

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Application of Haas	)	Docket No. 19-CONS-3224-CUIC
Petroleum, LLC to Amend Injection Permit	)	
E-31342, for the Thoele South Lease Located in	)	CONSERVATION DIVISION
Section 29, Township 18 South, Range 21 East,	)	
Franklin County, Kansas.	)	License No. 33640

**MOTION TO DISMISS PROTESTS**

COMES NOW the Applicant, Haas Petroleum, LLC by and through its attorney Keith A. Brock, Anderson & Byrd, LLP, and respectfully moves the Kansas Corporation Commission (the "Commission") for an Order Dismissing All Protests filed herein. In support of its Motion, Applicant states:

1. K.A.R. 82-3-135b provides that "protest[s] **SHALL** include a clear and concise statement of the *direct* and *substantial* interest of the protestor in the proceeding, including specific allegations as to the manner in which the grant of the application will cause waste, violate correlative rights, or pollute the water resources of the state of Kansas." (emphasis added).

2. K.A.R. 82-3-135b clearly sets forth several mandatory components that all protest **MUST** contain in order to be valid and to secure consideration before the Commission. Such mandatory components are as follows:

- i. Include a clear and concise statement of the DIRECT and SUBSTANTIAL interest of the protestor in the proceeding; AND
- ii. Include SPECIFIC allegations as to the MANNER IN WHICH the APPLICATION will,
  - a. cause waste;
  - b. violate correlative rights; or
  - c. pollute water resources;

3. Moreover, in *Cross Bar Energy, LLC*, Docket No. 18-CONS-3689-CUIC the

Commission recently issued a Final Precedential Order holding,

3. The Commission orders that, to be considered valid, all protests filed in accordance with K.A.R. 82-3-135a and K.A.R. 82-3-135b must meet the "direct and substantial interest" requirement by demonstrating that each individual protestant has "standing" under Kansas' traditional two-part test for standing. This means each protestant must demonstrate that, "[1] he or she suffered a cognizable injury and [2] that there is a causal connection between the injury and the challenged conduct." The Commission orders that this interpretation of K.A.R. 82-3-135a and K.A.R. 82-3-135b shall have precedential effect pursuant to K.S.A. 77-415(b)(2)(A).

The Commission further ruled that, "[t]he Commission's interpretation of K.A.R. 82-3-135a and K.A.R. 82-3-135b explained in paragraph three (3) above is adopted as precedential pursuant to K.S.A. 77-415(b)(2)(A)."

4. This Docket is not distinguishable from *Cross Bar Energy, LLC*, Docket No. 18-CONS-3689-CUIC, therefore, all protests which have been filed in this docket should be dismissed pursuant to the authority cited and relied upon by the Commission in said *Cross Bar Energy, LLC* docket.

5. Neither of the two protests filed in this docket contain any statement or allegation that the protesting parties have a direct and substantial interest in this Docket, nor do such protest contain allegations sufficient to satisfy either portion of the two part test to establish standing as set forth by the Commission in the *Cross Bar Energy, LLC* docket. Moreover such protests do not include the specific allegations required by K.A.R. 82-3-135b which are emphasized above.

6. Since none of the protests filed herein contain any allegations demonstrating that such individuals have standing to participate in these proceedings and do not contain the allegations required by K.A.R. 82-3-135b, such protests are invalid and the Commission must dismiss such protests pursuant to the Final Precedential Order issued in the *Cross Bar Energy, LLC* docket and

K.A.R. 82-3-135b.

7. Both of the protests filed in this Docket complain about the form of publication notice given by Applicant, a copy of which is attached hereto as Exhibit 1. This publication follows the "Sample Newspaper Publication" for UIC applications which is posted on the Commission website, a copy of which sample publication is attached hereto as Exhibit 2.

8. Moreover, the notice which was published by Applicant in this docket contains all of the information required by both K.A.R. 82-3-402 and K.A.R. 82-3-135.

9. In addition, the publication notice given in this Docket contains the following excerpt,

. . . . You and each of you, are hereby notified that Haas Petroleum, LLC has filed an application to amend the injection permit of saltwater in the Squirrel formation. This application is for the following: All 26 Wells located in NW/4 under permit #E-31342 located in Section 29, Township 18 S, Range 21 E. Franklin County, Kansas with a maximum operating pressure of 600 and a maximum rate of 125 bbls per day . . . .

This statement clearly informs the reader what authority is being requested by and through the Application filed herein. The Protesters in this Docket are not interested in knowing what the Application filed herein entails and are instead solely interested in delaying and causing unnecessary and undue expense in this Docket.

10. Since the protests filed herein fail to comply with Commission regulations and the Final Precedential Order *Cross Bar Energy, LLC* docket, such protests are not valid protests and must be dismissed. Moreover, since the publication notice given by Applicant in this docket complies in all respects with K.A.R. 82-3-402 and K.A.R. 82-3-135, the protests would be meritless even if they were filed by parties who had standing in this Docket and even if said protests complied with the Commission's regulations.

WHEREFORE, Applicant moves the Commission for an order dismissing all protests filed in this Docket and further for an order directing Commission Staff to process the application filed herein administratively without a hearing thereon.



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Ottawa, Kansas 66067  
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(785) 242-1279, facsimile  
[kbrock@andersonbyrd.com](mailto:kbrock@andersonbyrd.com)  
Attorneys for Applicant

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing was sent via U. S. Mail, postage prepaid, hand-delivery, or electronically, this 14<sup>th</sup> day of February, 2019, addressed to:

Todd Bryant  
[t.bryant@kcc.ks.gov](mailto:t.bryant@kcc.ks.gov)

Jonathan R. Myers  
[j.myers@kcc.ks.gov](mailto:j.myers@kcc.ks.gov)

Rene Stucky  
[r.stucky@kcc.ks.gov](mailto:r.stucky@kcc.ks.gov)

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Cindy Hoedel  
205 Mercer St.  
Matfield Green, KS 66862

Scott Yeargain  
Polly Shteamer  
2263 Nevada Road  
Ottawa, KS 66067



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Keith A. Brock

Harvey Leon Toon, of lawful age, being first duly sworn, deposeth and saith that he is Publisher and Editor of the

# Ottawa Herald

19-CONS-3224-CUIC

a daily newspaper published in the City of Ottawa, Franklin County, Kansas, and of general circulation in Franklin County, Kansas, and is not a trade, religious or fraternal publication, and which newspaper has been admitted to the mails as second class matter in said County, and which newspaper has been continuously and uninterruptedly published in said County during the period of five full years immediately prior to the first publication of the notice hereinafter mentioned, and that a notice, of which is hereto attached, was published in the regular and entire Tuesday issue of said Ottawa Herald for 1 day, first publication being made the 6 day of December, 2018 A.D., with final publication on the 6 day of December, 2018 A.D.

And affiant further says that she has personal knowledge of the statements above set forth, and they are true.



Subscribed and sworn to me before the 6 day of December, 2018 A.D.

MARY K. CALLAWAY  
Notary Public-State of Kansas  
My Appt. Expires 4-14-22

Notary Public Mary K. Callaway

My Commission expires 9-14-22

Printer fees \$ 69.00

Received  
KANSAS CORPORATION COMMISSION

DEC 17 2018

CONSERVATION DIVISION  
WICHITA, KS

(Published December 6, 2018)  
BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS  
NOTICE OF FILING APPLICATION  
RE: Haas Petroleum, LLC - Application to amend the permit to authorize the enhanced recovery of saltwater in the Thoele South Wells located in Franklin County, Kansas.  
TO: All Oil and Gas Producers, Unleased Mineral Interest Owners, Landowners and all persons whosoever concerned.  
You, and each of you, are hereby notified that Haas Petroleum, LLC has filed an application to amend the injection permit of saltwater in the Squirrel formation. This application is for the following:  
All 26 Wells located in NW/4 under permit # E-31342 located in Section 29, Township 18 S, Range 21 E, Franklin County, Kansas with a maximum operating pressure of 600 and a maximum rate of 125 bbls per day.  
Any persons who object or protest to this application shall be required to file their objections or protests with the Conservation Division of the State Corporation Commission of the State of Kansas within thirty (30) days from the date of this publication. These protests shall be filed pursuant to Commission regulations and must state specific reasons why granting the application may cause waste, violate correlative rights or pollute the natural resources of the State of Kansas.  
All person interested or concerned shall take notice of the foregoing and shall govern themselves accordingly.  
Haas Petroleum, LLC  
10551 Barkley Street, # 307  
Overland Park, Kansas 66212  
(913) 499-8373

EXHIBIT 1

# EXAMPLE

## NEWSPAPER NOTICE

Please be advised that notice must be published in the official county newspaper of the county in which the affected lands are located. Failure to publish notice will delay the processing of your application. Please refer to the newspaper notice below as an example.

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS  
**NOTICE OF FILING APPLICATION**

RE: **(Operator Name)** – Application for a permit to authorize the (“**enhanced recovery from**” or “**disposal of saltwater into**”) the **(Lease Name and Well No.)**, located in **(Name of County)**, County, Kansas.

TO: All Oil & Gas Producers, Unleased Mineral Interest Owners, Landowners, and all persons whomever concerned.

You, and each of you, are hereby notified that **(Operator Name)** has filed an application to commence the **(injection/disposal)** of saltwater into the **(Name of Formation)** formation at the **(Lease Name and Well No.)**, located in the **(Spot Location & Legal Description)**, **(Name of County)** County, Kansas, with a maximum operating pressure of **(Injection Pressure #)** and a maximum injection rate of **(Injection Rate)** bbls per day.

Any persons who object to or protest this application shall be required to file their objections or protest with the Conservation Division of the State Corporation Commission of the State of Kansas within thirty (30) days from the date of this publication. These protests shall be filed pursuant to Commission regulations and must state specific reasons why granting the application may cause waste, violate correlative rights or pollute the natural resources of the State of Kansas.

All persons interested or concerned shall take notice of the foregoing and shall govern themselves accordingly.

**(Operator Name)**  
**(Operator Address)**  
**(City, State, Zip Code)**  
**(Telephone Number)**

**A COPY OF THE AFFIDAVIT OF PUBLICATION MUST ACCOMPANY ALL APPLICATIONS**