

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Petition of Daylight Petroleum,)
LLC to Open a Docket Pursuant to K.S.A. 55-605(a).) Docket No. 25-CONS-3040-CMSC

**DAYLIGHT PETROLEUM, LLC'S PROPOSAL OF
NEAR TERM STEPS IN LIGHT OF PENDING LITIGATION**

Daylight Petroleum, LLC ("Daylight") submits this proposal recommending near-term steps pursuant to the Order issued herein on May 29, 2025 (the "Order").

1. On Thursday June 26, 2025, Daylight had fully drafted a proposal to the Commission concerning immediate next steps to be taken in an attempt to locate a possible abandoned well beneath the commercial building. A copy of the filing which Daylight was initially planning to make is attached hereto as **Exhibit A**. Daylight is no longer proposing the next steps described therein, but said draft is attached only to demonstrate to the Commission that Daylight's representations to the Commission during the hearing were 100% candid and genuinely reflected Daylight's desire to resolve this situation. However, the proposals Daylight planned to make in said draft were premised on the assumption that the owner of the commercial building would be willing to grant Daylight permission to perform additional operations to search for the source of the breakout. This assumption was clearly incorrect, and as a result Daylight has no legal right to enter upon the subject real property in order to take any further actions. Therefore, Daylight's proposed next steps have been modified and are set forth in paragraph 5 below.

2. On Thursday June 26, 2025, Daylight was served with the Petition attached hereto as **Exhibit B** which was filed by the Rob Tinsley Properties, LLC ("Tinsley"). In light of this Petition, Daylight cannot perform any additional operations on the subject real property as doing so would constitute a trespass. Moreover, even if Tinsley were willing to grant permission to Daylight to perform additional operations upon its property, it is clear the intention would be to then sue Daylight

for various damages similar to those alleged in the Petition, none of which are recoverable under K.S.A. 55-182.

3. So long as the litigation filed by Tinsley is pending, it would be imprudent for Daylight perform any additional operations which could be used to increase the damages sought by Tinsley in said litigation.

4. In light of the Petition being filed, Daylight intends to seek judicial review of the Commission's decisions in this Docket as soon as a Final Order is issued herein and prior to performing any other operations at the subject real property. Prior to the Petition being filed, Daylight had taken the position that even though Daylight did not believe it was legally responsible to do so, Daylight would voluntarily take certain actions with the hope of resolving the situation in an attempt to render the questions concerning legal responsibility and damages moot. This strategy is no longer feasible now that the Petition has been filed, and Daylight intends to pursue a final court order concerning its legal obligations as it relates to this situation before taking any additional steps.

5. In light of the above referenced events, Daylight proposes the following immediate next step:

a. Issue a Final Order which includes a stay of any enforcement action against Daylight while the litigation filed by Tinsley is pending and also while the judicial review proceeding to be initiated by Daylight is pending.

As a condition to the above referenced stay remaining in effect Daylight will agree to continue the quarterly water monitoring program that is in place and provide the results of such monitoring to the Commission. To date the water monitoring program has fluctuated in a predictable manner as explained in the prefiled testimony of Kelsee Wheeler and the latest two samples taken after the hearing show significant decreases in chloride concentrations. Thus, no immediate harm will result from staying any further actions while the litigations are pending. Moreover, if the Commission perceived a need to take immediate action, it could do so directly pursuant to K.S.A. 55-182 and

subsequently seek reimbursement if Daylight is ultimately found to be legally responsible for such expenses. However, the Stay would simply pre-empt any penalty orders, license non-renewal, T-1 denials (which Staff has already done), or any other actions taken against Daylight while it addressed the present issues in the manner prescribed by applicable law.

6. Daylight has spent over \$100,000.00 voluntarily attempting to address this situation, has preemptively initiated this docket, and has done absolutely everything Staff has asked Daylight to do which did not involve damaging Tinsley's building. Thus, there is no reason to begin a barrage of penalty dockets, license reviews and other penal actions against Daylight simply because the suit by Tinsley has raised the stakes of this question high enough that Daylight insists upon pursuing judicial review (which due process and Kansas Statutes expressly authorize and provide for) before taking any further action on Tinsley's property.

7. Daylight would be irreparably harmed if the stays referenced above are not issued. If Daylight voluntarily (or by order of the Commission) incurs costs to perform any additional operations, there is no legal mechanism under which Daylight could recover those expenditures if the judicial review action determines that Daylight is not legally responsible for this situation. However, if the Commission performs operations pursuant to K.S.A. 55-182, there is a clear legal path under K.S.A. 55-180(d) for the Commission to seek reimbursement from the party who is ultimately found to be legally responsible for the situation. Thus, the stay requested herein is necessary in order to prevent irreparable harm to Daylight and preserve the status quo while the legal issues involved herein are resolved in the manner prescribed by Kansas statute.

**MOST RECENT GROUND WATER SAMPLING CONFIRMS THAT
THE BREAKOUT WHICH IS THE SUBJECT OF THIS DOCKET IS
NOT CAUSING POLLUTION OR LOSS OF USABLE WATER**

After the hearing held in this Docket two more quarterly samples were taken from the monitoring wells installed by Daylight. These samples revealed that the down gradient monitoring

wells showed a **decrease** in chloride concentrations in the samples. Notably the PMW-2 well (the well with the highest chloride concentrations) had a significant decrease in chloride concentrations in both samples.

Well	Date	Depth to Groundwater (ft. btoc)	Sampling Method	Chloride Concentration (mg/L)
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	03/27/25	26.06	Hydrasleeve (139')	512
	06/09/25	24.03	Hydrasleeve (139')	625

The table above shows all quarterly sampling results from the 139' depth interval for all four monitoring wells. The sampling reports show a decrease in chloride concentrations for PMW- 2 monitoring well over both samples. The other three monitoring wells simply fluctuated up and down, with no noticeable trend indicating chloride levels are either systematically increasing or decreasing.

Thus, the samples taken from these well do not provide any indication that groundwater is being, or has been impacted by the breakout beneath the commercial building. These reports certainly do not support a finding that Daylight is causing pollution or loss of usable water at the breakout beneath the commercial building.

As the Commission balances its statutory mandates to protect fresh and usable water and also its duty to prevent waste, this direct evidence that fresh and usable water is not being impacted is of critical importance. This is true because the Commission will have to decide how far it will go to locate a potential abandoned well and to hopefully plug the same, and whether the facts of the situation justify the harm to the owner of the commercial building. Daylight has already spent over \$100,000.00 searching for a potential abandoned well beneath the building and all efforts have failed to locate a well. Ordinarily the Commission would be left to simply speculate or accept the risk of potential underground contamination, but in this case the monitoring wells installed by Daylight provide direct evidence as to what is occurring (or more accurately, what is not occurring) beneath the surface.

Thus, the Commission's decision in this Docket must be made in the context of the following facts, 1) there is an extremely small amount of ground water at this site, which is too small to support residential or commercial use; 2) the chloride concentrations at the site are very low, so low in fact the water is still safe for livestock purposes; 3) water monitoring demonstrates that fresh and usable water is not being impacted by whatever is beneath the commercial building; 4) Daylight has already spent \$100,000.00 searching for a potential well, and all tests failed to locate a well. This information is important, as the Commission will need to decide how much time and money spent searching for a possible abandoned well is enough, before the Commission would consider monitoring wells as a permanent solution? In other words, if fresh and usable water can be protected without causing any

waste, doesn't that make balancing the Commission's statutory duties very easy?

WHEREFORE, Daylight proposes that the Commission issue a Final Order in this Docket which includes a stay of any enforcement action against Daylight while the litigation filed by Tinsley is pending and also while the judicial review proceeding to be initiated by Daylight is pending. Such stay should specify that it applies to enforcement actions against Daylight only and would not preclude Staff from directly performing any operations pursuant to K.S.A. 55-182.

/s/ Keith A. Brock

Keith A. Brock, #24130

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Attorneys for Daylight Petroleum, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was sent via electronic mail this 3rd day of July, 2025, addressed to:

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Jonathan R. Myers
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Troy Russell
troy.russell@ks.gov

/s/ Keith A. Brock

Keith A. Brock

EXHIBIT A

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Petition of Daylight Petroleum,)
LLC to Open a Docket Pursuant to K.S.A. 55-605(a).) Docket No. 25-CONS-3040-CMSC

**DAYLIGHT PETROLEUM, LLC'S PROPOSAL OF
NEAR TERM STEPS TO LOCATE A POSSIBLE ABANDONED WELL**

Daylight Petroleum, LLC ("Daylight") submits this proposal recommending near-term steps to locate a potential abandoned well. Pursuant to the Order issued herein on May 29, 2025 (the "Order").

1. At the outset, Daylight wishes to clarify that nothing contained herein should be interpreted as an acquiescence or agreement with the Order or any findings therein. If the situation cannot be resolved in a mutually agreeable way Daylight intends initiate judicial review of the Order. With that being said however, Daylight is and has been willing throughout this entire process to work with Staff in an effort to resolve this situation in a mutually agreeable way. If the situation can be resolved in a manner that is acceptable to the parties then the legal questions involved in this Docket will all become moot and that would be in the best interest of all parties involved.

2. The Order was issued on Thursday May 29, 2025. Daylight reached out to Staff on Tuesday June 3, 2025 asking to meet with Staff as directed by the Order. A virtual meeting was held on June 12, 2025. During this meeting Staff relayed that it would like to see another Ground Penetrating Radar ("GPR") survey done over the floor of the commercial building and evaluate next steps based on what that GPR survey reveled. Staff indicated that they had spoken with a company called Echo GPR Services regarding their capabilities and was optimistic regarding what they may be able to provide. Daylight confirmed during the meeting that it would voluntarily pay for another GPR survey to be performed by Echo GPR Services, if that is company Staff would like to utilize. Daylight

later on June 12, 2025 proposed to Staff that the parties notify the Commission that they had agreed upon the immediate next step to be taken, and jointly ask that the Docket be stayed while Daylight and Staff proceed with all operations which can be agreed upon, until the parties notify the Commission that an impasse has been reached or a well is found and plugged. On June 20, 2025, Staff notified Daylight that it was not interested in this proposal and would make its own proposal to the Commission in hopes of bringing finality to this Docket.

3. In summary, after the Order was issued, Staff made **one** proposal to Daylight, and Daylight agreed to voluntarily perform the operation Staff proposed utilizing the company selected by Staff.

4. It is also noteworthy to remind the Commission that Daylight voluntarily performed every additional testing or operation requested by Staff which did not involve damaging the building prior to the hearing in this matter as well. **Transcript, 31:13-19 (Hoffman);131:12-131:10 (Russell).**

5. The Order states,

Operator states it "is willing to work with Staff in an effort to resolve this situation in a mutually agreeable way." At the same time, Operator is clearly skeptical that any more effort, short of tearing into the commercial building, will prove especially fruitful. **Staffs witnesses repeatedly expressed optimism that there are other avenues worth exploring to locate and plug the well without damaging the commercial building.** Upon reflection, when considering the evidentiary record thus far, the Commission would like to explore those other options in more detail.

See Paragraph 17 of the Order. Notwithstanding these representations to the Commission, the Staff also acknowledged that it never shared its ideas with Daylight concerning other avenues worth exploring to locate and plug the potential well without damaging the commercial building. **Transcript, 31:13-19 (Hoffman);131:12-131:10 (Russell).** When pressed as to why Staff never shared these ideas with Daylight, Staff said that Daylight never asked. **Transcript, 131:12-131:10.**

After the Order was issued the parties met again, and when Staff was asked what avenues it wished to explore in an attempt to locate a potential abandoned well, Staff shared only one proposal (i.e. to get a new GPR survey) which Daylight immediately agreed to perform.

6. Daylight's proposal to the Commission is simple. Issue an order directing Daylight and Staff to perform whatever operations each of them can agree to voluntarily perform, and if an impasse is reached before a well is located and plugged, the parties should notify the Commission of such event and each submit detailed proposals to the Commission within 30 days thereafter. The Commission would then direct what further actions should be taken and preemptively instruct Staff to directly perform any operations pursuant to K.S.A. 55-182 which Daylight refuses to voluntarily perform; and subsequently to seek reimbursement under K.S.A. 55-180(d) either in this Docket or in a separate docket.

7. If the new GPR survey reveals a wellbore beneath the commercial building, the parties can then formulate possible ways in which such well might be plugged. However, if the new GPR survey also fails to locate a wellbore beneath the commercial building, the parties will be back to square one. The reality is that until an abandoned well is actually located there is no way to propose specific operations to plug such well. In its prefiled testimony Staff mentioned the possibility of spooling down a wellbore, but this is nothing more than a hope/possibility which depends entirely upon where the potential wellbore might be located, what condition it is in, etc. All parties would be elated if that could be done, however at this stage all tests have failed to even locate a well. Thus, the idea of spooling down a well is nothing more than a best case scenario that is not an option at all if a well cannot be located. Therefore, no meaningful proposals can be made concerning the manner in which a wellbore could be plugged, until one is actually found and the parties know where it is, and the condition that it is in.

8. Daylight has no other ideas or proposals to attempt to locate an abandoned well beneath the commercial building. This position is not an attempt to shirk the request of the Commission, rather Daylight spent over a year investigating available technologies which could be implemented to search for a well beneath the commercial building. During this time Daylight spent over \$105,000.00 voluntarily searching for an abandoned well. Daylight has already tried every operation it could think of that wouldn't damage the building, which was feasible and had a reasonable probability of success. In addition, Daylight did absolutely everything Staff asked them to do, except damaging the commercial building. **Transcript, 31:13-19 (Hoffman); 131:12-131:10 (Russell)**. Prior to this Docket being opened, both Daylight and Staff had come to the conclusion that the building would need to be damaged in some way in order to further search for a possible abandoned well beneath the building, and since the landowner refused permission to do this Daylight initiated this Docket.

9. At the hearing Daylight was incredibly candid that it had exhausted all of its ideas, but remained open to any new ideas Staff had. This remains the case, but Staff has only provided one idea, i.e. to redo the GPR survey using a different company, and Daylight agreed to voluntarily do this. The following portions of the transcript set forth the reality of the position that Daylight was in at the time of the hearing, and which Daylight is still in.

Q. Do you feel -- well, I guess, I'm not going to ask if you feel. Would Daylight welcome help to try to resolve this situation in ways that don't -- don't cause destruction to the building?

A. Absolutely.

Q. I mean, is that, in essence, what you're asking the commission for today, that you -- you need a solution that works. You need to be able to do something that's physically possible to do to resolve the situation that's acceptable to everyone?

A. Yes. I -- I -- at this point we've -- we -- we don't see a pathway to explore under -- under the building without -- without going through the floor, and if there were alternative methods, we would be open to considering.

Q. And, so just to be clear, it's not that this docket is a line in the sand, so to speak. It's we don't know what else to do; is that accurate?

A. Yes. That's correct.

Transcript, 323:12-324:5. Daylight further clarified this position in its closing statement as follows,

MR. BROCK:· So I think I can be very brief with this. Out of all of the testimony, out of all of the evidence, out of everything that's been discussed, the issue is that you don't have an operator before you who's trying to skirt compliance. You have an operator before you who is trying everything that they can think of to comply. And they need some help.

They've hired a third party. The third party wasn't successful. They're proposing the KDHE to help. The staff is saying, we don't need their help. Well, frankly, Daylight doesn't care where its help comes from, but we need someone to come in and find a solution because we feel that we've exhausted all of the alternatives, and that's all that's being asked here.

But before this was filed with the involvement, it was staff's position that the next step was to cut this floor. I understand that's not the position that's being taken now, but that has been the dynamic up to this point, that that's where we were. That was the hard deadline that was set. That's what forced this matter before the commission to try to take some action before, you know, penalties began or another docket started or whatever the results would be, and it turned into something penal in nature. That's where Daylight was.

This is one of those situations -- I alluded to it in my opening statement, but this thing is a can of worms. This -- this situation is unique. And if there was a concerted effort to solve it in a way that worked for both parties, if the commission could look at it and find a solution that's physically possible and protects -- or protects fresh and usable water and also protects this building, thereby, preventing waste, that's the kind of solution that we need. Honestly, that -- I think that's all -- that's the only point I wanted to make.

Transcript, 325:12-326:23.

10. Daylight is willing to take some voluntary steps in an attempt to resolve this situation if Staff will disclose what steps it wishes to see taken. With that being said, Daylight will not damage the commercial building without permission from the owner of such property. Nor will Daylight intentionally do anything that may cause pollution or violate applicable environmental laws. As indicated during the hearing, Daylight has no legal right to do anything upon the subject property

without the permission of the landowner. Thus, Daylight will not trespass upon said property by taking any actions which exceed the permission given by the landowner, nor will Daylight intentionally damage the commercial building. The Commission has the legal right to exceed the permission of the landowner pursuant to K.S.A. 55-182, but Daylight does not.

In addition, at the hearing Staff talked about injecting into the Olnhausen Farms #6 well in order to intentionally cause the breakout to flow again. Staff's witnesses testified that the initial breakout which lasted only a few days polluted fresh and usable water and posed an immanent threat to the Verdigris River. **See Direct Testimony of Julie Shaffer, 7:7-9.** While Daylight disagrees with Staff's witnesses concerning these matters, Daylight will not intentionally take any action which would violate the Clean Water Act by endangering waters of the United States. Nor, will Daylight intentionally cause damage to water resources and the subsurface of real property belonging to an unrelated third party. Thus, Daylight will not perform any operations, which violate federal (or state) environmental law or which would tortuously damage an unrelated third party. Therefore, if the Commission or its Staff decides to intentionally cause the breakout to flow again, damage the commercial building, or take action which exceeds permission given by the owner of the property. The Commission should instruct Staff to directly perform operations pursuant to K.S.A. 55-182; and subsequently to seek reimbursement under K.S.A. 55-180(d) either in this Docket or in a separate docket.

**MOST RECENT GROUND WATER SAMPLING CONFIRMS
THE BREAKOUT WHICH IS THE SUBJECT OF THIS DOCKET
IS NOT CAUSING POLLUTION OR LOSS OF USABLE WATER**

After the hearing held in this Docket two more quarterly samples were taken from the monitoring wells installed by Daylight. These samples revealed that the down gradient monitoring wells showed a **decrease** in chloride concentrations in the samples. Notably the PMW-2 well (the well

with the highest chloride concentrations) had a significant decrease in chloride concentrations in both samples.

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has been impacted by the breakout beneath the commercial building. These reports certainly do not support a finding that Daylight is causing pollution or loss of usable water at the breakout beneath the commercial building.

As the Commission balances its statutory mandates to protect fresh and usable water and also its duty to prevent waste, this direct evidence that fresh and usable water is not being impacted is of critical importance. This is true because the Commission will have to decide how far it will go to locate a potential abandoned well and to hopefully plug the same, and whether the facts of the situation justify the harm to the owner of the commercial building. Daylight has already spent over \$100,000.00 searching for a potential abandoned well beneath the building and all efforts have failed to locate a well. Ordinarily the Commission would be left to simply speculate or accept the risk of potential underground contamination, but in this case the monitoring wells installed by Daylight provide direct evidence as to what is occurring (or more accurately, what is not occurring) beneath the surface.

Thus, the Commission's decision in this Docket must be made in the context of the following facts, 1) there is an extremely small amount of ground water at this site, which is too small to support residential or commercial use; 2) the chloride concentrations at the site are very low, so low in fact that the water is still safe for livestock purposes; 3) water monitoring demonstrates that fresh and usable water is not being impacted by whatever is beneath the commercial building; 4) Daylight has already spent \$100,000.00 searching for a potential well, and all tests failed to locate a well. This information is important, as the Commission will need to decide how much time and money spent searching for a possible abandoned well is enough, before the Commission would consider monitoring wells as a permanent solution? In other words, if fresh and usable water can be protected without causing any waste doesn't that make balancing the Commission's statutory duties very easy?

WHEREFORE, Daylight proposes that the Commission issue an order directing Daylight and

Staff to perform whatever operations each of them can agree to voluntarily perform while this Docket remains open. If an impasse is reached before a well is located and plugged, the parties should notify the Commission of such event and Daylight and Staff shall then each submit detailed proposals to the Commission within 30 days thereafter. At that time Commission would direct what further actions should be taken and preemptively instruct Staff to directly perform any operations pursuant to K.S.A. 55-182 which Daylight refuses to voluntarily perform; and subsequently to seek reimbursement under K.S.A. 55-180(d) either in this Docket or in a separate docket.

/s/ Keith A. Brock

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Attorneys for Daylight Petroleum, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was sent via electronic mail this _____ day of _____, 2025, addressed to:

Kelcey Marsh
kelcey.marsh@ks.gov

Jonathan R. Myers
jon.myers@ks.gov

Troy Russell
troy.russell@ks.gov

/s/ Keith A. Brock

Keith A. Brock

EXHIBIT B

Service of Process Transmittal Summary

TO: Justin Arnold
Phoenician Resources
1221 MCKINNEY ST STE 2880
HOUSTON, TX 77010-2011

RE: Process Served in Kansas

FOR: Daylight Petroleum LLC (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: ROB TINSLEY PROPERTIES, LLC vs. DAYLIGHT PETROLEUM, LLC

CASE #: WL2025CV000023

PROCESS SERVED ON: The Corporation Company, Inc., Topeka, KS

DATE/METHOD OF SERVICE: By Traceable Mail on 06/26/2025

JURISDICTION SERVED: Kansas

ACTION ITEMS: CT will retain the current log
Image SOP
Email Notification, Justin Arnold jarnold@daylightpetroleum.com

REGISTERED AGENT CONTACT: The Corporation Company, Inc.
112 S.W. 7th Street
Suite 3C
Topeka, KS 66603
866-539-8692
CorporationTeam@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.



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Label 890-QDT, March 2023



DAYLIGHT PETROLEUM LLC
c/o C T CORPORATION SYSTEM
REGISTERED AGENT
112 S W 7TH ST
SUITE 3C
TOPEKA KS 66603

1900 EPIC CTR • 301 N MAIN • P O BOX 997 • WICHITA KS • 67201-0997

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2025 Jun 19 PM 1:53
CLERK OF THE WILSON COUNTY DISTRICT COURT
CASE NUMBER: WL-2025-CV-000023
PII COMPLIANT

IN THE 31st JUDICIAL DISTRICT
DISTRICT COURT OF WILSON COUNTY, KANSAS

Rob Tinsley Properties, LLC,)
Plaintiff,)
V)
Daylight Petroleum, LLC,)
Defendant.)

Case No. WL-2025-CV-000023

Defendant's Name and Address:
Daylight Petroleum, LLC
c/o C T Corporation System
112 SW 7th Street
Suite 3C
Topeka, KS 66603

Proceeding Pursuant to K.S.A. Chapter 60

SUMMONS

To: Daylight Petroleum, LLC
(Defendant's name)

A civil lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached petition or a motion under K.S.A. 60-212. Under Kansas Supreme Court Rule 113, you may seek from the clerk of the court an extension of up to 14 additional days to serve and to file an answer or a K.S.A. 60-212 motion.

If you fail within 21 days to serve and to file an answer or a K.S.A. 60-212 motion or obtain a Rule 113 extension, the court may enter default judgment against you for the relief

demanded in the petition. If you were served outside of Kansas, however, the court may not enter default judgment against you until at least 30 days after service of this summons.

The answer or K.S.A. 60-212 motion must be served on the plaintiff's attorney, or the plaintiff if plaintiff has no attorney, at the following address:

Nathaniel Travis Martens

(Attorney's name or Plaintiff's name)

301 N. Main Street



STE 1900

Wichita, KS 67202

(Attorney's address or Plaintiff's address)

You also must file your answer or K.S.A. 60-212 motion with the court.

When you file an answer, you must state as a counterclaim(s) any related claim(s) that you may have against the plaintiff. If you fail to do so, you will thereafter be barred from making such claim(s) in any other action.

Clerk of the District Court.

By Kaylee Campfield

Clerk or Deputy

Documents to be served with the Summons

PLE: Petition Petition

FLEESON, GOOING, COULSON & KITCH, L.L.C.
301 N. Main St., Suite 1900
P.O. Box 997
Wichita, Kansas 67201-0997
T: (316) 267-7361
F: (316) 267-1754
E: nmartens@fleeson.com

IN THE THIRTY-FIRST JUDICIAL DISTRICT
DISTRICT COURT, WILSON COUNTY, KANSAS
CIVIL DEPARTMENT

ROB TINSLEY PROPERTIES, LLC,)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
DAYLIGHT PETROLEUM, LLC,)	
)	
Defendant.)	
)	

Pursuant to K.S.A. Chapter 60

PETITION

COMES NOW the Plaintiff, and for its cause of action against the Defendant, alleges and states as follows:

1. This action arises from Defendant Daylight Petroleum, LLC's ("Daylight") operation of oil and gas wells located in Wilson County, Kansas. As explained more fully below, in June 2023, Daylight injected a well as part of a fracking operation on an oil field that neighbors the property owned by Plaintiff Rob Tinsley Properties, LLC ("Tinsley"). On June 26, 2023, The injection caused oil to be forced into Tinsley's building causing damages and interruption of Tinsley's operations.

PARTIES

2. Tinsley is a Kansas for-profit limited liability company, duly qualified to do business and doing in business in the State of Kansas, with a registered office at 7500 Thomas Road, Altoona, Kansas 66710.

3. Tinsley owns a commercial building located 17403 410 Rd., Neodesha, Kansas 66757 ("Tinsley's Property"), where it conducts various activities including operation of a concrete business.

4. Daylight is a Delaware limited liability company, with its principal place of business at 1221 McKinney St., Suite 2880, Houston, Texas 77010, doing business in the State of Kansas. Daylight may be served with process through its registered agent, C T Corporation System, 112 SW 7th Street, Suite 3C, Topeka, Kansas 66603.

5. Daylight is a private oil and gas company that operates thousands of oil and gas wells across Oklahoma, Texas, Kansas, Louisiana, and Mississippi.

6. Upon information and belief, Daylight is owned by Phoenician Resources Management, LLC, which upon further information and belief is ultimately owned by a private investment fund or funds. Given its Kansas operations and its apparent structure serving as an asset of a private investment fund or funds, it is likely that one or more of Daylight's ultimate owners or members are domiciled in Kansas.

JURISDICTION AND VENUE

7. Daylight intentionally markets through the extraction, processing and sale of oil and gas related products within Kansas.

8. In furtherance of its Kansas operations, Daylight is registered to do business in Kansas as a foreign entity and is a licensed operator with the Kansas Corporation Commission. Daylight also has a physical branch office located in Moran, Kansas.

9. For the reasons alleged herein, this Court has jurisdiction over the parties and subject matter.

10. Venue is proper in Wilson County, Kansas, as Tinsley's primary place of business is in Wilson County, Kansas and the facts central to this dispute occurred in Wilson County, Kansas. Moreover, Daylight is doing business in the county at the time of this filing.

FACTUAL BACKGROUND

11. Daylight is the owner and/or operator of oil and gas wells in Wilson County, including but not limited to wells located on the property adjacent to Tinsley's Property.

12. The incidents described herein relate to Daylight's operation of an injection well located on the property adjacent to Tinsley's Property (the "Well"). Upon information and belief, the Well is located on the real estate located at S16, T30, R16, NE NW SW SE 1050 S 2100 E, and is operated under the Olnhausen Farms lease and is specifically known as Well #6, API # 15205285090001.

13. On June 26, 2023, in connection with a fracking operation, Daylight injected the Well by forcing saltwater or brine into underground formations at significant pressures.

14. The purpose of the fracking operation was to recover residual oil by injecting fluids into oil-bearing formations. In a typical configuration, a single injection well is surrounded by multiple production wells that bring oil and gas to the surface.

15. Before fracking, operators like Daylight are required to make an application with the Kansas Corporation Commission ("KCC") in which they are required to, among other things,

“provide a plat showing the location of all oil and gas wells, including . . . abandoned wells . . . within a ½ mile radius of the proposed injection well. . . .” K.A.R. 82-3-401(a)(2). Operators are also required to provide information showing that the injection into the proposed zone will be contained within the zone and will not initiate fractures through the overlying strata that could enable the fluid or formation fluid to enter fresh and usable water strata.

16. Tinsley’s Property is located within a one-half mile radius of the Well that Daylight intended to use for its injection site.

17. Upon information and belief, Daylight failed to conduct adequate due diligence as to the existence of potentially abandoned and unplugged wells in the vicinity before proceeding with its operations and thus did not identify all abandoned wells when submitting its application for injection to the KCC.

18. Notably, in 2021, Daylight’s operations on the Olnhausen Farms lease resulted in oil coming to the surface out of an abandoned and uncapped oil and gas well located on the property (adjacent to Tinsley’s Property). That abandoned well had been cut off a few inches below ground level and was not plugged.

19. A reasonably prudent operator would know that there were likely more abandoned wells in the area which had also been cut off below ground level and not properly capped.

20. Thus, the discovery of the abandoned and uncapped well should have caused Daylight to either terminate its fracking operations or conduct additional due diligence and analysis to determine whether or not there were any other abandoned and unplugged wells in the area.

21. Upon information and belief, Daylight knew or should have known that there were other abandoned and unplugged wells in the area but continued with its fracking operations anyway.

22. Unbeknownst to Tinsley there was an abandoned well located underneath the floor of his building.

23. Consequently, during Daylight's injection operations, oil was forced throughout the inside of Tinsley's building, causing substantial damage to Tinsley's property and interruption of business operations, among other things.

KCC Proceedings

24. Under Kansas law, an operator deemed to be responsible for an abandoned well may be ordered to engage in remediation including plugging of the abandoned well. Knowing its responsibility and the need to plug the abandoned well, Daylight filed a petition with the KCC essentially asking for permission not to plug the abandoned well. In the KCC proceedings, Daylight argued it would be "economic waste" to locate and plug the abandoned well because it would require substantial if not total destruction of Tinsley's building.

25. In the KCC proceedings, Daylight conceded, and in fact, affirmatively alleged that Tinsley's building had already been damaged and that plugging the abandoned well would likely cause damages in excess of \$1 Million.

26. On May 29, 2025, the Commission issued an order finding that Daylight was responsible for the abandoned well under K.S.A. 55-179. The Commission further rejected Daylight's effort to avoid responsibility for the abandoned well and instead ordered that Operator and the Commission confer and propose alternative measures to locate and plug the abandoned well while "minimize[ing] property damage" to Tinsley's Property.

27. To the extent that there are any conditions precedent to the filing of this action, of which Tinsley denies exist, all such conditions precedent have been satisfied.

COUNT 1 – Absolute Liability

28. Tinsley hereby incorporates by reference all allegations set forth above as if fully set forth herein, and further alleges:

29. Under K.S.A. 65-6203, any person who is responsible for an accidental release or discharge of materials detrimental to the quality of the waters or soil is obligated to compensate the owner of the property where the release or discharge occurred for actual damages incurred as a result of the release or discharge, or damages incurred as the result of corrective action.

30. Here, the KCC has already determined that Daylight is responsible for the discharge at issue and is responsible for correcting the same. Tinsley's building has been damaged as a result of the discharge and corrective measures taken and to be taken at the property.

31. Specifically, the parties anticipate that a significant portion of the concrete drive and foundation or floor will have to be removed and excavated for purposes of locating and plugging the abandoned well or otherwise remediating the discharge resulting from Daylight's operations. Upon information and belief, the concrete floor and foundation cannot be repaired in a workmanlike manner given, among other things, the inability to properly compact the soil where the repair would be made. Even Daylight has conceded and affirmatively alleged in the KCC proceedings that the building cannot be repaired in a workmanlike manner.

32. Daylight's own experts in the KCC proceedings acknowledged and opined that Tinsley has been or will be damaged in amount in excess of \$1 Million by the time all anticipated corrective or remedial measures are taken.

33. Under K.S.A. 65-6203 or other Kansas law, Daylight is liable to Tinsley for all damages caused to Tinsley's property as a result of the discharge including all damages that result from corrective measures.

34. Despite Tinsley's demand, Daylight refused and has not offered Tinsley any compensation for the damages.

35. Although the Commission has determined that Daylight caused the discharge and is responsible for the abandoned well and all corrective measures required to locate and plug it, the KCC staff argued that Daylight's liability to Tinsley was a "civil matter" and the Commission has not issued an order requiring Daylight to compensate Tinsley for its damages. Thus, Tinsley requests this Court issue such orders entering judgment against Daylight and ordering Daylight to compensate Tinsley for all damages caused by the discharge and corrective measures.

36. Therefore, Daylight's operations and conduct have caused Tinsley to suffer damages in excess of \$75,000.00, for which Tinsley is entitled to recover.

COUNT 2 - Negligence Per Se

37. Tinsley hereby incorporates by reference all allegations set forth above as if fully set forth herein, and further alleges:

38. Daylight was required to identify all abandoned wells within a one-half mile radius of its injection site before commencing fracking operations per K.A.R. 82-3-401(a)(2).

39. The Kansas Administrative Regulations implemented by the KCC, including but not limited to K.A.R. 82-3-401, are intended to protect persons and property against the risks associated with oil and gas operations such as fracking.

40. Daylight violated Kansas Administrative Regulations when it failed to identify the abandoned well located on the Tinsley Property before it commenced fracking operations.

41. Daylight's violations of the Kansas Administrative Regulations caused damages to Tinsley in the nature and extent described above.

42. Therefore, Daylight's operations and conduct have caused Tinsley to suffer damages in excess of \$75,000.00, for which Tinsley is entitled to recover.

COUNT 3 - Negligence

43. Tinsley hereby incorporates by reference all allegations set forth above as if fully set forth herein, and further alleges:

44. At the incident giving rise to this lawsuit occurred, Daylight knew or should have known that the process itself, including but not limited to the resulting subsurface disturbance and/or the prospect of fluids traveling up-hole to unprotected zones, could have an adverse impact upon zones of the subsurface and/or surface not intended to be disturbed or otherwise impacted.

45. Daylight owed a duty of reasonable care to Tinsley due to among other things the proximity of Tinsley's Property to Daylight's operations.

46. Upon information and belief, Daylight (a) failed to conduct reasonable and adequate diligence in determining whether there were any unplugged abandoned wells in close proximity to Daylight's operations; (b) failed to take adequate precautions to assure that there were no unplugged wells in the area, in particular, after the discovery of an abandoned and uncapped well on the property adjacent to Tinsley's Property; (c) failed to exercise reasonable care in deciding how to design and conduct the injection operations; (d) failed to exercise reasonable care in the implementation of the process intended to minimize the unintended or unwanted impacts of the injection processes; and/or (e) failed to inspect, test, evaluate, assess, operate, repair, monitor and maintain any and all facilities so as to safeguard against any spill, release, or discharge of petroleum substances, including but not limited to, failing to identify all abandoned and uncapped wells in the vicinity.

47. Daylight's negligence caused damages to Tinsley's Property and an interruption of Tinsley's business operations causing lost income and wear and tear to equipment that has Tinsley has been forced to store outside for extended periods of time.

48. As noted above, the parties anticipate that a significant portion of the concrete drive and floor will have to be cut out and excavated for purposes as a result of Daylight's operations and negligence. Upon information and belief, the concrete floor and foundation cannot be repaired in a workmanlike manner given among other things the inability to properly compact the soil where the repair would be made. Even Daylight has conceded and affirmatively alleged in the KCC proceedings that the building cannot be repaired in a workmanlike manner.

49. Daylight's own experts in the KCC proceedings acknowledged and opined that Tinsley has been or will be damaged in amount in excess of \$1 Million by the time all anticipated corrective measures are taken.

50. On top of the costs of repairs, Daylight's operations and negligence caused interruption in Tinsley's operations, lost rent, and excessive equipment wear.

51. Therefore, Daylight's operations and negligence have caused Tinsley to suffer damages in excess of \$75,000.00.

COUNT 4 – Trespass/Nuisance

52. Tinsley hereby incorporates by reference all allegations set forth above as if fully set forth herein, and further alleges:

53. At all relevant times, Tinsley was the lawful owner of Tinsley's Property.

54. Daylight caused physical intrusions upon such property that were unauthorized and that have unreasonably interfered with the use, benefit, and enjoyment of Tinsley's Property.

Daylight intentionally injected the Well while failing to exercise reasonable care for the reasons alleged above.

55. Daylight knew or should have known that the oil could be forced through abandoned and uncapped wells in the area and that such was a likely result of its fracking operations.

56. Tinsley has suffered damages in the nature and extent described above as a result of Daylight's trespass and/or nuisance. In addition thereto, Tinsley is entitled to recover damages for the nuisance, annoyance, and inconvenience resulting from Daylight's trespass and/or nuisance.

57. Therefore, Daylight's operations and conduct have caused Tinsley to suffer damages in excess of \$75,000.00.

COUNT 5 - Ultrahazardous Activity

58. Tinsley hereby incorporates by reference all allegations set forth above as if fully set forth herein, and further alleges:

59. Daylight's injection of oil and gas fields was without adequate controls, protective measures, and post-operational testing. The forcing of hazardous substances into the earth at great pressure with no predictable terminus is an ultra-hazardous activity.

60. The injection techniques used, the injection fluids themselves, and their constituents, created and constituted a high degree of risk of harm to humans and/or property, and the likelihood of such harm was great in the absence of adequate protective measures. Daylight owed Tinsley a duty of care to handle, use, and/or dispose of regulated substances with the highest degree of skill, care, caution, diligence and foresight according to the best technical, mechanical, and scientific knowledge available at the time.

61. Daylight breached that duty by injecting the Well in such a manner that control was limited, and the inherent risk therein substantially outweighed the potential minimal value to the community of such activity.

62. Tinsley lacked the ability to recognize or guard against the danger associated with such activities because the activities were conducted subsurface and generally unknown to those occupying the surface. As a result, such injection activities constituted an ultra-hazardous activity whereby third parties would be, and were in fact placed, at unreasonable risk.

63. Tinsley has been damaged by the activities of Daylight as set forth above.

64. Therefore, Daylight's operations and conduct have caused Tinsley to suffer damages in excess of \$75,000.00.

WHEREFORE, Plaintiff prays for judgment in its favor and against the Defendant, Daylight Petroleum, LLC, in an amount necessary to compensate Tinsley for its damages and, in an amount in excess of \$75,000.00; for pre- and post-judgment interest; the recovery of court costs and expenses; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

FLEESON, GOOING, COULSON & KITCH, L.L.C.

By: /s/ Nathaniel T. Martens

Nathaniel T. Martens, No. 27179

301 N. Main St., Suite 1900

P.O. Box 997

Wichita, Kansas 67201-0997

T: (316) 267-7361

F: (316) 267-1754

E: nmartens@fleeson.com

Attorney for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable.

By: /s/ Nathaniel T. Martens
Nathaniel T. Martens, No. 27179

ELECTRONICALLY FILED
2025 Jun 19 PM 1:53
CLERK OF THE WILSON COUNTY DISTRICT COURT
CASE NUMBER: WL-2025-CV-000023
PII COMPLIANT

IN THE 31st JUDICIAL DISTRICT
DISTRICT COURT OF WILSON COUNTY, KANSAS

Rob Tinsley Properties, LLC,)
Plaintiff,)
V)
Daylight Petroleum, LLC,)
Defendant.)

Case No. WL-2025-CV-000023

Defendant's Name and Address:
Daylight Petroleum, LLC
c/o C T Corporation System
112 SW 7th Street
Suite 3C
Topeka, KS 66603

Proceeding Pursuant to K.S.A. Chapter 60

SUMMONS

To: Daylight Petroleum, LLC
(Defendant's name)

A civil lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached petition or a motion under K.S.A. 60-212. Under Kansas Supreme Court Rule 113, you may seek from the clerk of the court an extension of up to 14 additional days to serve and to file an answer or a K.S.A. 60-212 motion.

If you fail within 21 days to serve and to file an answer or a K.S.A. 60-212 motion or obtain a Rule 113 extension, the court may enter default judgment against you for the relief

demanded in the petition. If you were served outside of Kansas, however, the court may not enter default judgment against you until at least 30 days after service of this summons.

The answer or K.S.A. 60-212 motion must be served on the plaintiff's attorney, or the plaintiff if plaintiff has no attorney, at the following address:

Nathaniel Travis Martens

(Attorney's name or Plaintiff's name)

301 N. Main Street

STE 1900

Wichita, KS 67202

(Attorney's address or Plaintiff's address)

You also must file your answer or K.S.A. 60-212 motion with the court.

When you file an answer, you must state as a counterclaim(s) any related claim(s) that you may have against the plaintiff. If you fail to do so, you will thereafter be barred from making such claim(s) in any other action.

Clerk of the District Court.

By Kaylee Campfield
Clerk or Deputy

Documents to be served with the Summons
PLE: Petition Petition

FLEESON, GOOING, COULSON & KITCH, L.L.C.
301 N. Main St., Suite 1900
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IN THE THIRTY-FIRST JUDICIAL DISTRICT
DISTRICT COURT, WILSON COUNTY, KANSAS
CIVIL DEPARTMENT

ROB TINSLEY PROPERTIES, LLC,)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
DAYLIGHT PETROLEUM, LLC,)	
)	
Defendant.)	

Pursuant to K.S.A. Chapter 60		

PETITION

COMES NOW the Plaintiff, and for its cause of action against the Defendant, alleges and states as follows:

1. This action arises from Defendant Daylight Petroleum, LLC's ("Daylight") operation of oil and gas wells located in Wilson County, Kansas. As explained more fully below, in June 2023, Daylight injected a well as part of a fracking operation on an oil field that neighbors the property owned by Plaintiff Rob Tinsley Properties, LLC ("Tinsley"). On June 26, 2023, The injection caused oil to be forced into Tinsley's building causing damages and interruption of Tinsley's operations.

PARTIES

2. Tinsley is a Kansas for-profit limited liability company, duly qualified to do business and doing in business in the State of Kansas, with a registered office at 7500 Thomas Road, Altoona, Kansas 66710.

3. Tinsley owns a commercial building located 17403 410 Rd., Neodesha, Kansas 66757 ("Tinsley's Property"), where it conducts various activities including operation of a concrete business.

4. Daylight is a Delaware limited liability company, with its principal place of business at 1221 McKinney St., Suite 2880, Houston, Texas 77010, doing business in the State of Kansas. Daylight may be served with process through its registered agent, C T Corporation System, 112 SW 7th Street, Suite 3C, Topeka, Kansas 66603.

5. Daylight is a private oil and gas company that operates thousands of oil and gas wells across Oklahoma, Texas, Kansas, Louisiana, and Mississippi.

6. Upon information and belief, Daylight is owned by Phoenician Resources Management, LLC, which upon further information and belief is ultimately owned by a private investment fund or funds. Given its Kansas operations and its apparent structure serving as an asset of a private investment fund or funds, it is likely that one or more of Daylight's ultimate owners or members are domiciled in Kansas.

JURISDICTION AND VENUE

7. Daylight intentionally markets through the extraction, processing and sale of oil and gas related products within Kansas.

8. In furtherance of its Kansas operations, Daylight is registered to do business in Kansas as a foreign entity and is a licensed operator with the Kansas Corporation Commission. Daylight also has a physical branch office located in Moran, Kansas.

9. For the reasons alleged herein, this Court has jurisdiction over the parties and subject matter.

10. Venue is proper in Wilson County, Kansas, as Tinsley's primary place of business is in Wilson County, Kansas and the facts central to this dispute occurred in Wilson County, Kansas. Moreover, Daylight is doing business in the county at the time of this filing.

FACTUAL BACKGROUND

11. Daylight is the owner and/or operator of oil and gas wells in Wilson County, including but not limited to wells located on the property adjacent to Tinsley's Property.

12. The incidents described herein relate to Daylight's operation of an injection well located on the property adjacent to Tinsley's Property (the "Well"). Upon information and belief, the Well is located on the real estate located at S16, T30, R16, NE NW SW SE 1050 S 2100 E, and is operated under the Olnhausen Farms lease and is specifically known as Well #6, API # 15205285090001.

13. On June 26, 2023, in connection with a fracking operation, Daylight injected the Well by forcing saltwater or brine into underground formations at significant pressures.

14. The purpose of the fracking operation was to recover residual oil by injecting fluids into oil-bearing formations. In a typical configuration, a single injection well is surrounded by multiple production wells that bring oil and gas to the surface.

15. Before fracking, operators like Daylight are required to make an application with the Kansas Corporation Commission ("KCC") in which they are required to, among other things,

“provide a plat showing the location of all oil and gas wells, including . . . abandoned wells . . . within a ½ mile radius of the proposed injection well. . . .” K.A.R. 82-3-401(a)(2). Operators are also required to provide information showing that the injection into the proposed zone will be contained within the zone and will not initiate fractures through the overlying strata that could enable the fluid or formation fluid to enter fresh and usable water strata.

16. Tinsley’s Property is located within a one-half mile radius of the Well that Daylight intended to use for its injection site.

17. Upon information and belief, Daylight failed to conduct adequate due diligence as to the existence of potentially abandoned and unplugged wells in the vicinity before proceeding with its operations and thus did not identify all abandoned wells when submitting its application for injection to the KCC.

18. Notably, in 2021, Daylight’s operations on the Olnhausen Farms lease resulted in oil coming to the surface out of an abandoned and uncapped oil and gas well located on the property (adjacent to Tinsley’s Property). That abandoned well had been cut off a few inches below ground level and was not plugged.

19. A reasonably prudent operator would know that there were likely more abandoned wells in the area which had also been cut off below ground level and not properly capped.

20. Thus, the discovery of the abandoned and uncapped well should have caused Daylight to either terminate its fracking operations or conduct additional due diligence and analysis to determine whether or not there were any other abandoned and unplugged wells in the area.

21. Upon information and belief, Daylight knew or should have known that there were other abandoned and unplugged wells in the area but continued with its fracking operations anyway.

22. Unbeknownst to Tinsley there was an abandoned well located underneath the floor of his building.

23. Consequently, during Daylight's injection operations, oil was forced throughout the inside of Tinsley's building, causing substantial damage to Tinsley's property and interruption of business operations, among other things.

KCC Proceedings

24. Under Kansas law, an operator deemed to be responsible for an abandoned well may be ordered to engage in remediation including plugging of the abandoned well. Knowing its responsibility and the need to plug the abandoned well, Daylight filed a petition with the KCC essentially asking for permission not to plug the abandoned well. In the KCC proceedings, Daylight argued it would be "economic waste" to locate and plug the abandoned well because it would require substantial if not total destruction of Tinsley's building.

25. In the KCC proceedings, Daylight conceded, and in fact, affirmatively alleged that Tinsley's building had already been damaged and that plugging the abandoned well would likely cause damages in excess of \$1 Million.

26. On May 29, 2025, the Commission issued an order finding that Daylight was responsible for the abandoned well under K.S.A. 55-179. The Commission further rejected Daylight's effort to avoid responsibility for the abandoned well and instead ordered that Operator and the Commission confer and propose alternative measures to locate and plug the abandoned well while "minimize[ing] property damage" to Tinsley's Property.

27. To the extent that there are any conditions precedent to the filing of this action, of which Tinsley denies exist, all such conditions precedent have been satisfied.

COUNT 1 – Absolute Liability

28. Tinsley hereby incorporates by reference all allegations set forth above as if fully set forth herein, and further alleges:

29. Under K.S.A. 65-6203, any person who is responsible for an accidental release or discharge of materials detrimental to the quality of the waters or soil is obligated to compensate the owner of the property where the release or discharge occurred for actual damages incurred as a result of the release or discharge, or damages incurred as the result of corrective action.

30. Here, the KCC has already determined that Daylight is responsible for the discharge at issue and is responsible for correcting the same. Tinsley's building has been damaged as a result of the discharge and corrective measures taken and to be taken at the property.

31. Specifically, the parties anticipate that a significant portion of the concrete drive and foundation or floor will have to be removed and excavated for purposes of locating and plugging the abandoned well or otherwise remediating the discharge resulting from Daylight's operations. Upon information and belief, the concrete floor and foundation cannot be repaired in a workmanlike manner given, among other things, the inability to properly compact the soil where the repair would be made. Even Daylight has conceded and affirmatively alleged in the KCC proceedings that the building cannot be repaired in a workmanlike manner.

32. Daylight's own experts in the KCC proceedings acknowledged and opined that Tinsley has been or will be damaged in amount in excess of \$1 Million by the time all anticipated corrective or remedial measures are taken.

33. Under K.S.A. 65-6203 or other Kansas law, Daylight is liable to Tinsley for all damages caused to Tinsley's property as a result of the discharge including all damages that result from corrective measures.

34. Despite Tinsley's demand, Daylight refused and has not offered Tinsley any compensation for the damages.

35. Although the Commission has determined that Daylight caused the discharge and is responsible for the abandoned well and all corrective measures required to locate and plug it, the KCC staff argued that Daylight's liability to Tinsley was a "civil matter" and the Commission has not issued an order requiring Daylight to compensate Tinsley for its damages. Thus, Tinsley requests this Court issue such orders entering judgment against Daylight and ordering Daylight to compensate Tinsley for all damages caused by the discharge and corrective measures.

36. Therefore, Daylight's operations and conduct have caused Tinsley to suffer damages in excess of \$75,000.00, for which Tinsley is entitled to recover.

COUNT 2 - Negligence Per Se

37. Tinsley hereby incorporates by reference all allegations set forth above as if fully set forth herein, and further alleges:

38. Daylight was required to identify all abandoned wells within a one-half mile radius of its injection site before commencing fracking operations per K.A.R. 82-3-401(a)(2).

39. The Kansas Administrative Regulations implemented by the KCC, including but not limited to K.A.R. 82-3-401, are intended to protect persons and property against the risks associated with oil and gas operations such as fracking.

40. Daylight violated Kansas Administrative Regulations when it failed to identify the abandoned well located on the Tinsley Property before it commenced fracking operations.

41. Daylight's violations of the Kansas Administrative Regulations caused damages to Tinsley in the nature and extent described above.

42. Therefore, Daylight's operations and conduct have caused Tinsley to suffer damages in excess of \$75,000.00, for which Tinsley is entitled to recover.

COUNT 3 - Negligence

43. Tinsley hereby incorporates by reference all allegations set forth above as if fully set forth herein, and further alleges:

44. At the incident giving rise to this lawsuit occurred, Daylight knew or should have known that the process itself, including but not limited to the resulting subsurface disturbance and/or the prospect of fluids traveling up-hole to unprotected zones, could have an adverse impact upon zones of the subsurface and/or surface not intended to be disturbed or otherwise impacted.

45. Daylight owed a duty of reasonable care to Tinsley due to among other things the proximity of Tinsley's Property to Daylight's operations.

46. Upon information and belief, Daylight (a) failed to conduct reasonable and adequate diligence in determining whether there were any unplugged abandoned wells in close proximity to Daylight's operations; (b) failed to take adequate precautions to assure that there were no unplugged wells in the area, in particular, after the discovery of an abandoned and uncapped well on the property adjacent to Tinsley's Property; (c) failed to exercise reasonable care in deciding how to design and conduct the injection operations; (d) failed to exercise reasonable care in the implementation of the process intended to minimize the unintended or unwanted impacts of the injection processes; and/or (e) failed to inspect, test, evaluate, assess, operate, repair, monitor and maintain any and all facilities so as to safeguard against any spill, release, or discharge of petroleum substances, including but not limited to, failing to identify all abandoned and uncapped wells in the vicinity.

47. Daylight's negligence caused damages to Tinsley's Property and an interruption of Tinsley's business operations causing lost income and wear and tear to equipment that has Tinsley has been forced to store outside for extended periods of time.

48. As noted above, the parties anticipate that a significant portion of the concrete drive and floor will have to be cut out and excavated for purposes as a result of Daylight's operations and negligence. Upon information and belief, the concrete floor and foundation cannot be repaired in a workmanlike manner given among other things the inability to properly compact the soil where the repair would be made. Even Daylight has conceded and affirmatively alleged in the KCC proceedings that the building cannot be repaired in a workmanlike manner.

49. Daylight's own experts in the KCC proceedings acknowledged and opined that Tinsley has been or will be damaged in amount in excess of \$1 Million by the time all anticipated corrective measures are taken.

50. On top of the costs of repairs, Daylight's operations and negligence caused interruption in Tinsley's operations, lost rent, and excessive equipment wear.

51. Therefore, Daylight's operations and negligence have caused Tinsley to suffer damages in excess of \$75,000.00.

COUNT 4 – Trespass/Nuisance

52. Tinsley hereby incorporates by reference all allegations set forth above as if fully set forth herein, and further alleges:

53. At all relevant times, Tinsley was the lawful owner of Tinsley's Property.

54. Daylight caused physical intrusions upon such property that were unauthorized and that have unreasonably interfered with the use, benefit, and enjoyment of Tinsley's Property.

Daylight intentionally injected the Well while failing to exercise reasonable care for the reasons alleged above.

55. Daylight knew or should have known that the oil could be forced through abandoned and uncapped wells in the area and that such was a likely result of its fracking operations.

56. Tinsley has suffered damages in the nature and extent described above as a result of Daylight's trespass and/or nuisance. In addition thereto, Tinsley is entitled to recover damages for the nuisance, annoyance, and inconvenience resulting from Daylight's trespass and/or nuisance.

57. Therefore, Daylight's operations and conduct have caused Tinsley to suffer damages in excess of \$75,000.00.

COUNT 5 - Ultrahazardous Activity

58. Tinsley hereby incorporates by reference all allegations set forth above as if fully set forth herein, and further alleges:

59. Daylight's injection of oil and gas fields was without adequate controls, protective measures, and post-operational testing. The forcing of hazardous substances into the earth at great pressure with no predictable terminus is an ultra-hazardous activity.

60. The injection techniques used, the injection fluids themselves, and their constituents, created and constituted a high degree of risk of harm to humans and/or property, and the likelihood of such harm was great in the absence of adequate protective measures. Daylight owed Tinsley a duty of care to handle, use, and/or dispose of regulated substances with the highest degree of skill, care, caution, diligence and foresight according to the best technical, mechanical, and scientific knowledge available at the time.

61. Daylight breached that duty by injecting the Well in such a manner that control was limited, and the inherent risk therein substantially outweighed the potential minimal value to the community of such activity.

62. Tinsley lacked the ability to recognize or guard against the danger associated with such activities because the activities were conducted subsurface and generally unknown to those occupying the surface. As a result, such injection activities constituted an ultra-hazardous activity whereby third parties would be, and were in fact placed, at unreasonable risk.

63. Tinsley has been damaged by the activities of Daylight as set forth above.

64. Therefore, Daylight's operations and conduct have caused Tinsley to suffer damages in excess of \$75,000.00.

WHEREFORE, Plaintiff prays for judgment in its favor and against the Defendant, Daylight Petroleum, LLC, in an amount necessary to compensate Tinsley for its damages and, in an amount in excess of \$75,000.00; for pre- and post-judgment interest; the recovery of court costs and expenses; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

FLEESON, GOOING, COULSON & KITCH, L.L.C.

By: /s/ Nathaniel T. Martens

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable.

By: /s/ Nathaniel T. Martens
Nathaniel T. Martens, No. 27179