

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

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| In the Matter of the Application of Orca |) | Docket No.: 19-CONS-3266-CUIC |
| Operating Company, LLC to Authorize Injection |) | |
| of Saltwater into the Arbuckle Formation at the |) | CONSERVATION DIVISION |
| Shoffner SWD #12-1, located in Section 12, |) | |
| Township 25 South, Range 9 West, Reno |) | License No.: 34358 |
| County, Kansas. |) | |

POST-HEARING BRIEF OF COMMISSION STAFF

The Staff of the State Corporation Commission of the State of Kansas (“Staff” and “Commission,” respectively) pursuant to the instructions of the Commissioners at the April 18, 2019, evidentiary hearing, submits its Post-Hearing Brief.

For the following reasons, Staff supports the approval of Orca Operating Company, LLC’s (Operator) application.

A. The Operator’s Application complies with all applicable Commission regulations.

The Operator filed an application for authorization to inject saltwater into the Arbuckle formation at a maximum rate of 10,000 barrels of water per day and a maximum surface pressure of 250 pounds per square inch using their Shoffner SWD #12-1 well (subject well). This application was filed pursuant to K.A.R. 82-3-401 and provided all the information required therein.¹ The Operator provided notice of the application to each operator or lessee of record within a one-half mile radius of the well, each owner of record of the minerals in unleased acreage within a one-half mile radius of the well, and the landowner on whose land the well affected by the application is located pursuant to K.A.R. 82-3-135a(c).² The Operator published notice of the Application in The Hutchinson News on January 19, 2019, pursuant to K.A.R. 82-3-135a(d).³

¹ *Application*, pp. 1-6 (January 18, 2019).

² *Id.*, p. 5 (January 18, 2019).

³ *Affidavit of Publication – The Hutchinson News*, (February 5, 2019).

In addition to complying with the applicable application requirements, Commission Staff reviewed the Application to verify that the proposed construction of the subject well complied with all KCC construction requirements. Commission staff testified that the proposed construction of the subject well complied with K.A.R. 82-3-405, K.A.R. 82-3-406, and K.A.R. 82-3-407.⁴

B. Commission Staff conducted a full review of the permitting factors established in K.A.R. 82-3-403 to ensure issuing a permit would be appropriate.

K.A.R. 82-3-403(a) provides:

Permitting factors. When a permit authorizing injection is issued, the following factors shall be considered by the conservation division:

- (1) Maximum injection rate;
- (2) maximum surface pressure, formation pressure, pressure at the formation face, or all of the above;
- (3) the type of injection fluid and the rock characteristics of the injection zone and the overlying strata;
- (4) the adequacy and thickness of the confining zone or zones between the injection interval and the base of the lowest fresh and usable water; and
- (5) the construction of all oil and gas wells within a ¼ mile radius of the proposed injection well, including all abandoned, plugged, producing, and other injection wells to ensure that fluids introduced into the proposed injection zone will be confined to that zone.

The Application was subject to a thorough area of review conducted by a Commission Staff Geologist who evaluated all of the permitting factors pursuant to K.A.R. 82-3-403(a).⁵ Staff Geologist, Todd Bryant, testified that the injection rate and pressure requested are consistent with the rate and pressure being used in the surrounding area and can be adequately handled by the formation.⁶ Mr. Bryant also testified that it was his professional opinion that the proposed construction of the well will be adequately isolated from all fresh and usable water.⁷

⁴ *Staff Direct Testimony prepared by Todd Bryant*, p. 3, l. 5-11 (April 4, 2019) (Bryant Direct).

⁵ *Id.*, at pp. 4-6.

⁶ *Id.*, at p. 6.

⁷ *Id.*, at p. 5.

Mr. Bryant conducted an Area of Review to check for possible environmental concerns due to nearby wells located within a ¼-mile radius of the proposed injection well. There are zero producing wells, zero plugged and abandoned wells, and zero active saltwater disposal wells located within a ¼-mile radius of the proposed injection well.⁸ There are two active water wells located approximately 1,650 feet from the proposed injection well.⁹ Mr. Bryant testified that it was his professional opinion that the construction of the proposed injection well will protect all fresh water zones.¹⁰ Based on Staff's thorough review of the application and the permitting factors established in K.A.R. 82-3-403(a) it is Staff's recommendation that the Commission approve the Operator's Application.

C. The Protesters have failed to demonstrate how granting this Application will cause waste, violate their correlative rights, or pollute the water resources of the State of Kansas.

Objections to a UIC application must conform to the requirements of K.A.R. 82-3-135b.¹¹ K.A.R. 82-3-135b requires protests to include specific allegation as to the manner in which granting the application will cause waste, violate correlative rights, or pollute the water resources of the state of Kansas.¹² The Protesters did not address how granting this application will cause waste or violate their correlative rights but instead focused their concerns on the pollution of ground water in the area.

The Protesters expressed concerns that the proposed injection well is located in a sensitive ground water area. Staff witness, UIC Supervisor Rene Stucky, testified that Commission regulations concerning sensitive ground water areas relate to the drilling of a well and the

⁸ Bryant Direct, TMB-Exhibit A, p. 2.

⁹ Bryant Direct, p. 5.

¹⁰ *Id.*, at p. 6.

¹¹ K.A.R. 82-3-402(c).

¹² K.A.R. 82-3-135b(a).

associated drilling pits.¹³ Mr. Stucky also testified that the Operator's application for a surface pit complies with the Commission's regulation pertaining to pit construction in sensitive ground water areas.¹⁴ The Protesters' generalized concerns about the possible hazards associated with Oil and Gas activities are worst-case scenarios that can be avoided with proper planning and implantation.¹⁵ The Operator has demonstrated that a Spill Prevention Control & Countermeasure Plan will be in place and that the Operator will have local contract supervision to inspect and monitor operations on site daily.¹⁶

The protesters also expressed concerns regarding the location of the well and the possibility that the Operator did not comply with local rules and regulations relating to the well being located in a floodplain. As stated at the hearing, the Operator's compliance with other local, state, or federal regulations are not within the scope of our review of the application. Granting the application only guarantees that the Commission's rules and regulations have been satisfied and does not absolve the Operator of their responsibility to comply with other agency's regulations. Mr. Stucky carefully reviewed the testimony of the Protesters in this docket and found no basis for denying the application based on their objections.¹⁷

WHEREFORE, Staff continues to support approval of the Operator's Application.

Respectfully submitted,



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¹³ *Staff Direct Testimony prepared by Rene Stucky*, p. 4, l. 6-14 (April 4, 2019) (Stucky Direct).

¹⁴ *Id.*, at p. 4, l. 17-18.

¹⁵ *Id.*, at p. 3, l. 19-20.

¹⁶ *Applicant Direct Testimony prepared by Wayne K. Taylor*, p. 4 (March 14, 2019) (Taylor Direct).

¹⁷ Stucky Direct, pp. 7-8.

VERIFICATION

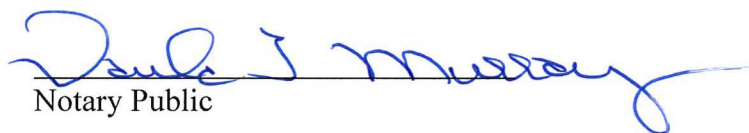
STATE OF KANSAS)
) ss.
COUNTY OF SEDGWICK)

Lauren N. Wright, of lawful age, being duly sworn upon her oath deposes and states that she is Litigation Counsel for the State Corporation Commission of the State of Kansas; that she has read and is familiar with the foregoing *Brief*, and attests that the statements therein are true to the best of her knowledge, information and belief.

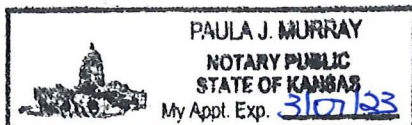


Lauren N. Wright, S. Ct. #27616
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State Corporation Commission
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SUBSCRIBED AND SWORN to before me this 2 day of May, 2019.


Notary Public

My Appointment Expires: 3/07/23



CERTIFICATE OF SERVICE

19-CONS-3266-CUIC

I, the undersigned, certify that a true copy of the attached Post-Hearing Brief of Commission Staff has been served to the following by means of electronic service on May 2, 2019.

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/S/ Paula J. Murray

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