

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

Before Commissioners: Pat Apple, Chair
 Shari Feist Albrecht
 Jay Scott Emler

In the matter of an Order to Show Cause issued)	Docket No. 17-CONS-3373-CSHO
to Teichgraeber Oil, Inc. (“Operator”) for its)	
failure to comply with either K.A.R. 82-3-400)	CONSERVATION DIVISION
or K.A.R. 82-3-409 regarding injection that)	
<u>took place during the 2015 calendar year.</u>)	License No. 6101

PRE-FILED TESTIMONY

OF

RENE STUCKY

1 Q. What is your name and business address?

2 A. Rene Stucky, 266 North Main Suite 220, Wichita, Kansas 67202.

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

4 A. I'm employed by the Conservation Division of the Kansas Corporation Commission, as
5 Supervisor of the Underground Injection Control ("UIC") Department and the Production
6 Department.

7 Q. How long have you been employed by the KCC?

8 A. About 11 years. Before becoming Supervisor, I was an Environmental Scientist in the
9 UIC Department, where I reviewed and processed injection applications.

10 Q. Have you previously testified before this Commission?

11 A. Yes.

12 Q. What does your position with the Conservation Division involve?

13 A. I supervise everyone in the Conservation Division's UIC and Production Departments.

14 Q. Are you familiar with this KCC Docket, 17-CONS-3373-CSHO?

15 A. Yes.

16 Q. How are you familiar with this Docket?

17 A. Commission Staff believed it was appropriate to initiate legal proceedings in this matter.
18 I participated in the decision, and am familiar with the issues that caused Staff's decision.

19 Q. Why does Staff believe legal proceedings are appropriate?

20 A. As described in Staff's motion, on July 23, 2015, Operator was penalized in Docket 16-
21 CONS-084-CPEN for reported unauthorized injection during the 2014 calendar year at
22 the Kempton #3 well. The Penalty Order stated that in Operator's injection report,
23 Operator reported a pressure that exceeded its permit. It stated that if the data was
24 correct, Operator violated K.A.R. 82-3-400 by conducting unauthorized injection. It
25 stated that if the data was incorrect, Operator violated K.A.R. 82-3-409(b) by submitting
26 an inaccurate report.

27 The Penalty Order then stated that, therefore, a violation of either K.A.R. 82-3-400 or
28 K.A.R. 82-3-409 occurred. The Penalty Order assessed a \$500 penalty for the violation at
29 the Kempton #3 (the total penalty was actually \$1,500, but the Commission also found
30 violations at two other wells), and stated that if Operator believed it misreported a rate of
31 injection or pressure, then Operator should submit a corrected report. It did not state that

1 submitting a corrected report meant that a violation did not occur, and it did not state that
2 the penalty would be reduced or eliminated if a corrected report was filed. In that docket,
3 Operator paid the penalty and submitted a corrected report.

4 For the 2015 calendar year, Operator has again done the same thing regarding the
5 Kempton #3. That means a violation of either K.A.R. 82-3-400 or K.A.R. 82-3-409(b)
6 has again occurred, and that a penalty is again appropriate.

7 Q. What constitutes a violation of K.A.R. 82-3-400?

8 A. Over-injection.

9 Q. What constitutes a violation of K.A.R. 82-3-409(b)?

10 A. Misreporting injection.

11 Q. What do you mean when you say Operator did the same thing at the Kempton #3?

12 A. Operator's injection report for 2014 indicated over-injection at the Kempton #3.

13 Operator's injection report for 2015 again indicates over-injection at the Kempton #3.

14 Q. How does Operator's injection report for the Kempton #3 indicate over-injection?

15 A. I have attached Operator's injection report for 2015 (Exhibit A), which is also attached to
16 Staff's motion to show cause. The data in Section II of the report, which gives the
17 authorized rate and pressure, is correct. I know it is correct because I have both reviewed
18 the Commission's electronic well database, which is updated to reflect the authorized
19 injection rate and pressure, and because I have reviewed the paper file, which contains
20 the official injection permit documents.

21 The data in Section III of the reports indicates over-injection. Specifically, Operator
22 reports a maximum fluid pressure of 1,500 pounds per square inch, but Operator was
23 only authorized to inject at up to 400 pounds per square inch.

24 I have also attached Staff's penalty recommendation in Docket 16-CONS-084-CPEN,
25 which was attached to the Penalty Order, for comparison (Exhibit B). As you can see, the
26 issue there was basically identical.

27 Q. Staff's motion to show cause includes an inspection report on the Kempton #3, based
28 upon an inspection that took place in July 2016. Do the findings in that report indicate
29 whether Operator violated either K.A.R. 82-3-400 or K.A.R. 82-3-409(b) in 2015?

30 A. No. An inspection cannot determine whether too much fluid has been injected during the
31 course of a year, especially an inspection that takes place after the year in question. An

1 inspection can determine whether there is too much pressure on the day of the visit. It can
2 sometimes provide clues that over-pressurization may not have occurred in the past, for
3 example because of the well's current set-up. But an inspection cannot demonstrate that a
4 violation of K.A.R. 82-3-400 did not occur prior to the inspection.

5 Further, it is not Staff's position that a violation of K.A.R. 82-3-400 occurred. It is our
6 position that either a violation of K.A.R. 82-3-400 occurred or a violation of K.A.R. 82-
7 3-409(b) occurred. A inspection can indicate that maybe one type of violation more
8 probably occurred compared to the other, but no matter what there was a violation of
9 either K.A.R. 82-3-400 or K.A.R. 82-3-409(b). Either violation is unacceptable.

10 Q. Why is either violation unacceptable?

11 A. Aside from the fact that our regulations prohibit such violations, over-injection can
12 damage fresh and useable water. Because Staff cannot be onsite at each of the
13 approximately 16,000 injection wells statewide every day, inaccurate data makes it
14 essentially impossible for Staff to verify annual compliance with all injection permits.
15 Inaccurate data also makes it difficult for Staff or the public to systemically analyze
16 wastewater injection issues, which have been of particular interest since the recent
17 increase in seismicity. If Staff cannot rely upon operators to submit accurate data, then
18 the only real alternative way to get that data would be to require various gauges to be
19 installed at each well, which is generally quite expensive.

20 At a more abstract level, failure to address either over-injection or inaccurate data
21 harms the integrity of our injection well program and could jeopardize the Commission's
22 ongoing oversight of Class II injection wells. In short, both over-injection and the
23 submission of inaccurate data are very problematic.

24 Q. Operator was penalized \$500 for its violation of either K.A.R. 82-3-400 or K.A.R. 82-3-
25 409 for its 2014 report regarding the Kempton #3. You have testified that Operator has
26 done the same thing at the Kempton #3 for a second time, as demonstrated by its 2015
27 report. In Staff's opinion, what should be the consequences for this second-time
28 violation?

29 A. Operator has exhibited the same behavior that in Docket 16-CONS-084-CPEN resulted
30 in a finding of a violation and a penalty of \$500. The Commission should again find that
31 a violation of either K.A.R. 82-3-400 or K.A.R. 82-3-409 occurred.

1 Further, K.S.A. 55-164 states that assessed penalties shall constitute an actual and
2 substantial economic deterrent to the violation for which the penalty is assessed. It does
3 not appear that \$500 was a sufficient economic deterrent to the violation, because
4 Operator has exhibited the same behavior regarding the same well. Therefore, Staff
5 believes a more substantial penalty is appropriate.

6 Q. Does this conclude your testimony as of this date, January 27, 2017?

7 A. Yes.

ANNUAL REPORT OF PRESSURE MONITORING, FLUID INJECTION AND ENHANCED RECOVERY

Complete all blanks - add pages if needed. Copy to be retained for five (5) years after filing date.

OPERATOR: License # 6101
Name: Teichgraeber Oil, Inc.
Address 1: 700 N MAIN ST
Address 2: _____
City: EUREKA State: KS Zip: 67045 + 1320
Contact Person: A.C. Teichgraeber
Phone: (620) 583-7500
Lease Name: KEMPTON
Well Number: 3

API No.: 15-019-20646-00-02
Permit No: D30874.0
Reporting Year: 2015
(January 1 to December 31)
NE - NE - SE - SW Sec 17 Twp 32 S. R 9 ☒ E ☐ W
1264 feet from ☐ N ☒ S Line of Section
2803 feet from ☒ E ☐ W Line of Section
County: Chautauqua

I. Injection Fluid:

Type (Pick one): ☐ Fresh Water ☐ Treated Brine ☒ Untreated Brine ☐ Waterflood
Source: ☒ Produced Water ☐ Other (Attach list)
Quality: Total Dissolved Solids: _____ mg/l Specific Gravity: _____ Additives: _____
(Attach water analysis, if available)

II. Well Data:

Maximum Authorized Injection Pressure: 400 psi Injection Zone: Stallneker
Maximum Authorized Injection Rate: 200 barrels per day
Total Number of Enhanced Recovery Injection Wells Covered by this Permit: _____ (Include TAs)

III.	Month:	Total Fluid Injected BBL	Maximum Fluid Pressure	Total Gas Injected MCF	Maximum Gas Pressure	# Days of Injection
	January	2791	1500	0		31
	February	2689	1500	0		28
	March	2977	1500	0		31
	April	2881	1500	0		30
	May	2931	1500	0		31
	June	1440	1500	0		30
	July	2931	1500	0		31
	August	2977	1500	0		31
	September	2881	1500	0		30
	October	2977	1500	0		31
	November	2428	1500	0		30
	December	2977	1500	0		31
	TOTAL	32880		0		

Submitted Electronically

Docket 17-3373
Exhibit A

PENALTY ORDER RECOMMENDATION

ROUTINE REPORTED OVER-PRESSURIZATION VIOLATION

Note: this sheet will be attached to the Order that is mailed to the operator.

Date of Recommendation:	July 2, 2015
District/Department:	Underground Injection Control
Person Recommending Penalty:	Sanita Dean (Rene Stucky, Supervisor)
Operator Name:	Teichgraeber Oil, Inc.
Operator License Number:	6101
Well/Lease Name & Well Number:	KEMPTON #3
API Number:	15019206460002
Well/Lease Location, and County:	17-32S-9E, CHAUTAUQUA County
UIC Permit Number:	D30874.0
Regulation Number:	K.A.R. 82-3-400 or K.A.R. 82-3-409
Description of Violation:	Unauthorized or misreported injection for 2014
Nature of Unauthorized Injection	In its Annual Injection Report, Operator reported over-pressurization at the subject well.
Maximum Pressure Reported in 2014, Per Operator's Annual Injection Report (pounds per square inch):	1500
Maximum Pressure Allowed, Per UIC Permit (pounds per square inch):	400
Requested Monetary Penalty:	\$500
Requested Operator Activity:	Pay monetary penalty. Submit corrected report if applicable.

Docket 17-3373
Exhibit B

Docket 16-084
Exhibit A
Page 2 of 3

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

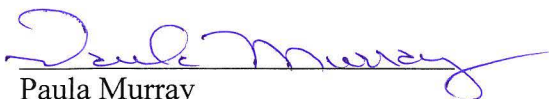
Before Commissioners: Pat Apple, Chair
 Shari Feist Albrecht
 Jay Scott Emler

In the matter of an Order to Show Cause issued)	Docket No. 17-CONS-3373-CSHO
to Teichgraeber Oil, Inc. ("Operator") for its)	
failure to comply with either K.A.R. 82-3-400)	CONSERVATION DIVISION
or K.A.R. 82-3-409 regarding injection that)	
<u>took place during the 2015 calendar year.</u>)	License No. 6101

CERTIFICATE OF SERVICE

I, Paula Murray, certify that on January 27, 2017, I did cause a true and correct copy of the Pre-Filed Testimony of Rene Stucky to be served by United States mail, first class, postage prepaid to the following:

Scott M. Hill
Hite, Fanning & Honeyman L.L.P.
100 N. Broadway, Suite 950
Wichita, Kansas 67202
Attorney for Teichgraeber Oil, Inc.



Paula Murray
Legal Assistant
Kansas Corporation Commission