BEFORE THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

In the matter of the application of Quito,)	Docket No: 22-CONS-3115-CMSC
Inc. ("Operator") for an operator's license)	
renewal.)	CONSERVATION DIVISION
)	
)	License No: 33594

PRE-FILED TESTIMONY

OF

MARK W. MCCANN

September 7, 2022

1	Q.	What is your name?
2	A.	Mark W. McCann.
3	Q.	What is your connection with Quito, Inc.?
4	A.	I am the President and sole owner.
5	Q.	Is Quito, Inc. a Kansas corporation?
6	A.	Yes.
7	Q.	What is the current address of Quito, Inc.?
8	A.	1613 West 6 th Street, Bartlesville, Oklahoma 74003.
9	Q.	Was an Operator's License previously issued to Quito, Inc. by the State
0		Corporation Commission?
1	A.	Yes.
2	Q.	When was the license initially issued?
3	A.	May 2, 2005.
4	Q.	Is it correct that Quito, Inc. operates various oil and gas wells on oil and gas
5		leases owned by Kansas Production Company, Inc. situated in Chautauqua
16		County, Kansas?
17	A.	Yes.
18	Q.	How long have you been personally involved in operating oil and gas wells
19		in the state of Kansas?
20	A.	In excess of 30 years.

- Q. Please direct your attention to the Commission's Staff Report and Further
 Investigation filed in this docket on April 29, 2022, hereafter referred to as
 the Staff Report. Staff submitted a 12 page report briefly summarizing the
 inspections it had conducted of 23 oil and gas leases. Attached to the report
 as Exhibit KCC Staff 1 through Exhibit KCC Staff 23 are Staff's inspection
 reports for the various leases. Have you reviewed the Staff Report and each
 of the Exhibits?
- 8 A. Yes.
- 9 Q. In response to the Staff Report, Quito, Inc. submitted a Detailed Response.

 10 Did you provide the information used in the preparation of the Detailed

 11 Response?
- 12 A. Yes.
- Q. Did you endeavor, on behalf of Quito, Inc., to provide a well-by-well response to each of the wells identified in Exhibit KCC Staff 1 through Exhibit KCC Staff 23?
- 16 A. Yes.
- 17 Q. Have you had an additional opportunity to review the Detailed Response, 18 and are there any corrections or changes needed to that Detailed Response 19 at this time?

- 1 A. I have had an opportunity to review the Detailed Response. The modifications 2 and corrections set forth below should be made.
- 3 Dearmond M-1 the word inactive in the response should be changed to active.
- Q. At any time prior to the filing of the current docket, have you been notified on behalf of Quito, Inc. of wells operated by Quito, Inc. that are not in compliance with state statutes or the Commission's rules and regulations?
- 7 A. Yes.
- 8 Q. On more than one occasion?
- 9 A. Yes.
- 10 Q. Is there a process with which you have become accustomed on behalf of Quito, Inc. relative to notice of potential violations?
- 12 A. Yes.
- 13 Q. Could you please explain that process?
- 14 A. The customary process which Quito, Inc. has experienced relating to wells not in
 15 compliance with statutes or the Commission's rules or regulations starts with the
 16 issuance of a Notice of Violations letter, which notifies the operator of the nature
 17 of the violation and the statute, rule or regulation under which the violation is
 18 asserted. In non-emergency situations, the letter gives the operator a period of
 19 time, typically 30 days, to bring the well into compliance. The "NOV" letter also
 20 provides the operator with an opportunity to communicate with Commission

- Staff in order to address any questions the operator may have, including the
 manner in which Staff interprets, construes and understands a particular statue,
 rule or regulation and the construction, interpretation or understanding of the
 statute, rule or regulation by the operator.
- Q. In your experience, what customarily happens if the well at issue is not brought into compliance within the cure period?
- 7 A. The Commission issues a Penalty Order.
- Q. To date, have you received any customary NOV letters from the District 3

 Office informing Quito, Inc. that it is in violation of a state statute, rule or

 regulation governing the operation of any oil and gas well arising out of the

 Staff Report?
- 12 A. No.
- 13 Q. Has Quito, Inc. received NOV letters from the District 3 Office fixing any time
 14 period within which it must cure an asserted violation of any state statute,
 15 rule or regulation included within the Staff Report?
- 16 A. No.
- 17 Q. Has Quito, Inc. received any written notification from any other department,
 18 employee or agent of the State Corporation Commission informing Quito,
 19 Inc. that it is in violation of a state statute, rule or regulation governing the
 20 operation of any oil or gas well, or fixing any time period within which it

- must cure an asserted violation of any state statute, rule or regulation, included within the Staff Report?
- 3 A. No.
- As reflected in the Detailed Response to Staff Report, Quito, Inc. disagrees 4 Q. with Staff's assessment that 124 wells were found to be currently out of 5 compliance and that there were approximately 134 violations associated with 6 the leases. Does Quito, Inc. continue to maintain that position at this time? 7 Yes. Quito, Inc. does not agree with Staff's assessment that there were 124 wells 8 A. out of compliance, or that there were approximately 134 violations associated 9 with the leases. 10
- 11 Q. Please direct your attention to Exhibits KCC Staff -1 through KCC Staff -23.

 12 Do you observe that on the first page of each of those Exhibits, the Staff
 13 member preparing the report identified certain actions/recommendations
 14 arising out of his field inspection?
- 15 A. Yes.
- 16 Q. What type of actions do the reports recommend?
- 17 A. The vast majority of actions/recommendations relate to the need to file
 18 Temporary Abandonment (or "TA") Applications. A few of the Exhibits identify
 19 other regulatory matters. The Staff Report on the Bever Lease contains

- additional recommendations on the KL Bever #2 Well. On the McCann Lease, the Staff Report also identifies the need to file completion reports.
- Q. The most common alleged violation cited was K.A.R. 82-3-111, the
 administrative regulation which relates to temporarily abandoned wells.

 With respect to that category of alleged violation, were there wells identified
 in the Staff Report which Quito, Inc. contends are exempt from the
 requirement to file a Temporary Abandonment Well Application (Form
 CP111), under subsection (e) of that regulation?
- 9 A. Yes.
- On the dates of the various inspections, were there wells in existence that
 otherwise met each of the criteria for exemption under subsection (e), but
 which were missing some minor piece of equipment to enable the well to be
 classified as fully equipped for production of oil or gas or for injection?
- 14 A. Yes.
- Q. Were there also instances where the equipment in the wells had been removed to service or rework an otherwise active well?
- 17 A. Yes.
- Q. Does Exhibit A attached to your Pre-Filed Testimony list those wells which are now fully equipped and are capable of production of oil or gas or for

injection, and which are otherwise exempt under subsection (e) of K.A.R. 82-1 3-111? 2 A. Yes. 3 Had operations ceased on any of the wells listed in Exhibit A for more than 4 Q. 90 days? 5 A. No. 6 What are the total number of wells listed on Exhibit A attached to your Pre-Q. 7 Filed Testimony? 8 39 A. 9 On the dates of the various inspections by Commission Staff, were there Q. 10 wells which Quito, Inc. needed to file TA applications for? 11 A. Yes. 12 Does Exhibit B attached to your Pre-Filed Testimony identify the wells with Q. 13 respect to which TA application needed to be filed? 14 A. Yes. 15 How are the TA Well Applications typically filed? 16 Q. They are filed electronically through KOLAR. A. 17 Has Quito, Inc. had access to KOLAR during the pendency of this 18 Q. administrative proceeding? 19

- Not on a continuous basis. There may have been intermittent time periods when A. 1 access was available, but to the best of my knowledge, Quito, Inc. has not had 2 access to KOLAR during most of the time period during the pendency of this 3 action.
- Subsequent to July 7, 2022, has Quito, Inc. submitted TA applications in Q. 5 paper form? 6
- A. Yes. 7

4

- Does Exhibit B attached to your Pre-Filed Testimony identify those wells Q. 8 upon which Quito, Inc. has submitted, or is submitting, temporary 9 abandonment applications? 10
- Yes. 11 A.
- How many Temporary Abandonment Well Applications have been submitted Q. 12 in paper form? 13
- 28 A. 14
- Are there wells identified in the Staff Report that are not included on Quito, Q. 15 Inc.'s well inventory? 16
- A. Yes. 17
- Were there wells identified in the Staff Report that were not acquired by Q. 18 Kansas Production Company, Inc. through assignment from a prior owner? 19
- 20 A. Yes.

- Q. Were there wells located on Oil and Gas Leases not owned by Kansas
 Production Company, Inc.?
- 3 A. Yes.
- Q. Does Exhibit C attached to your Pre-Filed Testimony list the wells that Kansas

 Production Company, Inc. does not own, and that Quito, Inc. does not have
- 6 the legal authority to operate?
- 7 A. Yes.
- 8 Q. What is the total number of wells listed on Exhibit C?
- 9 A. 23
- 10 Q. Has Quito, Inc. operated any of the wells identified on Exhibit C?
- 11 A. No.
- Q. On various Oil and Gas Leases, the Staff Report indicates that there are certain wells within one-quarter of a mile of Quito, Inc.'s injection wells.
- 14 What is Quito, Inc.'s understanding with respect to the wells not on its
 15 inventory but located within one-quarter of a mile of a well in which Quito,
- 16 Inc. is authorized to inject?
- A. Quito, Inc.'s understanding is that the existence of unplugged wells not on its
 well inventory located within one-quarter of a mile of a well in which Quito, Inc.
 is authorized to inject creates some uncertainty with respect to the continuing
 use of such injection well in the future.

Q. Can you elaborate upon Quito's understanding in greater detail?

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

A.

Quito is allowed to inject produced salt water only by permit, under K.A.R. 82-3-400. Quito has previously applied for the necessary permits, and injects only into wells that have previously been permitted for that use by Commission Staff. A requirement of continuing injection is that the well pass an mechanical integrity test every five years. All of the injection wells operated by Quito, Inc. have successfully passed current mechanical integrity testing. As part of the permit application process, the applicant is required to identify wells located within a ½ mile radius of the injection well. A theoretical possibility exists that salt water injected for enhanced recovery purposes could migrate to an unplugged well location. However, there are numerous factors that would need to be evaluated on a well-by-well basis to assess whether the risk is reasonably probable. Those factors would include, but are not limited to, whether the injection well introduces salt water into the same oil-producing strata as the strata in which the abandoned well is completed and is open; the existence of oil production wells and their proximity and location in relation to the injection well and any unplugged well; the integrity of the casing in the abandoned well; the static fluid level in the abandoned well; the geological characteristics of the injection zone or formation; the structural orientation of the injection zone; natural fractures and fissures occurring in the injection zone; the thickness of the zone of

- injection; subsurface elevation; subsurface pressure; the volume and pressure of injection; type of formation and historic production from the injection zone. The porosity and permeability of the injection formation would be factors to consider. The method of construction of the unplugged well would be a factor.
- 5 There may be additional factors that I am not identifying in this answer.
- Q. Is Quito, Inc. aware of any evidence that would indicate any actual migration of injected salt water to the wellbores of abandoned wells located within one-quarter mile of any of Quito's injection wells?
- 9 A. No.
- 10 Q. Is it accurate to state that Quito's position on this topic is that it must be
 11 assessed on a well-by-well basis?
- 12 A. Yes.
- Q. Beyond the broad categories addressed in your preceding testimony, are there additional wells identified in the Staff Report that need to be addressed and which do not neatly fall within any of the categories in your preceding testimony?
- 17 A. Yes.
- Q. Please address the results of Quito's further investigation of the Doty #2
 Well, API #15-019-21030-00-00, located on the Doty Lease in Section 33,
 T33S, R11E.

- I am still investigating this well. In prior discussions with Thad Triboulet, Mr. A. 1 Triboulet indicated that the well was not located on the Doty lease. The Doty 2 Lease covers that part of the SW/4 SE/4 of Sec. 33, T33S, R11E located south and 3 west of Highway 99. The API# listed for this well; its spot location on the KGS 4 website, and Mr. Triboulet's spot location as shown on Exhibit KCC Staff - 6, 5 page 4 of 6, tie it to a well located in the SW/4 SW/4 NE/4 of Sec. 4, T34S, R11E, 6 which I believe is on the Casement 44 Lease, and which I also understand has 7 been plugged. 8
- 9 Q. Please address the results of Quito's investigation of the Floyd Casement #6

 10 Well, API #15-019-25195-00-00, located in Section 7, T34S, R11E. Is it

 11 located on the M&M Kirchner Lease?
- 12 A. There was a difference in the well number identified by Thad Triboulet, Exhibit
 13 KCC Staff-11, and the well numbering system used by Quito. Mr. Triboulet
 14 identified the well number as 6; Quito identifies the well number as 2. It is not
 15 located on the M&M Kirchner Lease, and it is not on Quito's well inventory.
- Q. Please address the results of Quito's investigation of the Floyd Casement #7
 Well, API #15-019-25342-00-00, also shown as being located on the M&M
 Kirchner Lease in Section 7, T34S, R11E.
- A. Further investigation indicated that this well is on the M&M Kirchner Lease, and an application to temporarily abandon the well has been submitted.

#OW-1 Well, API #15-019-40948-00-00, located in Section 23, T34S, R11E. 2 This well is not on Quito's well inventory, and this well was not conveyed to the 3 A. working interest owner, Kansas Production Company, Inc. Quito has no right to 4 operate this well. It is my understanding that this well was not drilled for the 5 purpose of exploration, discovery, service or production of oil, gas or other 6 minerals, per se. Instead, this well was drilled for the purpose of providing fresh 7 water used as a coolant in operating the central power house motor which was 8 previously located upon the leasehold premises. I have been told that this well 9 existed prior to the time Liberty Hill leased the premises in about 1975. As 10 depicted in the photograph shown on page 15 of Mr. Triboulet's report, this well 11 has an old rod line pumping unit. I have been advised that when the 12 powerhouse ceased operation, the well was abandoned by the prior operator 13 and reserved by the landowner. 14

Please address the results of Quito's investigation of the McFarlane-Delong

Q.

1

- 15 Q. Please address the results of Quito's investigation of the Morton #18 Well,

 16 API #15-019-40957-00-00.
- 17 A. I cannot recall ever seeing this well before. As reflected in Mr. Logan's report,
 18 Exhibit KCC Staff 14, photo #2774 shown on page 11 of 30, it appears that this
 19 well has been plugged. A prior operator of this lease was Denman Oil Company.

- Denman Oil Company did not transfer this well to Kansas Production Company,

 Inc. Quito has no right to operate this well.
- Q. Address the results of Quito's investigation of the Sears #29 Well, API #15-019-26183-00-00, located in Section 24, T34S, R10E.
- To the best of my knowledge, an intent to drill was filed, but this well was never drilled, and the intent has expired. I have no records such as completion reports, well logs, or other information which would indicate that the well was drilled.

 I believe that the photograph attached to Mr. Breeze's report, Exhibit KCC Staff 18 shown on page 22 of 55, is a photograph of what Quito, Inc. has traditionally referred to as the Sears #11 Well.
- Q. Address the results of Quito's investigation of the Sears #34 Well, API #15-019-26222-00-00.
- 13 A. This well does not exist. An intent to drill was previously filed, but the well was
 14 not drilled.
- Q. Address the results of Quito's investigation of the John Casement #Nella 1-A
 Well, API #15-019-21389-00-01, located on the Wall Lease in Section 29,
 T33S, R11E.
- A. Mr. Triboulet's report, Exhibit KCC Staff 22, reflects that the well passed a mechanical integrity test on July 1, 2015, more than five years prior to the date of the inspection. I checked with Duane Simms at the District 3 Office; Mr.

- Simms confirmed that there was a current mechanical integrity test performed 1 within the last five years showing that the well casing maintains integrity. 2
- Have well completion reports been filed pursuant to K.A.R. 82-3-130 on the 3 Q. two previously plugged wells which were drilled out on the McCann Lease 4 (Exhibit KCC Staff - 12)?
- 6 A. Yes.

5

- Subject to the corrections noted above, do you incorporate the Detailed 7 Q. Response into your Pre-Filed Testimony by reference? 8
- Yes. A. 9
- Q. Is Quito, Inc. currently engaged in efforts undertaken for the purpose of 10 establishing that it complies with all of the statutes, rules and regulations 11 governing oil and gas operations, Commission orders and enforcement 12 agreements? 13
- A. Yes. 14
- Will you be prepared to testify at a hearing on a well-by-well basis Q. 15 concerning whether Quito, Inc. complies with all of the statutes, rules and 16 regulations governing oil and gas operations, Commission orders and 17 enforcement agreements? 18
- A. Yes. 19
- And what do you anticipate your testimony to be in that regard? 20 Q.

- 1 A. That Quito, Inc. complies with all statutes, rules, regulations, Commission orders
 2 and enforcement agreements.
- Q. With respect to the additional parties listed under K.S.A. 55-155(c)(4), are you prepared at this time to testify on a well-by-well basis as to whether any such additional party complies with all of the statutes, rules and regulations governing oil and gas operations, Commission orders and enforcement agreements?
- 8 A. Yes.
- Q. At the time of a hearing on this matter, with respect to the additional parties listed under K.S.A. 55-155(c)(4), will you be prepared to testify on a well-by-well basis as to whether any such additional party complies with all of the statutes, rules and regulations governing oil and gas operations, Commission orders and enforcement agreements?
- 14 A. Yes.
- 15 Q. And what do you anticipate your testimony to be in that regard?
- 16 A. That all additional parties identified under K.S.A. 55-155(c)(4) comply with all statutes, rules, regulations, Commission orders and enforcement agreements.
- 18 Q. Does this conclude your testimony?
- 19 A. Yes.

CERTIFICATE OF SERVICE

I, the undersigned, certify that a true copy of the attached Testimony of Mark W. McCann has been served to the following by means of electronic service on September 7, 2022.

Kelcey Marsh, Litigation Counsel Kansas Corporation Commission Central Office 266 N. Main St, Ste 220 Wichita, KS 67202-1513 Fax: 785-271-3354 k.marsh@kcc.ks.gov

Jonathan R. Myers, Asst. General Counsel Kansas Corporation Commission 266 N. Main St., Ste. 220 Wichita, KS 67202-1513 Fax: 316-337-6211 j.myers@kcc.ks.gov

Rene Stucky
Kansas Corporation Commission
266 N. Main St., Ste. 220
Wichita, KS 67202-1513
r.stucky@kcc.ks.gov

/s/ John R. Horst JOHN R. HORST

EXHIBIT A PRE-FILED TESTIMONY OF MARK W. MCCANN

Wells Fully Equipped; Capable of Production, and Operated Within the Past 365 Days.

Bever # 3	API #15-019-20840-00-01	production
Bever # 1-A	API #15-019-19489-00-00	production
Dearmond #16	API #15-019-9183-00-00	production
Dearmond #6	API #15-019-19483-00-01	injection
Dearmond #17	API #15-019-19184-00-00	production
Dearmond #M-8	API #15-019-27333-00-00	production
Dearmond #31	API #15-019-259765-00-00	production
Dearmond #32	API #15-019-25975-00-00	production
Dearmond #M-12	API #15-019-27340-00-00	production
Dearmond #M-4	API #15-019-27303-00-00	production
Dearmond #39	API #15-019-26346-00-00	production
Dearmond #33	API #15-019-26037-00-01	injection
Inglefield #23	API #15-019-19123-00-00	production
Inglefield #1-A	API #15-019-26446-00-00	production
Inglefield #24	API #15-019-20117-00-00	injection
Inglefield #19	API #15-019-19339-00-00	Water supply well
McFarlane-Delong #5	API #15-019-20487-00-00	production
McFarlane-Delong #8	API #15-019-20563-00-00	production
McFarlane-Delong #9	API #15-019-20564-00-01	injection
McFarlane-Delong #10	API #15-019-20570-00-0	production
McFarlane-Delong #11	API #15-019-20572-00-01	production
Sears #1	API #15-019-20939-00-00	production
Sears #1A	API #15-019-24206-00-00	production
Sears #2	API #15-019-20940-00-00	production
Sears #7	API #15-019-21129-00-00	production
Sears #24	API #15-019-26131-00-01	production
Sears #25	API #15-019-26132-00-00	production
Sears #33	API #15-019-26211-00-00	production
Sears #37	API #15-019-26225-00-00	production
Smith-Lolly #2	API #15-019-20614-00-01	injection

Smith-Lolly #3	API #15-019-20615-00-01	production
Smith-Lolly #4	API #15-019-20616-00-01	production
Appleby #8	API #15-019-25252-00-00	production
Wall #2A	API #15-019-23802-00-00	production
Wall #4A	API #15-019-22422-00-00	production
Williamson #1	API #15-019-21579-00-00	production
Williamson #3	API #15-019-21783-00-00	production
Williamson #M-2	API #15-019-27066-00-00	production
Williamson #M-4	API #15-019-27068-00-00	production

EXHIBIT B PRE-FILED TESTIMONY OF MARK W. MCCANN

Wells Upon Which Temporary Abandonment Applications Have Been Filed.

Bever # 1	API #15-019-20554-00-02	injection
Darnall # 1-A	API #15-019-36455-00-00	production
Dearmond #35	API #15-019-26149-00-00	production
Dearmond #M-3	API #15-019-27302-00-00	production
Dearmond #38	API #15-019-26349-00-01	injection
Dearmond #M-5	API #15-019-27304-00-00	production
Dearmond #33	API #15-019-26037-00-01	injection
Dearmond #30	API #15-019-2584-00-00	production
Doty #1	API #15-019-20752-00-01	injection
Inglefield #2-A	API #15-019-36454-00-00	production
Inglefield #24	API #15-019-20117-00-00	injection
LDS Church #3	API #15-019-20894-00-00	production
LDS Church #5	API #15-019-21168-00-00	production
M&M Kirchner #4	API #15-019-24035-00-01	injection
McFarlane-Delong #7	API #15-019-20551-00-01	injection
Morton #28	API #15-019-21255-00-03	injection
Mullin #3	API #15-019-23655-00-00	production
Sears #A-2	API #15-019-26207-00-01	injection
Sears #10	API #15-019-21402-00-01	SWD
Smith-Lolly #1	API #15-019-20613-00-01	injection
Smith-Lolly #5	API #15-019-20633-00-00	injection
Solomon #60	API #15-019-24034-00-00	injection
Solomon #61	API #15-019-24306-00-01	SWD
Solomon #6	API #15-019-26340-00-00	injection
Wall #6A	API #15-019-23802-00-00	production
Wall #1A	API #15-019-20874-00-02	injection
John Casement #Nella 1-A	API #15-019-21389-00-01	injection
Williamson #4	API #15-019-21579-00-00	production
Solomon #60 Solomon #61 Solomon #6 Wall #6A Wall #1A John Casement #Nella 1-A	API #15-019-24034-00-00 API #15-019-24306-00-01 API #15-019-26340-00-00 API #15-019-23802-00-00 API #15-019-20874-00-02 API #15-019-21389-00-01	injection SWD injection production injection

EXHIBIT C PRE-FILED TESTIMONY OF MARK W. MCCANN

Wells Not Owned by Kansas Production Company or Operated by Quito, Inc.

Dearmond #OW-2	API #15-019-40966-00-00
Dearmond #OW-3	API #15-019-40967-00-00
Inglefield #OW6	API #15-019-40973-00-00
Inglefield #OW5	API #15-019-40972-00-00
Inglefield #OW1	API #15-019-40968-00-00
Inglefield #OW2	API #15-019-40969-00-00
Inglefield #OW3	API #15-019-40970-00-00
Inglefield #OW4	API #15-019-40971-00-00
Inglefield #OW7	API #15-019-40974-00-00
Inglefield #OW8	API #15-019-40975-00-00
McCann #OW-1	API #15-019-40965-00-00
Morton #1	API #15-019-40950-00-00
Morton #16	API #15-019-40955-00-00
Riley #47	API #15-019-21106-00-00
Sears #6	API #15-019-21128-00-00
Sears #OW-1	API #15-019-40963-00-00
Mary G Sears #4	API #15-019-21012-00-00
Sears #3A	API #15-019-19608-00-00
Sears #8	API #15-019-21228-00-00
Sears #39	API #15-019-26241-00-00
Sears #OW-2	API #15-019-40963-00-00
Wall #1B	API #15-019-20310-00-00
Wall #OW1	API #15-019-40962-00-00