

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

In the matter of the request to transfer wells) Docket No. 25-CONS-3236-CMSC
from Quito, Inc. to Emerson Operating, LLC.)
) CONSERVATION DIVISION
)
) License No. 33594 & 36165
_____)

PRE-FILED REBUTTAL TESTIMONY OF

TROY RUSSELL

ON BEHALF OF COMMISSION STAFF

MAY 23, 2025

1 **Q. What is your name and business address?**

2 A. Troy Russell, 137 West 21st Street, Chanute, Kansas 66720.

3 **Q. By whom are you employed and in what capacity?**

4 A. I am employed by the Conservation Division of the Kansas Corporation Commission,
5 District #3 Office, as the District #3 Professional Geologist (P.G.) Supervisor.

6 **Q. Would you please briefly describe your background and work experience.**

7 A. I received my Bachelor of Science degree from Kansas State University in 1989. I began
8 work with the State of Kansas as a Geologist in 1991. I received my P.G. license in 1992. I
9 came to work in the Chanute District #3 Office within the Conservation Division of the KCC
10 in 1997 as a P.G., primarily overseeing site remediation of environmental impacts to soil and
11 water resources resulting from oil & gas producing activities. I became the District #3
12 Supervisor, P.G. in 2017.

13 **Q. What duties does your position with the Conservation Division involve?**

14 A. I oversee the daily operations in District #3 as related to oil and gas activities. I supervise
15 two Public Service Administrators, eleven Environmental Compliance and Regulatory
16 Specialists (ECRS), and two District Geologists.

17 **Q. Have you previously testified before this Commission?**

18 A. Yes.

19 **Q. What is the purpose of your rebuttal testimony in this matter?**

20 A. The purpose of my testimony is to discuss certain assertions contained in the Pre-Filed Direct
21 and Rebuttal Testimony of Mr. Joe Harper given on behalf of Emerson Operating, LLC
22 (Emerson) and the Pre-Filed Direct and Rebuttal Testimony of Mr. Mark W. McCann on
23 behalf of Quito, Inc. (Quito) in the captioned matter.

1 **Q. Have you had the opportunity to review the testimony provided by Mr. Harper and**
2 **Mr. McCann?**

3 A. Yes.

4 **Q. On page 5, lines 4-8 of Mr. Harper's testimony, he states that someone from the KCC**
5 **called him to say that Staff was not sure he had the finances to be able to do a MIT. Are**
6 **you aware of Staff making any such statement?**

7 A. No. I did not call Mr. Harper to make such a statement, and I am unaware of any Staff
8 members calling Mr. Harper and making such a statement. I think it is important to point out
9 that Mr. Harper's testimony did not name any specific Staff person that this comment
10 supposedly came from. Additionally, I was included on Staff's response email to the email
11 referenced in this portion of Mr. Harper's testimony. Mr. Harper was told by Staff that the
12 MITs were cancelled due to Quito no longer having any injection authorization since such
13 authorization had been revoked and the wells had been placed on the PL list. I have attached
14 a copy of the email chain to my testimony as *Exhibit TR-1*.

15 **Q. On page 7 line 17 through page 8 line 1 of Mr. McCann's testimony, he states that he**
16 **provided direction to Mr. Harper on conducting MIT tests. Do you believe that**
17 **direction would continue if the leases at issue are transferred to Emerson?**

18 A. Yes. Mr. McCann indicates on page 8 of his testimony that the direction is given based on
19 his familiarity with these leases. However, as Mr. Sims indicates in his direct testimony,
20 Mr. McCann is in constant communication with those on the lease and very involved in the
21 decision making/operating of these leases even though he may not be physically present on
22 the lease. Further, Mr. McCann indicates on pages 10 through 11 of his testimony that he

1 intends to provide input on how the leases at issue are most efficiently operated. I believe
2 that Mr. McCann will be intimately involved in the operating of these leases.

3 **Q. On page 12 lines 9-12 of his testimony, Mr. McCann acknowledges that there is a \$5,000**
4 **limit on expenses that can be incurred without the prior approval of Kansas Production**
5 **Company, Inc. Is that a major expense in the grand scheme of operating wells in the oil**
6 **and gas industry in Kansas?**

7 A. No.

8 **Q. On page 14 lines 1-4 of his testimony, Mr. McCann states that the primary economic**
9 **interest of Emerson is to provide labor, equipment and services to operate the leases**
10 **and bill operating expenses to the working interest owner Kansas Production**
11 **Company, Inc. Does that agreement seem to be similar in structure to an individual**
12 **working as a contract pumper for an operator?**

13 A. Generally speaking, my understanding is that a contract pumper provides labor and services
14 but does not provide equipment beyond transportation, hand tools, and minimal roustabout
15 services. However, in this instance it appears that Kansas Production Company also provides
16 equipment for Emerson to use. For example, on page 8 of Mr. McCann's testimony, he states
17 that Kansas Production Company furnished the nitrogen used to conduct MIT tests. In my
18 opinion it appears that Mr. McCann and/or Mr. McCann's companies will provide necessary
19 equipment and retain significant decision-making responsibilities either directly or through
20 limits on expenditures. In that regard, I concur with the concerns outlined in Mr. Ryan
21 Hoffman's direct testimony as contract operators usually have more decision-making
22 authority than what is provided in the operating agreement between Quito and Emerson.

1 **Q. On page 14 of his testimony, Mr. McCann references a previous attempt to transfer**
2 **wells to Thor Operating, LLC (Thor). Are you familiar with the attempt to transfer**
3 **those leases?**

4 A. Yes. I provided testimony in the docket concerning those transfers. The Commission
5 determined that there was a non-existent difference between Quito and Thor. As part of the
6 Commission's Final Order, the Commission determined that the Request for Change of
7 Operator (T-1) forms between Quito and Thor should not be processed.

8 **Q. Does the relationship between Quito/Kansas Production Company, Inc. and Emerson**
9 **appear to you to be any different than the relationship between Quito/Kansas**
10 **Production Company, Inc. and Thor?**

11 A. No. It appears that Emerson will be heavily dependent on Mr. McCann's money and
12 influence regarding the operatorship of these leases. Based on the information available I do
13 not see a distinguishable difference between Quito/Kansas Production Company, Inc. and
14 Emerson.

15 **Q. Do you have concerns with Emerson being able to maintain compliance based on the**
16 **agreement between Quito and Emerson?**

17 A. Yes. There is a long history of compliance issues documented with Quito, and I do not see
18 that changing if Emerson is allowed to operate these leases on Mr. McCann's behalf.
19 Mr. Harper's testimony also makes multiple references to past issues when working with/for
20 Mr. McCann. On page 4 of his testimony, Mr. Harper indicates that it even reached the point
21 where they stopped doing any work with Mr. McCann. Based on Mr. Harper's testimony, it
22 does not appear that the agreement between Quito and Emerson will be long-lasting. Thus, I
23 do not believe that allowing the T-1 forms at issue in this docket to be processed would be

1 appropriate because it would allow Mr. McCann to continue operating and profit from select
2 leases while Quito has left a multitude of compliance issues behind on the state's plugging
3 list. Plus, it brings up the issue of what happens to these wells if/when the agreement is
4 terminated.

5 **Q. Does this conclude your testimony?**

6 A. Yes.

From: [Joe H Harper](#)
To: [Duane Sims \[KCC\]](#)
Cc: [Troy Russell \[KCC\]](#); [Kelcey Marsh \[KCC\]](#); [Tristan Kimbrell \[KCC\]](#)
Subject: Re: MIT tests
Date: Tuesday, March 4, 2025 1:50:06 PM
Attachments: [image001.png](#)

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Got it. Thanks

[Sent from the all new AOL app for iOS](#)

On Tuesday, March 4, 2025, 9:58 AM, Duane Sims [KCC] <Duane.Sims@ks.gov> wrote:

Joe,

On February 26, 2025 the authorization of the injection/disposal wells listed on Quito, Inc's license have been revoked and put on the PL list. Any further questions concerning these wells will need to be communicated with the Kansas Corporation Commission Legal Staff. Thanks.

Duane A. Sims

UIC Coordinator | Environmental Compliance and Regulatory Specialist



Conservation Division
Kansas Corporation Commission
137 E. 21st Street | Chanute, KS | 66720
Office (620) 905-6542 | Cell (620)212-3029
New Email Address | Duane.Sims@ks.gov

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et seq.

From: Joe H Harper <jhharper11@aol.com>
Sent: Monday, March 3, 2025 4:22 PM
To: Duane Sims [KCC] <Duane.Sims@ks.gov>
Subject: MIT tests

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Mr. Duane Sims, I was scheduled to conduct MIT tests on Morton 3 and 28 and Flossie white 14 wells with Thad Triboulet last Friday, February 28, but it was canceled . Emerson Operating,LLC is providing this service as an independent contractor to Quito, Inc to conduct MIT tests it was directed to do on this well and others. What do I need to do to re-schedule thes wells? Thank you for your time and assistance. Joe. h Harper for Emerson Operating, LLC

[Sent from the all new AOL app for iOS](#)

CERTIFICATE OF SERVICE

25-CONS-3236-CMSC

I, the undersigned, certify that a true and correct copy of the attached Testimony has been served to the following by means of electronic service on May 23, 2025.

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/s/ Paula J. Murray

Paula J. Murray