

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Petition of Daylight)
Petroleum, LLC to Open a Docket Pursuant to) Docket No. 25-CONS-3040-CMSC
K.S.A. 55-605(a).)

PRE-FILED TESTIMONY

OF ART BENJAMIN

ON BEHALF OF

DAYLIGHT PETROLEUM, LLC

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1 **I. BACKGROUND INFORMATION AND QUALIFICATIONS**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE RECORD.**

3 A. Arthur Benjamin, 1221 McKinney St., Ste. 2880, Houston, TX, 77010.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by Daylight Petroleum, LLC ("Daylight") as Vice President of Operations.

6 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND?**

7 A. I am a licensed professional engineer in Texas and hold a Bachelor of Science degree in
8 Petroleum Engineering from Texas A&M University.

9 **Q. WOULD YOU PLEASE BRIEFLY DESCRIBE YOUR BACKGROUND AND WORK
10 EXPERIENCE?**

11 A. After earning my Bachelor's degree in Petroleum Engineering from Texas A&M University
12 in 1999 I was hired by Devon Energy as both a Completion Engineer and a Reservoir
13 Engineer. I left Devon Energy to take a position with EP Energy as a Completion Engineer and
14 worked there for a couple years. I was then hired by Samson Resources as Operations
15 Manager. After that, I was hired by QEP Resources as a Sr. District Operations Engineer, I was
16 then promoted to Director of Production Operations, and eventually to General Manager. I
17 have also worked as an independent consultant in the area of Petroleum Engineering and also
18 Production Operations, before being hired by Daylight as VP of Operations.

19 At Daylight I am responsible for all company operations including but not limited to
20 production, environmental, safety and regulatory. Daylight has operations in Kansas,
21 Oklahoma, Texas and Louisiana.

22 **Q. DO YOU WISH TO BE RECOGNIZED AS AN EXPERT IN THIS DOCKET ON THE**

1 **BASIS OF YOUR EDUCATION, WORK HISTORY AND EXPERIENCE IN THE**
2 **FIELD OF PETROLEUM ENGINEERING AND PRODUCTION OPERATIONS?**

3 A. Yes.

4 **II. NATURE OF THIS DOCKET AND EXPERT OPINION THAT THE ACTIONS**
5 **BEING DEMANDED BY STAFF CONSTITUTE ECONOMIC WASTE**

6 **Q. COULD YOU PLEASE GIVE A BRIEF SUMMARY OF THE FACTS GIVING RISE**
7 **TO THIS DOCKET?**

8 A. Daylight reported a leak to the KCC on 6/23/23. The leak was located inside a commercial
9 building on a property adjacent to Daylight's Olnhausen Farms development. Through various
10 tests we have confirmed that injection into the Olnhausen Farms #6 at full capacity channeled
11 to something beneath the building and water and oil broke out at the surface. It is inconclusive
12 what exists beneath the commercial building which allowed the fluid to break out at the
13 surface. There are multiple possibilities including but not limited to natural geologic faulting,
14 an unknown well improperly abandoned beneath the building, an undocumented core well or
15 water well beneath the building, or some other conduit.

16 **Q. ARE THERE FACTORS INVOLVED THAT MAKE THIS SITUATION UNIQUE?**

17 A. Absolutely, the breakout has occurred beneath a building that is worth hundreds of thousands
18 of dollars. In addition, no one has any records of a well being located beneath the commercial
19 building. Thus, we do not know if in fact there is even a well there, and if so where it might
20 be located. Therefore, what KCC Staff is asking is not that Daylight plug a well, but rather that
21 Daylight engage in an exploratory digging expedition to investigate whether a well exists or
22 not (beneath a several hundred thousand dollar commercial building).

1 Daylight has been caught between a rock and a hard place throughout this entire
2 process. On the one hand KCC Staff has been adamant that Daylight must begin tearing down
3 the landowner's commercial building and searching for what might be an abandoned well. On
4 the other hand, the landowner has made it abundantly clear that Daylight will be sued if their
5 building is impacted, or if their business is interrupted. The legal claims of both parties are
6 complicated in that the KCC Staff has no evidence a well actually exists beneath the
7 commercial building, and cannot attempt to hold Daylight responsible for an abandoned well
8 before one is even found. In addition, the landowner's predecessor in title has admitted to
9 cutting two other wells off below the surface, laying a metal plate over the top of them and
10 burying them; thus potential responsible parties exist outside of Daylight. In addition, as a
11 matter of law Daylight cannot be found negligent simply because it injected at rates and
12 pressures authorized by the Commission. While Daylight recognizes that negligence issues are
13 civil matters and that the Commission can hold multiple parties to be legally responsible for
14 a well, Daylight is mentioning these issues only so the Commission can get a clear
15 understanding why this Docket was initiated.

16 **Q. WHY WAS THIS DOCKET INITIATED?**

17 A. Although the legal questions above exist, Daylight has elected to take several voluntarily steps
18 in an effort to address the situation. Daylight's hope was that the situation could be adequately
19 addressed, thereby sidestepping the legal issues described above and avoiding any litigation
20 over those issues. Therefore, Daylight undertook extensive efforts in an attempt to definitively
21 determine if an abandoned well actually exists beneath the commercial building without
22 destroying such building, such as hydrovacating beneath the building, utilizing ground

1 penetrating radar and a magnetic survey. None of these efforts have located an abandoned well
2 beneath the building.

3 Daylight also hired a respected environmental consulting firm, GSI Engineering, LLC
4 ("GSI"), to advise Daylight and attempt to find a solution to this situation which resolved both
5 the KCC Staff's concern and also the landowner's concerns regarding its commercial building.
6 At GSI's recommendation Daylight proposed the use of monitoring wells to determine whether
7 the breakout continued to impact fresh and usable water even though the breakout had been
8 stopped at the surface. KCC Staff designed a monitoring well program to detect and determine
9 any impacts to fresh and usable groundwater within Table 1, but insisted that regardless of
10 what the monitoring wells showed Daylight must continue its efforts to determine whether an
11 abandoned well exists beneath the building and to plug it if one is found.

12 The leak is not currently active and the flow of fluid ceased once Daylight shut in its
13 Olnhausen Farms #6 injection well. Daylight's consultant GSI installed four temporary
14 piezometer wells and four permanent monitoring wells around the commercial building.
15 Daylight then paid GSI to continue to monitor the observation wells for water salinity and
16 share results with the KCC. GSI has confirmed through the monitoring wells and the
17 piezometer wells that the breakout did not impact fresh and usable water and that it did not
18 appear the breakout was continuing to flow below ground into the Table 1 water (which was
19 KCC Staff's concern).

20 Notwithstanding the data collected by the monitoring wells or any other actions taken
21 or proposed by Daylight, KCC Staff has been unwilling to discuss or even consider any long
22 term approach to this situation which does not involve destroying the commercial building in

1 order to look for a well that may or may not even exist. Daylight believes it would constitute
2 economic waste to destroy a commercial building against the will of the owner of such
3 building in order to look for a possible well, when groundwater monitoring well data indicates
4 that fresh and usable water is not being impacted. Daylight's consultant GSI is also adamant
5 that destroying this commercial building is unnecessary and that fresh and usable water can
6 be protected without doing so.

7 Daylight has initiated this Docket so the Commission can determine whether
8 destroying the landowner's commercial building under these circumstances would constitute
9 waste. If the Commission affirms its Staff's actions and concludes that the building must be
10 torn down in order to look for a possible abandoned well, then Staff will need to perform an
11 investigation pursuant to K.S.A. 55-178 to determine if in fact a well does exist beneath the
12 commercial building and if a well is found, the responsible party will need to be determined
13 in the manner prescribed by K.S.A. 55-179. However, if the Commission finds that a
14 reasonable approach can be employed to protect fresh and usable water in some manner that
15 does not require the destruction of the landowner's building; Daylight may voluntarily perform
16 such actions in order to resolve this situation and mitigate any potential risk associated
17 therewith. Therefore, Daylight initiated this Docket under the opinion that it would be more
18 efficient for the Commission to first determine what must be done concerning this situation,
19 as the answer to that question may avoid the need to take the other steps referenced above if
20 the landowner's building can be spared.

21 **Q. WHY DO YOU BELIEVE THE KCC STAFF'S ACTIONS CONSTITUTE**
22 **ECONOMIC WASTE?**

1 A. Daylight determined the cause of the breakout, stopped the flow of fluids from the breakout,
2 and undertook an extensive environmental effort to ensure the protection of fresh and usable
3 water while preserving the landowners building. Yet despite all of this, KCC Staff has been
4 unwilling to even consider anything less than an exploratory digging expedition beneath the
5 commercial building as a long term solution to this situation. KCC Staff's refusal to even
6 consider the damage to the landowner through the loss of its commercial building and
7 interruption of its business, and the impact of these actions on Daylight when less extreme
8 measures adequately protect fresh and usable water constitutes economic waste.

9 **III. BRIEF OVERVIEW OF DEVELOPMENT TIME LINE IN THE AREA**

10 **Q. CAN YOU PLEASE PROVIDE A BRIEF OVERVIEW OF THE DEVELOPMENT**
11 **TIME LINE IN THE AREA AT ISSUE IN THIS DOCKET?**

12 A. The wells located on the property where the breakout occurred were originally drilled under
13 the lease name "CRAM" these wells were drilled in 1958, and others from mid 70's to early
14 80's. It appears that Johnson Dozer Service acquired this lease on 7/17/96 and changed the
15 name of the lease to the Johnson Lease. Johnson Dozer Service appears to have operate this
16 lease and these wells on and off from 1996 until 2016 but did not drill any new wells on the
17 lease. Ronald Johnson d/b/a Johnson Dozer Service was also the owner of the real property
18 during the time period when it operated these wells. Ronald Johnson d/b/a Johnson Dozer
19 Service constructed the commercial building at issue in this docket on the Johnson property
20 in 2008. Daylight accepted operatorship of the Johnson lease on 12/21/18 with all wells on
21 lease listed as inactive at the time Daylight accepted operations. Daylight immediately began
22 collecting fluid levels on the inactive Johnson wells to convert them to Temporary Abandoned

1 status. At that time, KCC Staff searched the Johnson lease with metal detectors and found
2 three buried wellbores that were not properly abandoned (i.e. the Johnson 2, 3, and 11) the
3 Johnson 102 was also discovered but had been properly plugged and abandoned. Daylight
4 plugged the Johnson 2, 3 and 11 wellbores once they were found. Daylight has never produced
5 any of the wells located on the Johnson Lease. Daylight also plugged the Johnson #5 at a later
6 date.

7 Daylight drilled the Olnhausen Farms lease in 2021 2022 which is located immediately
8 to the East of the Johnson Lease. While completing the Olnhausen Farms #5 a surface
9 breakout occurred on 10/10/21. The breakout well was excavated and found to be an old
10 improperly abandoned wellbore (now identified as Olnhausen 5 BOW). Daylight plugged this
11 well on 1/10/22. Daylight converted the Olnhausen Farms #6 to an injector on 9/1/22. The
12 breakout which is at issue in this docket occurred beneath the commercial building located on
13 the Johnson Lease on 6/23/23.

14 **IV. ACTIONS TAKEN BY DAYLIGHT UP TO THIS POINT**

15 **Q. CAN YOU PLEASE SUMMARIZE THE ACTIONS TAKEN BY DAYLIGHT AFTER**
16 **THE BREAKOUT OCCURRED BENEATH THE BUILDING?**

17 A. 6/23/23: Daylight was contacted by the owner of the commercial building regarding a release
18 of oil and water at their property. Daylight's production foreman, responded immediately and
19 found fluid (oil and water) leaking through the commercial building floor around where the
20 electrical conduit penetrates the concrete slab along the southern edge of the building. Daylight
21 immediately notified the KCC that same morning. Daylight voluntarily shut in all nearby
22 injection wells (i.e. the Olnhausen Farms #6 and the Renn LOI #1). The leak stopped within

1 hours of the injection being shut off. Daylight turned off all power at the commercial building,
2 cleaned up the released fluids and constructed a berm using absorbent pads and dirt.

3 6/27/23: Daylight dug a trench with a backhoe (3' deep) along the south and east sides of the
4 building. No signs of contamination were found in the trench.

5 6/30/23: Daylight cut a hole through the concrete in the driveway (with the permission of the
6 landowner) on the south side of the building as close as possible to where the leak had
7 occurred. Minor staining was observed at the edge of the pit closest to the building. The
8 staining was very shallow and only in the soil immediately below the concrete slab. The
9 observation pit was dug to a depth of approximately 6' deep. Temporary safety fencing was
10 installed around the pit to prevent injuries. The pit blocked access to two of the shop's three
11 bays.

12 7/3-7/10/23: Daylight used a hydrovac to trench along the north side of the building and
13 around the utility lines. No signs of contamination were found in the trench.

14 7/12/23: After discussions with KCC Staff, Daylight commenced an injection test with the
15 Olnhausen Farms #6 and the Renn LOI #1.

16 7/14/23: Daylight observed a small stream of water in observation pit beneath the commercial
17 building. Daylight immediately notified the KCC of this discovery and KCC staff collected
18 a sample of the water. Daylight shut-in the Olnhausen Farms #6 while Renn #1 continued to
19 inject. The water leak stopped, and did not resume over the next month while the Olnhausen
20 Farms #6 remained shut-in and the Renn #1 continued to inject.

21 8/22-8/25/23: Daylight performed another injection test working directly with KCC Staff.
22 This time fluid levels in the Johnson 6, Johnson 7, Johnson 101 and Johnson 106 wells (four

1 known wells closest to the commercial building) were monitored while injecting in the
2 Olnhausen Farms #6 well. Fluid levels in each of the four Johnson wells did not change during
3 the entire injection test. Injection into the Olnhausen Farms #6 well was shut-in and has not
4 been resumed since that time. Daylight has offered to plug the Olnhausen Farms #6, but KCC
5 Staff has instructed this well not be plugged at this time.

6 9/6/23: Daylight commissioned a ground penetrating radar survey of the commercial building
7 interior. This survey identified a possible utility corridor underneath the floor and a ~25'X25'
8 area which would likely indicate a higher fluid saturation in the soil beneath the commercial
9 building. The ground penetrating radar did not identify any wellbore beneath the commercial
10 building.

11 9/8-9/13/23: Daylight voluntarily plugged the Johnson 6 & Johnson 7 wells.

12 9/21/23: Daylight closed the observation pit to allow access for landowner into its commercial
13 building. No fluid had been seen in this pit since injection into the Olnhausen Farms #6 was
14 last shut-in on 8/25/23.

15 11/9/23: Daylight commissioned a magnetic survey with Subsurface Instruments ML 1M tool.
16 This survey did not identify an abandoned well bore beneath the commercial building.

17 12/4-12/7/23: Daylight commissioned GSI to install four shallow temporary piezometers and
18 drill four permanent monitoring wells surrounding the commercial building and committed
19 to collecting quarterly samples and providing results to KCC. Water samples were collected
20 from these wells on 4/29/24, 6/17/24, 9/12/24 with another round of sampling scheduled for
21 December 2024.

22 **Q. IS THERE ANYTHING THAT YOU WISH TO EMPHASIZE TO THE**

1 **COMMISSION CONCERNING THE ABOVE REFERENCED EVENTS?**

2 A. Yes. First, I think the speed at which Daylight acted speaks to Daylight's intentions with
3 respect to this situation. Only a few days elapsed between many of the events referenced
4 above, and even the major operations which required third party contractors to be utilized were
5 completed in an expedited manner.

6 Next, I believe that the thoroughness of the search which Daylight has conducted is
7 noteworthy. I am not aware of any other operators in Kansas who have voluntarily utilized
8 ground penetrating radar and magnetic surveys to search for a possible abandoned well that
9 they might be responsible for plugging. In addition, Daylight has performed all excavation
10 which can be done without damaging the commercial building, has plugged seven (7) other
11 wells and has voluntarily installed and is managing a groundwater monitoring program
12 utilizing an reputable and respected environmental consulting firm (GSI) to ensure the
13 protection of fresh and usable water.

14 Daylight truly is trying to do all it can in order to ensure that it is fulfilling all of its
15 regulatory obligations and is not endangering fresh and usable water. However, Daylight feels
16 that what KCC Staff is now requiring is unreasonable and disregards the Commission's duty
17 to prevent waste. Trenching around the building, hydrovacating beneath the building, ground
18 penetrating radar through the floor of the building and a magnetic survey have all failed to
19 locate an abandoned well beneath the building. Yet KCC Staff continues to insist that Daylight
20 destroy the landowner's building in search of an abandoned well at whatever the cost. Daylight
21 simply cannot understand why the landowner's building needs to be destroyed when no well
22 has been located by the extensive efforts already undertaken to find one, and when

1 groundwater monitoring has indicated that the breakout has been stopped.

2 **V. DAYLIGHT HAS DONE EVERYTHING NECESSARY TO PROTECT FRESH AND**
3 **USABLE WATER AND HAS ALREADY SPENT \$105,000 DOING SO**

4 **Q. HOW MUCH MONEY HAS DAYLIGHT ALREADY SPENT TO ADDRESS THE**
5 **BREAKOUT WHICH OCCURRED BENEATH THE COMMERCIAL BUILDING?**

6 A. Daylight has spent a total of \$105,000 to date on this project which includes the cleanup,
7 investigation work, offset well testing, drilling of monitoring wells and piezometer wells,
8 sampling, and lab analysis. In addition, Daylight has spent another \$17,000 plugging the
9 Johnson 6 and Johnson 7 wells which had been improperly abandoned and cut off below the
10 ground level by a previous operator.

11 **Q. DO YOU THINK THE AMOUNT OF MONEY DAYLIGHT HAS SPENT IS**
12 **PERTINENT TO THIS DOCKET?**

13 A. I think it illustrates the importance Daylight placed upon resolving this matter and the effort
14 Daylight has expended in order to do that.

15 **Q. HOW MUCH WOULD IT COST TO TEAR DOWN THE COMMERCIAL**
16 **BUILDING, SEARCH FOR ABANDONED WELL AND THEN REBUILD THE**
17 **BUILDING?**

18 A. I do not know for certain at this time, but an expert witness has been retained in order to
19 answer that question. Initial estimates we received have ranged from \$750,000 to over a
20 million dollars. In addition, to the costs of the building would be other damages the landowner
21 has threatened such as lost profits, etc.

22 **Q. IF AN ABANDONED WELL DID EXIST BENEATH THE COMMERCIAL**

1 **BUILDING, WHAT STEPS WOULD NEED TO BE TAKEN IN ORDER TO PLUG**
2 **IT?**

3 A. Since we do not know where this mystery well is located we would need to begin cutting holes
4 in the concrete floor of the building (at least 6' X 6') and excavate out dirt to search for a well.
5 This process would have to be completed with additional sections of the floor being cut out
6 until either the entire building is destroyed or until a well is located. If a well were found a
7 portion of the building would need to be taken down in order to stand up a work-over rig mast
8 to a height of >30' over the well. The well bore would then have to be washed or drilled out
9 to the total depth and plugged with cement. This particular building is heated by in-floor heat,
10 meaning that once a well is plugged, it will be difficult or impossible to adequately repair the
11 concrete floor to the condition that it was in before it was cut. At some point it would be more
12 cost effective to tear down the entire building in order to search for a well.

13 **Q. DO YOU FEEL THAT DAYLIGHT HAS TAKEN ALL STEPS NECESSARY TO**
14 **INVESTIGATE THE SOURCE OF THE BREAKOUT AND TO ADDRESS IT?**

15 A. Yes I do. As indicated below, Daylight has implemented protection measures to adequately
16 monitor and protect fresh and usable water. Therefore, destroying the landowner's building
17 after all efforts have failed to locate a well beneath the building constitutes waste. Daylight
18 does recognize that groundwater monitoring and remediation is not a typical practice overseen
19 by KCC Staff and as a result feels unfamiliar and novel to them. In addition, accepting
20 oversight of an ongoing groundwater monitoring program would place an additional burden
21 upon KCC Staff. This is why Daylight is offering to move the site into the Voluntary Cleanup
22 and Property Redevelopment Program ("VCPRP") administered by KDHE BER. This would

1 allow an Environmental Use Control ("EUC") to be placed on the Site, where injecting
2 activities could be limited, restricted, or banned completely, with the input of the KCC and
3 would move the administrative burden of overseeing the ongoing groundwater monitoring
4 program and protecting fresh and usable water to KDHE which routinely oversees such
5 programs.

6 **VI. FRESH AND USABLE WATER CAN BE ADEQUATELY PROTECTED WITHOUT**
7 **DESTROYING THE LANDOWNER'S COMMERCIAL BUILDING**

8
9 **Q. CAN GROUNDWATER BE PROTECTED WITHOUT DESTROYING THE**
10 **LANDOWNER'S COMMERCIAL BUILDING IN ORDER TO FIND THE ORIGINAL**
11 **SOURCE OF THE BREAKOUT?**

12 A. Yes, it can. First, all evidence indicates that the breakout was only active for a very short
13 period of time and that it stopped when injection into the Olnhausen Farms #6 well was
14 shut-in. In addition, staining of the soil was only observed immediately under the concrete
15 floor, which means that the breakout was only observed at the surface essentially. There is no
16 evidence at all that would indicate the breakout ever released fluids below the surface. KCC
17 Staff has indicated from the beginning of this situation before the monitoring wells were even
18 drilled that they believe the breakout is occurring beneath the surface in the fresh and usable
19 water zones. However, there has never been any evidence or data that supported such
20 conclusion. Absolutely every piece of evidence and data gathered indicates that the breakout
21 occurred at the surface immediately beneath the concrete floor. It is not in dispute that the
22 breakout has been stopped at the surface.

23 In addition, and perhaps most importantly, Daylight has hired an environmental

1 consultant to install four groundwater monitoring wells and four piezometers and to monitor
2 groundwater beneath the subject building. Thus, there is no longer any need to speculate as to
3 what may or may not be happening beneath the surface, as data is actually being collected from
4 the fresh and usable water within Table 1. GSI has concluded with a high degree of confidence
5 through the groundwater monitoring program that the known release has not impacted
6 groundwater within the Table 1 interval and that at this time it does not appear that there is an
7 ongoing release which is impacting groundwater within the Table 1 interval.

8 **Q. HOW HIGH IS YOUR LEVEL OF CERTAINTY THAT GROUNDWATER CAN BE**
9 **ADEQUATELY PROTECTED VIA THE MONITORING WELL PROGRAM THAT**
10 **HAS BEEN PUT INTO PLACE?**

11 A. Daylight is relying on GSI to collect and analyze data from the monitoring wells in order to
12 confirm that groundwater is not being impacted. GSI is a reputable environmental consulting
13 company that performs this type of work on a routine basis. Therefore, I have a high degree
14 of confidence the practices GSI is employing adequately protect fresh and usable water. If at
15 any point in the future GSI determines some additional action is necessary, Daylight will
16 follow that advice. In addition, as indicated above, Daylight is offering to move this site into
17 the VCPRP program administered by KDHE BER, thus I am certain KDHE would take all
18 steps necessary to ensure that fresh and usable water is protected as well if the data were to
19 justify additional actions in the future.

20 **Q. IF WE ASSUMED FOR THE SAKE OF ARGUMENT THAT THERE WAS A**
21 **PHANTOM WELL LOCATED BENEATH THE COMMERCIAL BUILDING,**
22 **WOULD THAT CHANGE YOUR OPINION CONCERNING HOW THIS SITUATION**

1 **SHOULD BE HANDLED?**

2 A. No it would not. If we assumed for the sake of argument that there were a phantom well
3 beneath the commercial building, it would not change the fact that all evidence indicates the
4 breakout has been stopped and that fresh and usable water can be protected without finding
5 and plugging said well.

6 In addition, Daylight's engineer reviewed the wells in the area and found most wells
7 were drilled with a shallow cemented surface casing and a production casing string run to total
8 depth of the well. The surface casing was typically 7" to 13" in diameter and set around 40'
9 deep cemented back to surface. The production casing was usually 2 3/8" or 2 7/8" in diameter
10 and run to total depth of the well. The older vintage wells production casings were not always
11 cemented back to surface. The wells that Daylight drilled in the area were cemented back to
12 surface. Thus, if an intact well bore exists beneath the commercial building which was
13 constructed in this manner it would provide a direct conduit from the production formation to
14 the surface, and would not be open into any fresh water bearing zones. Of course there would
15 be a possibility that the production casing may not be intact, but this is a possibility that exist
16 with any well, and there is no evidence this is the case here. In fact the groundwater
17 monitoring has verified that groundwater is not being impacted regardless of what exists
18 beneath the commercial building.

19 The injection tests showed that reservoir pressure caused by injection into the
20 Olnhausen Farms #6 at full pressure caused fluid to flow at the surface beneath the commercial
21 building. When injection into the Olnhausen Farms #6 was stopped, the breakout also stopped.

22 There was never any evidence that the scope of the breakout was beyond what was observed

1 at the surface. In addition, groundwater monitoring wells have been drilled and are being
2 monitored to ensure that groundwater was not being impacted by any breakout beneath the
3 commercial building. Thus, whatever the cause of the breakout was, whether it be a natural
4 fault, a water well, a core hole or an abandoned well, the breakout has been stopped and no
5 longer poses any danger to fresh and usable water. Therefore, it would constitute waste to
6 destroy the landowner's building in order to try to determine the cause of a problem which has
7 already been solved.

8 **VII. THERE IS NO EVIDENCE THAT A WELL IS LOCATED BENEATH THE**
9 **COMMERCIAL BUILDING, AND ALL EFFORTS WHICH HAVE BEEN**
10 **UNDERTAKEN TO LOCATE AN ABANDONED WELL BENEATH THE**
11 **COMMERCIAL BUILDING HAVE FAILED TO IDENTIFY ONE**

12 **Q. IS THERE ANY EVIDENCE THAT THERE IS AN ABANDONED WELL BENEATH**
13 **THE COMMERCIAL BUILDING?**

14 A. No. There is absolutely zero evidence an abandoned well exists beneath the commercial
15 building. All we know is that some pathway exists beneath the commercial building which was
16 in communication with the Olnhausen Farms #6. This pathway could be any number of things,
17 including but not limited to natural geologic faults, a core hole, water well or an abandoned
18 well. There is simply no way to know what this pathway is without actually finding it, and that
19 cannot be done without destroying the landowner's building.

20 **Q. THE KCC STAFF HAS TESTIFIED THAT AN ABANDONED WELL EXISTS**
21 **BENEATH THE COMMERCIAL BUILDING, DO YOU AGREE WITH THAT**
22 **TESTIMONY?**

23 A. Not at all. They suspect the breakout was caused by an abandoned well, but there is no

1 evidence at all which could allow them conclude with any degree of certainty this was the
2 case. As indicated previously the only conclusion which can be reached is that some pathway
3 exists beneath the commercial building which was in communication with the Olnhausen
4 Farms #6. Beyond that all that anyone can do is speculate as to what the pathway might be.
5 KCC Staff is simply speculating that this pathway is an abandoned well, but there is no
6 evidence at all that can be used to either prove or disprove their suspicion. While an
7 abandoned well is one possibility, there are many other possibilities that are equally likely.

8 **Q. WHAT ARE SOME OTHER CONDUITS THAT COULD EXIST BENEATH THE**
9 **COMMERCIAL BUILDING?**

10 A. Any number of things could act as a conduit for fluid to reach the surface. Oil was initially
11 discovered in Kansas through seeps, which are places where natural geologic conditions
12 allowed oil to reach the surface without any human intervention. The conduit could also be a
13 borehole or core hole used for geological sampling or study. It could be a water well, or some
14 other natural geological structure. Essentially, all we know is that the fluid came to surface
15 beneath the building, it could have vertically followed some conduit to a shallower zone at
16 some other location and then migrated horizontally to another feature located beneath the
17 building and come to surface there. The point is, any number of things could have happened
18 and all we can determine from the available data is that fluid made its way to the surface
19 beneath the commercial building and somehow that fluid was in communication with the
20 Olnhausen Farms #6. Any conclusions beyond this are nothing more than mere speculation.

21 **Q. IS THERE ANY EVIDENCE INDICATING THAT THERE IS NOT AN ABANDONED**
22 **WELL BENEATH THE COMMERCIAL BUILDING?**

1 A. Yes there is. First, the KCC keeps records of all wells drilled in the state of Kansas and
2 certainly should have records of any wells drilled after 1958. However, the KCC has
3 absolutely no records of any well ever being drilled where the commercial building is currently
4 located.

5 Second, historical aerial photographs have been examined and none of said
6 photographs show what can be identified as a well where the commercial building is now
7 located. One aerial photo does show a smear or spot of some kind at that location; however
8 no visible lease road or well site can be seen in the photograph. Typically, even if the
9 resolution is not good enough to see a well, we can see a lease road or other path which was
10 used to access the well, and this is not present on the aerial photos of this site.

11 Third, Daylight has commissioned a survey using ground penetrating radar of the area
12 beneath the commercial building. This survey identified a 25x25 area of high moisture, but it
13 did not identify any well bore beneath the surface. If a well bore existed beneath the
14 commercial building and there was steel casing, and also cemented surface casing similar to
15 the construction of the other wells on the lease; the ground penetrating radar survey should
16 have detected the well bore, however none was identified.

17 Fourth, Daylight commissioned a magnetic survey with Subsurface Instruments ML
18 1M tool of the area beneath the commercial building. Again, the thought was that the magnetic
19 survey should be able to detect the steel casing and steel surface casing of an abandoned well
20 beneath the building if one existed. The magnetic survey did not identify an abandoned well
21 beneath the building either.

22 Fifth, based upon the spacing of the wells drilled on the Johnson f/k/a CRAM lease,

1 it is unlikely that a well would have been drilled in the location of the commercial building.
2 This location is only 105 feet away from the Johnson 106t as the crow flies and would only
3 be 115 feet south of the row of producers located directly north of the site. None of the other
4 wells on the lease are located that close together. In fact, none of the other wells on the lease
5 are located closer than 230 feet from one another, and most are located much further apart than
6 that. Operationally, there are no surface conditions which would have caused the original
7 operator to drill a well this far out of its spacing pattern and doing so would have had an
8 adverse impact on the production from such well. Thus, based on the spacing of the other
9 wells on the subject lease, there should not be another abandoned oil and gas well located
10 beneath the commercial building.

11 **Q. ARE YOU SAYING THERE IS NOT AN ABANDONED WELL LOCATED**
12 **BENEATH THE COMMERCIAL BUILDING?**

13 A. No one can say for certain what is located beneath the commercial building. But I am saying
14 there is just as much if not more evidence tending to show there is **not** an abandoned well
15 located beneath the building. Thus, any speculation that there may be an abandoned well
16 beneath the commercial building is mere speculation unsupported by sufficient facts or data.

17 The KCC Staff's speculation that an abandoned well exists beneath the building is not
18 based upon sufficient facts or data to support their conclusion. In addition, the KCC Staff's
19 speculation is not the product of reliable principles and methods, nor have the witnesses
20 reliably applied any principles or methods in order to reach their conclusion that an abandoned
21 well is located beneath the commercial building.

22 **VIII. THE FURTHER ACTIONS KCC STAFF IS DIRECTING DAYLIGHT TO TAKE**

1 **CONSTITUTE ECONOMIC WASTE AND ARE ABSOLUTELY UNNECESSARY**

2 **Q. TO SUMMARIZE, WHY DO YOU FEEL THAT THE ACTIONS BEING TAKEN BY**
3 **KCC STAFF CONSTITUTE ECONOMIC WASTE?**

4 A. Because the breakout has already been contained, and groundwater monitoring wells have
5 been installed in order to verify that no subsurface groundwater pollution is occurring. It is not
6 disputed that a breakout occurred beneath a commercial building. It is also not disputed that
7 this breakout was somehow in communication with the Olnhausen Farms #6 and that when
8 injection into the Olnhausen Farms #6 was stopped the flow of fluids from beneath the
9 commercial building also stopped. Thus, all parties agree that at the surface the breakout has
10 stopped. The KCC Staff indicated they believed the breakout was continuing to impact
11 groundwater. There was no evidence to support this belief, but Daylight wanted to ensure the
12 breakout had been adequately contained as well. Thus, groundwater monitoring wells have
13 been installed which confirm the breakout has been stopped and is no longer impacting fresh
14 and usable water. Thus, it would constitute economic waste to destroy the landowner's
15 building in order to search for a possible abandoned well that no longer poses any risk to fresh
16 and usable water.

17 In addition, there is no evidence which indicates an abandoned well even exists
18 beneath the commercial building. In fact a significant amount of evidence exists which tends
19 to show that there is not an abandoned well located beneath the commercial building.
20 Therefore, insisting that the landowner's building be destroyed in order to look for a well,
21 (even though the environmental impact of any such well has been addressed via monitoring
22 wells) is needless and constitutes economic waste. Daylight has worked well with KCC Staff

1 on all issues that have come up with Daylight's Kansas operations. However, what is being
2 asked of Daylight in this instance is not reasonable and causes waste even though the primary
3 duty of the Commission is to prevent waste. This is why Daylight has chosen to bring this
4 matter before the Commission.

5 In addition, Daylight is not asking that the breakout beneath the commercial building
6 simply be left to hope and chance. Instead, Daylight is offering to bring this site under the
7 oversight and control of the KDHE by voluntarily enrolling it in the VCPRP program
8 administered by KDHE BER. This would adequately protect fresh and usable water, would
9 prevent waste, including economic waste and would eliminate any future burden upon KCC
10 Staff with respect to this site.

11 **IX. RELIEF REQUESTED**

12 **Q. TO SUMMARIZE WHAT IS DAYLIGHT ASKING OF THE COMMISSION?**

13 A. The breakout beneath the commercial building has been contained, and groundwater
14 monitoring has been put into place to ensure that the breakout remains contained. In addition,
15 all attempts to locate an abandoned well beneath the building have failed and any contention
16 that an abandoned well even exists beneath the commercial building is nothing more than
17 speculation.

18 Thus, Daylight is requesting the following of the Commission:

- 19 1. Daylight will permanently cease injection into Olnhausen Farms #6 either voluntarily
20 or by order of the Commission. Since this is the well which ultimately channeled to the
21 breakout, permanently shutting in this well is a necessary first step (which has already
22 been done). The Olnhausen Farms #6 could either be plugged or converted to a
23 producer. However, converting this well to a producer would actually reduce reservoir
24 pressure in a portion of the reservoir that has channeled to the breakout, thus
25 converting this well to a producer may greatly reduce the likelihood of future

1 breakouts;

2 2. Daylight will continue to engage GSI to perform groundwater monitoring from all four
3 monitoring wells into the foreseeable future on a quarterly basis. GSI has some specific
4 protocols it believes should be followed in order to realize higher quality data from the
5 groundwater monitoring program, and Daylight is in agreement with the protocols
6 being proposed by GSI;

7 3. If the Commission feels something beyond the two items discussed above is needed,
8 Daylight is willing to voluntarily move the site into the VCPRP program administered
9 by KDHE BER. This would allow an Environmental Use Control ("EUC") to be
10 placed on the Site, where injecting activities could be limited, restricted, or banned
11 completely, with the input of the KCC and would bring continuing oversight of this
12 site under the purview of the KDHE;

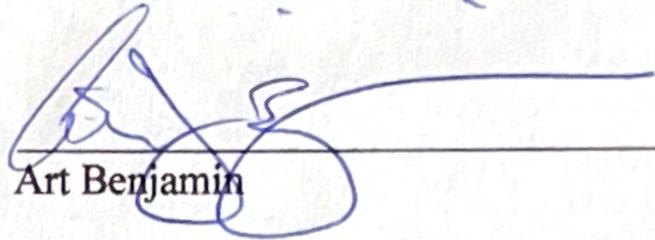
13 **Q. DOES THIS COMPLETE YOUR TESTIMONY TO THE COMMISSION?**

14 A. Yes.

VERIFICATION OF ART BENJAMIN

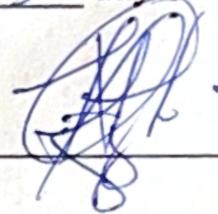
STATE OF TEXAS
COUNTY OF FORT BEND, ss:

Art Benjamin, being duly sworn, upon his oath states that he has read the document title "Pre-Filed Direct Testimony of Art Benjamin" to which this Verification is attached, that he is aware of its contents, and declares that the statements contained in said document are true and correct.



Art Benjamin

SUBSCRIBED AND SWORN to before me on this 13th day of December, 2024.



Notary Public

Appointment/Commission Expires: 02-13-2028



CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was sent via electronic mail, this 13th day of December, 2024, addressed to:

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Keith A. Brock