

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application of Midstates)	Docket No. 19-CONS-3173-CUIC
Energy Operating, LLC to Authorize Injection of)	
Saltwater into the Squirrel Formation at the)	
Thrasher Wells #I-5, #I-4, and #I-3, and to)	
Increase the Injection Pressure on All Wells)	CONSERVATION DIVISION
Encompassed by Permit E-31965, Located in)	
Section 25, Township 13 South, Range 20 East,)	
Douglas County, Kansas.)	License No.: 35503

**RESPONSE OF MIDSTATES ENERGY OPERATING, LLC
TO PETITIONS FOR RECONSIDERATION**

COMES NOW the Applicant, MidStates Energy Operating, LLC, by and through its attorney, Keith A. Brock, Anderson & Byrd, LLP, and in response to the Petitions for Reconsideration filed by Judith L. Wells and Karin Pagel-Meiners (the "Petitions for Reconsideration"), the Applicant states as follows:

1. The Petitions for Reconsideration do not present any argument or authority demonstrating that the Order Dismissing Protests was erroneous. Therefore, Applicant request the Commission take no action of any kind with respect to the Petitions for Reconsideration.

2. 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).

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. If Judith L. Wells or Karin Pagel-Meiners were allowed to participate in this Docket on the grounds stated in their Protests, all members of the public would be entitled to participate in every docket.

5. Neither of the two protests filed in this Docket by Judith L. Wells or Karin Pagel-Meiners contain any statement or allegation that the protesting parties have a direct and substantial interest in this Docket, nor do such protests 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 neither of the protests filed herein by Judith L. Wells or Karin Pagel-Meiners 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 appropriately dismissed such protests pursuant to the Final Precedential Order issued in the *Cross Bar Energy, LLC* docket and K.A.R. 82-3-135b.

7. Moreover, in order to satisfy the second element of a valid protest the protest must

contain SPECIFIC allegations concerning the manner in which THE APPLICATIONS FILED IN THIS DOCKET will result in one of the three events listed in K.A.R. 82-3-135b. The Protests filed by Judith L. Wells and Karin Pagel-Meiners in this Docket simply cite concerns regarding the UIC program in general, the KCC's handling of such program, and the history of certain KCC actions relating to one of the wells which is the subject of this Docket. However, these two protests do not contain any allegations that there is a special risk allegedly posed by the Applications which are the subject of this Docket. These broad allegations concerning the UIC program in general are clearly not sufficient to form the basis for a valid protest in these proceedings and certainly do not constitute SPECIFIC allegations as to the MANNER IN WHICH the APPLICATION will, result in one of the three events listed in K.A.R. 82-3-135b.

8. The Protests filed by Judith L. Wells and Karin Pagel-Meiners are completely void of any allegations that the applications which are filed in this Docket pose any greater risk than any other injection well drilled in this state.

9. Protests must meet certain minimum criteria set forth by K.A.R. 82-3-135b. In order to be considered valid, a protest must describe with specificity the direct and substantial interest the Protester has in this Docket, and also describe with specificity the manner in which the application will, cause waste, violate correlative rights or pollute water resources. As demonstrated above the protests filed in this Docket by Judith L. Wells and Karin Pagel-Meiners fail to meet such minimum criteria and were properly dismissed.

10. Judith L. Wells seems to rely upon the fact that she alleged in her response to Applicant's Motion to Dismiss that she drinks water from a well in Section 25. However, as the Commission correctly pointed out, "a party cannot bootstrap fresh allegations of particularized injury

onto a protest via a response to a motion to dismiss." In addition, even if these additional allegations could some how be incorporated into Judith L. Wells' protests, merely indicating that she drinks water from a well does not constitute a specific allegation as to the manner in which the applications filed in this Docket will pollute the water in such well as required by K.A.R. 82-3-135b.

11. Since the Petitions for Reconsideration fail to show that the Commission erred in dismissing the protests filed in this Docket, the Petitions for Reconsideration should not be granted.

WHEREFORE, Applicant respectfully requests that the Commission take no action of any kind with respect to the Petitions for Reconsideration and for such other and further relief as may be just and equitable.



Keith A. Brock, #24130
ANDERSON & BYRD, LLP
216 S. Hickory ~ P.O. Box 17
Ottawa, Kansas 66067
(785) 242-1234, telephone
(785) 242-1279, facsimile
kbrock@andersonbyrd.com
Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was sent via electronic mail, this 22nd day of April, 2019, addressed to:

James Bondurant
and Patricia Bondurant
jbondurant50@gmail.com

Judith L. Wells
judithlouisewells@gmail.com

Jake Eastes
j.eastes@kcc.ks.gov

Jonathan R. Myers
j.myers@kcc.ks.gov

Rene Stucky
r.stucky@kcc.ks.gov

Lauren Wright
l.wright@kcc.ks.gov

Karin Pagel-Meiners
kpagelmeiners@earthlink.net

Richard Bettinger
rickbett63@gmail.com



Keith A. Brock