

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

In the matter of the petition of Daylight )	Docket Nos.: 25-CONS-3040-CMSC
Petroleum, LLC (Operator) to open a docket )	
pursuant to K.S.A. 55-605(a) regarding a fluid )	CONSERVATION DIVISION
leak in Section 16, Township 30 South, Range )	
<u>16 East, Wilson County, Kansas.</u> )	License No.: 35639

**RESPONSE TO MOTION TO FILE LATE-EXHIBIT  
OF DAYLIGHT PETROLEUM, LLC**

Staff of the Kansas Corporation Commission (Staff and Commission, respectively) hereby submits its Response to the Motion to File Late-Exhibit of Daylight Petroleum. In support of its Response, Staff states as follows:

1. On February 20, 2025, the Commission held a hearing regarding the captioned matter. At the end of the hearing, Commissioner Keen closed the record regarding this matter.<sup>1</sup>

2. On April 17, 2025, Operator inappropriately submitted its Motion to File Late-Filed Exhibit of Daylight Petroleum, LLC (Motion). Specifically, Operator's Motion sought to introduce a water sampling report taken after the hearing was held in this matter. On April 21, 2025, Operator filed its Post Hearing Reply Brief (Reply Brief) in the captioned docket. In the Reply Brief, Operator inappropriately referenced the exhibit attached to its Motion and applied testimony provided on behalf of Operator to the exhibit.

3. Operator's Motion should be denied and any reference to the exhibit should be stricken from Operator's Reply Brief. Filing the Motion to add an exhibit after the record has been closed, as well as referencing that exhibit and applying testimony to that exhibit in a reply filing, is highly inappropriate and prejudicial against Staff. Additionally, Operator's Motion fails to lay any foundation for the admittance of the exhibit, does not provide Staff with the ability to review or opine on the exhibit, and does not allow Staff to cross-examine Operator's witnesses

---

<sup>1</sup> Evidentiary Hearing Transcript, p. 328:20-23 (Mar. 6, 2025).

regarding the exhibit. Based on the factors listed above, it would be inappropriate to admit the exhibit or any references to the exhibit into the record at this stage of the captioned matter.

4. If the Commission does decide to grant Operator's Motion allowing the referenced exhibit and the references in Operator's Reply Brief into the record, then it should only further confirm that pollution to fresh and usable water is occurring here. Operator still attempts to claim that pollution is not occurring; however, Staff would note that Operator simultaneously contradicts that claim by asserting there is a "significant decrease in chloride concentrations" of the PMW-2 well which notably had the highest concentration level of chlorides.<sup>2</sup> If the chloride levels were actually within prescribed levels as Operator has alleged, then there should not be any significant increases or decreases.

WHEREFORE, Staff respectfully submits this Response to Operator's Motion and respectfully requests the Commission deny Operator's Motion and strike any reference to the Motion's contents in Operator's Reply Brief and for any such other relief as the Commission deems just and equitable.

Respectfully Submitted,

/s/ Kelcey Marsh

Kelcey Marsh, #28300  
Litigation Counsel | Kansas Corporation Commission  
266 N. Main St., Ste. 220 | Wichita, KS 67202  
Phone: 316-337-6200 | Email: Kelcey.Marsh@ks.gov

---

<sup>2</sup> Post Hearing Reply Brief of Daylight Petroleum, LLC, p.1 (Apr. 21, 2025).

## **CERTIFICATE OF SERVICE**

25-CONS-3040-CMSC

I, the undersigned, certify that a true and correct copy of the attached Response has been served to the following by means of electronic service on May 8, 2025.

KEITH A. BROCK, ATTORNEY  
ANDERSON & BYRD, L.L.P.  
216 S HICKORY  
PO BOX 17  
OTTAWA, KS 66067-0017  
kbrock@andersonbyrd.com

KELCEY MARSH, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
CENTRAL OFFICE  
266 N. MAIN ST, STE 220  
WICHITA, KS 67202-1513  
kelcey.marsh@ks.gov

JONATHAN R. MYERS, ASSISTANT GENERAL COUNSEL  
KANSAS CORPORATION COMMISSION  
266 N. Main St., Ste. 220  
WICHITA, KS 67202-1513  
jon.myers@ks.gov

TROY RUSSELL  
KANSAS CORPORATION COMMISSION  
DISTRICT OFFICE NO. 3  
137 E. 21ST STREET  
CHANUTE, KS 66720  
troy.russell@ks.gov

/s/ Paula J. Murray  
Paula J. Murray

---