on their daily activities and to give them
10 a better understanding of the rules and regulations of the Commission.

11 **Q. Have you previously testified before the Commission?**

12 A. Yes.

13 **Q. What is the purpose of your testimony in this matter?**

14 A. The purpose of my testimony is to discuss the evidence supporting the Commission's findings
15 in regard to the Penalty Order issued against Ace Energy, LLC (Operator) in Docket
16 24-CONS-3081-CPEN (Docket 24-3081).

17 **Q. Please provide a brief overview of the facts in this docket.**

18 A. The Commission penalized Operator for two violations of K.A.R. 82-3-407 at the E Larsen
19 #7 and E Larsen #11 wells (Subject Wells). Operator failed to perform successful MITs on
20 the Subject Wells prior to the deadline.

21 **Q. What are the requirements of K.A.R. 82-3-407?**

22 A. K.A.R. 82-3-407(a) provides that each injection well shall be completed, equipped, operated,
23 and maintained in a manner that will prevent pollution of fresh and usable water, prevent

1 damage to sources of oil or gas, and confine fluids to the intervals approved for injection. That
2 section of the regulation also states that an injection well's mechanical integrity shall be
3 established at least once every five years. K.A.R. 82-3-407(g) provides that no injection well
4 shall be operated before passing an MIT. That section also states that failure to test a well to
5 show mechanical integrity shall be punishable by a \$1,000 penalty, and the well shall be shut-
6 in until the test is successfully passed.

7 **Q. Was there a deadline for Operator to perform MITs on the Subject Wells?**

8 A. Yes. The five-year deadline for Operator to perform successful MITs on both Subject Wells
9 was July 4, 2023.

10 **Q. Did Operator perform successful MITs on the Subject Wells by that deadline?**

11 A. No, Operator did not perform MITs on either well before the July 4, 2023, deadline.

12 **Q. Did Staff send a letter to Operator regarding the Subject Wells?**

13 A. Yes. I sent an NOV letter to Operator on July 26, 2023. The letter stated that current MITs
14 had not been conducted on the Subject Wells. The NOV letter also stated that failure to
15 conduct MITs on the wells by August 9, 2023, would be punishable by a \$1,000 penalty per
16 well. A copy of the letter is attached to the Docket 24-3081 Penalty Order as Exhibit A.

17 **Q. Did Operator conduct MITs on the Subject Wells before August 9, 2023?**

18 A. No, Operator did not conduct MITs on the Subject Wells before the deadline in the NOV
19 letter. As of the date of this testimony, Operator has yet to perform an MIT on either well.

20 **Q. Did Operator contact District #3 Staff about performing MITs on the Subject Wells?**

21 A. No, Operator has not contacted District #3 Staff regarding the Subject Wells.

22 **Q. In paragraph 5 of Operator's Request for Hearing, Operator argues that because its**
23 **license is suspended, it could not perform MITs on the Subject Wells as doing so would**

1 **be in furtherance of oil and gas operations. Does a suspended license mean that an**
2 **operator cannot perform MITs on its injection wells?**

3 A. No, it does not. When an operator’s license is suspended, the operator remains responsible for
4 all the wells on its well inventory. This responsibility includes making sure that the wells
5 continue to comply with all Commission regulations. For example, if an operator’s license
6 was suspended and a spill occurred at one of the operator’s wells, the operator would still be
7 responsible for complying with Commission regulations in reporting and cleaning up the spill.
8 If this were not the case, then every time an operator’s license was suspended, its wells would
9 become potential threats to the environment.

10 Operator’s license has been suspended since April 6, 2023; Operator, though, remains
11 responsible for ensuring that all of its wells are in compliance with Commission regulations.
12 This includes making sure that timely MITs are performed on its injection wells.

13 **Q. In paragraph 6 of Operator’s Request for Hearing, Operator quotes K.A.R. 82-3-407(g)**
14 **as stating that “No injection well shall be operated before having passed a mechanical**
15 **integrity test. The operator's failure to test a well to show its mechanical integrity or to**
16 **report the oil-to-water or gas-to-water ratio as required under paragraph (b)(4)(B)**
17 **above shall be punishable by a \$1,000 penalty, and these wells shall be shut in until the**
18 **required test has been passed or the reports have been furnished.” In the next paragraph**
19 **of Operator’s Request for Hearing, Operator argues that the quoted regulation means**
20 **that an operator must operate an injection well without a current MIT before a penalty**
21 **may be imposed. Is this your understanding of K.A.R. 82-3-407(g)?**

22 A. No, that is not my understanding of the regulation. The first sentence of K.A.R. 82-3-407(g)
23 states that an injection well shall not be operated before passing an MIT. The second sentence

1 then states that failure to test a well shall be punishable by a \$1,000 penalty. These are two
2 different requirements: 1) operators must not operate an injection well before performing an
3 MIT, and 2) operators must test wells as outlined in the earlier sections of the regulation. In
4 this docket, Operator's failure to timely perform MITs on the Subject Wells as required by
5 the regulation is punishable by a \$1,000 penalty per well.

6 **Q. Please summarize your recommendation.**

7 A. I believe the information gathered by Staff is sufficient to affirm the Commission's Penalty
8 Order in this docket. Operator did not timely perform MITs on the Subject Wells, therefore
9 Operator should be required to perform successful MITs on the Subject Wells or plug the
10 wells, and pay a \$2,000 penalty.

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

12 A. Yes.

CERTIFICATE OF SERVICE

24-CONS-3081-CPEN

I, the undersigned, certify that a true and correct copy of the attached Prefiled Direct Testimony of Duane Sims has been served to the following by means of electronic service on January 19, 2024.

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