

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

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

In the Matter of the Application of Kent A.)	Docket No. 17-CONS-3026-CWLE
Deutsch, d/b/a Deutsch Oil Company and Globe)	
Operating, Inc., for a Well Location Exception)	
For the Morrison A, Morrison B, and Batman)	CONSERVATION DIVISION
Morrison #1 Wells in E/2 NE/4 of Section 28-)	
21-13, Stafford County, Kansas.)	
_____)	License Nos. 3180(Deutsch), 6170(Globe)

**MOTION TO COMPEL RESPONSES TO
PROTESTANTS' FIRST DATA REQUESTS**

COME NOW Protestants Robro Royalty Partners, Ltd., and Bitter End Royalties, L.P. (collectively, "Protestants"), and move the State Corporation Commission for the State of Kansas ("Commission") for an order compelling Applicants Kent A. Deutsch d/b/a Deutsch Oil Company and Globe Operating, Inc. (collectively, "Applicants"), to respond to Protestants' First Data Requests to Applicants ("First Data Requests"). Protestants' submit the following in support of their motion:

1. On January 17, 2017, the prehearing officer designated by the Commission entered an Order Setting Procedural Schedule and Protective and Discovery Order ("PHO Order").
2. The PHO Order provides in pertinent part that:
 - a. The close of discovery shall be February 24, 2017. PHO Order ¶ 4.
 - b. Protestants' Pre-Filed Direct Testimony shall be submitted by March 17, 2017.

Id.

c. “[A]ny party may serve upon any other party written discovery or data requests.” PHO Order ¶ 21.

d. Responses to data requests, other than Commission staff’s data requests, are due within 10 days of service. *See* PHO Order ¶ 22.

e. A party objecting to a data request shall object in writing to the issuing party within 5 days after service, plus three days if service is by mail. “Any objection not provided at this time **will be considered to be waived.**” PHO Order ¶ 23 (emphasis added).

f. “Parties shall negotiate in good faith to resolve discovery disputes. If resolution is not possible, the party seeking discovery may file a motion to compel with the Commission.” PHO Order ¶ 23.

3. On February 8, 2017, Protestants served their First Data Requests to Applicants by email and by U.S. Mail. A copy of Protestants’ First Data Requests are attached hereto as Exhibit A.

4. Applicants have not objected to or responded to the First Data Requests. Applicants have not contacted Protestants to request an extension to respond to the First Data Requests, and Applicants have not otherwise been in communication with Protestants regarding the First Data Requests.

5. Applicants’ time period to object to the First Data Requests expired on February 16, 2017, at the latest. Applicants have, therefore, waived any objection to the First Data Requests propounded by Protestants.

6. Applicants’ time period to respond to the First Data Requests expired on February 22, 2017, at the latest. Applicants have, therefore, breached their obligations under the PHO Order.

7. On February 23, 2017, Protestants transmitted a letter via email to Applicants concerning the delinquent status of Applicants' responses to the First Data Requests. In that letter Protestants advised that they would be moving the Commission for an order compelling Applicants to respond to the First Data Requests. Protestants reasoned that making the motion to compel prior to the close of discovery-- February 24, 2017—may be necessary to preserve Protestants' right to pursue their First Data Requests after the close of discovery. Protestants also suggested that they would withdraw the motion to compel if Applicants would timely and properly respond to the First Data Requests and agree to an expanded procedural schedule. Applicants have not responded to Protestants' letter.

8. Protestants will continue to make good faith efforts to resolve this discovery dispute with Applicants.

9. Protestants' First Data Requests are relevant because they specifically address the substance and merits of Applicants' application for two well location exceptions. Applicants' application contains allegations that are unsubstantiated and/or contradictory. Several of Applicants' supporting exhibits are not dated and do not identify the author. Further, some of the allegations contained in Applicants' application are not entirely forthright. For example, Protestants' minerals are included in a unit upon which one of Applicants' wells is drilled, yet Protestants receive no royalty from this well—an abject violation of Protestants' correlative rights. Protestants' First Data Requests identify with particularity the information sought to clarify and resolve these sorts of issues, among others, so that it may properly prepare for the evidentiary hearing.

10. Applicants' failure to timely respond to the First Data Requests prejudices Protestants. Protestants' deadline to pre-file direct testimony is looming. Applicants' failure to

respond to the First Data Requests substantially inhibits Protestants' ability to prepare pre-filed direct testimony that would address the myriad issues raised in Applicants' application, and otherwise inhibits Protestants' ability to properly prepare for the evidentiary hearing scheduled in this matter. As such Protestants' request that the Commission enter an order compelling Applicants to respond to the First Data Requests.

11. Protestants request that any order compelling Applicant to respond to the First Data Requests expand the procedural schedule to afford Protestants adequate time to: (i) analyze the responsive information furnished by Applicant, (ii) make further motions to compel and for sanctions, in the event Applicants' responses are incomplete or inadequate, and (iii) prepare its pre-filed direct testimony. Further, Protestants suggest that it may be proper for the Commission to prescribe sanctions for failing to comply with any order compelling Applicants to respond to the First Data Requests. For example, the PHO Order provides that the Commission may: (i) deem designated facts admitted by Applicants for purposes of this proceeding, which could include deeming Protestants' requests for admission admitted by Applicants, (ii) prohibit Applicants from introducing designated matters into evidence, which could include prohibiting Applicants from offering the exhibits attached to the application into evidence, and (iii) dismissing Applicants' application without prejudice.

WHEREFORE, for foregoing reasons, Protestants request that the Commission enter an order compelling Applicants to respond to Protestants' First Data Requests and expanding the procedural schedule in the manner set forth above, and to provide such other relief to Protestants as the Commission deems just and proper.

Respectfully submitted,

MORRIS, LAING, EVANS, BROCK
& KENNEDY, CHARTERED

By: _____

Jonathan A. Schlatter, #24848

300 N. Mead, Suite 200

Wichita, KS 67202-2745

Telephone - (316) 262-2671

Facsimile - (316) 262-6226

Email - jschlatter@morrislaing.com

*Attorneys for Robro Royalty Partners, Ltd., and
Bitter End Royalties, L.P.*

VERIFICATION

STATE OF KANSAS)
) ss.
COUNTY OF SEDGWICK)

Jonathan A. Schlatter, being of lawful age and being first duly sworn upon his oath,
deposes and says:

That he is the attorney for Robro Royalty Partners, Ltd., and Bitter End Royalties, L.P.;
he has read the above and forgoing Motion to Compel Responses to Protestants' First Data
Requests and is familiar with the contents and that the statements made therein are true and
correct to the best of his knowledge and belief.

Jonathan A. Schlatter

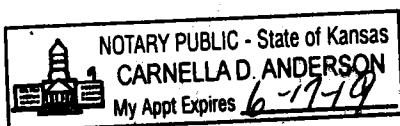
SUBSCRIBED AND SWORN to before me this 24th day of February, 2017.

Carnella D. Anderson

Notary Public

My Appointment expires:

June 17, 2019



CERTIFICATE OF SERVICE

I, Jonathan A. Schlatter, hereby certify that on this 24th day of February, 2017, I caused the original of the foregoing **Motion to Compel Responses to Protestants' First Data Requests** to be electronically filed with the Conservation Division of the State Corporation Commission of the State of Kansas, and caused true and correct copies of the same to be emailed to the parties set forth below, and further caused true and correct copies of the same to be transmitted by Federal Express Next-Day Delivery to:

Tim Keenan
Keenan Law Firm, P.A.
2200 Lakin, Suite B
Great Bend, KS 67530
keenanlawfirm@klf.kscoxmail.com
Attorneys for Applicants

and by hand-delivery to:

John McCannon, Litigation Counsel
Kansas Corporation Commission
266 N Main Street, Suite 220
Wichita, KS 67202
j.mccannon@kcc.ks.gov


Jonathan A. Schlatter

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In the Matter of the Application of Kent A.)	Docket No. 17-CONS-3026-CWLE
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PROTESTANTS' FIRST DATA REQUESTS TO APPLICANTS

Robro Royalty Partners, Ltd., and Bitter End Royalties, L.P. (collectively, "Protestants"),
propound the following First Data Requests to be answered by Kent A. Deutsch, d/b/a Deutsch Oil
Company and Globe Operating, Inc. (collectively, "Applicants"):

DEFINITIONS

A. "Communication" shall mean any disclosure, transfer or exchange of information,
by any means or manner, including without limitation, any written or oral message, including but
not limited to letters, telegrams, or other telegraphic messages, telephone conversations, face-to-
face conversations, messages sent by way of intermediaries, notes, presentations or speeches,
meetings, offers, notations, or memoranda of any conversations, bulletins, inter-office and intra-
office communications, electronic (e-mail) or computer message or electronic transmission, and
all other contacts or attempted contacts by or between any persons.

B. "Document" shall mean any tangible thing and any media upon which information
is recorded, stored or placed, including without limitation, paper, audio tape, video tape, film,



recordings, computer tape, computer disks or diskettes or internal computer memory, together with programming instructions and notes and all other instructions needed to understand, use or interpret such tapes, records, disks, or other materials. This term includes without limitation originals and duplicates or copies of all correspondence, literature, papers, statements, memoranda, reports, notes, drafts, notebooks, manuals, diaries, calendars, minutes of meetings, receipts, summaries, business records, work papers, checks, studies, work pads or note pads, opinions, messages including electronic (E-Mail) or computer-generated messages, telegrams, books, letters, ledgers, pamphlets, brochures, financial statements, accounts, circulars, releases, prospectuses, contracts, orders, punch cards, invoices, receipts, agreements, drawings, printouts, graphs, charts, photographs, negatives, films, microfiche, microfilm, printed or graphic or pictorial representations, catalogues, minutes, records, files, transcripts, communications, labels, or any other writings or tangible objections, whether produced or reproduced mechanically, electronically, electrically, photographically, or chemically. The term also includes copies containing information in addition to that contained on the original.

D. "Morrison Lease" shall mean the oil and gas lease referenced in paragraph 3 of Applicant's Application, and described as that certain Oil and Gas Lease dated October 6, 1967, from Helen W. Morrison, lessor, to Albert M. Austin, lessee, recorded in Book 67, Page 337, of the office of the Register of Deeds, Stafford County, Kansas, covering E/2 NE/4 of Section 28, Township 21 South, Range 13 West, Stafford County, Kansas.

E. "Batman-Morrison Unit" shall mean the 20-acre oil and gas production unit formed pursuant to that certain Declaration of Unitization dated February 24, 2014, executed by Applicants and other parties, recorded in Book 245, Page 763, of the office of the Register of Deeds, Stafford County, Kansas, and described as:

Commencing at the Northeast corner of the Northeast Quarter (NE/c NE/4) of Section 28-21-13, Stafford County, Kansas, thence West 660' to a point on the North line of Section 28, thence South parallel with the East line of Section 28, a distance of 1110' to the point of beginning, thence West parallel with the North boundary line of Section 28 a distance of 1320', thence South 660', thence East 1320', thence North 660' to the place of beginning, being a tract rectangular in shape, within which is located the "Batman-Morrison Unit well."

F. "A Well" shall mean the Morrison A well referenced and described in paragraph 7 of Applicant's Application.

G. "B Well" shall mean the Morrison B well referenced and described in paragraph 8 of Applicant's Application.

H. "Unit Well" shall mean the Batman-Morrison well referenced and described in paragraph 9 of Applicant's Application.

I. "You" and "Your" shall mean the Applicants and any agent, employee, representative, member, officer, director, manager, or other natural person, firm, corporation, partnership, association, organization, joint venture or group of natural persons subject to its control.

J. "Mineral Tract" shall mean the 10-acre tract in which Protestants' own an undivided 87.939% mineral interest, and which is more particularly described in that certain General Warranty Deed dated October 1, 1983, from Helen W. Morrison to Ralph Stalcup, recorded in Book 56, Page 560, of the office of the Register of Deeds, Stafford County, Kansas.

DATA REQUESTS

1. Admit that the Morrison Lease covers the entire Mineral Tract.

Admit _____ **Deny** _____

2. Admit that the Batman-Morrison Unit covers a portion of the Mineral Tract.

Admit _____ **Deny** _____

3. Admit that the Morrison Lease contains an entireties clause providing that:

“If the leased premises are now or hereafter owned in severalty or in separate tracts, the premises, nevertheless, may be developed and operated as an entirety, and the royalties shall be paid to each separate owner in the proportion that the acreage owned by him bears to the entire lease area.”

Admit _____ **Deny** _____

4. Explain in detail the complete factual basis for Your treatment of the Mineral Tract and the other lands covered by the Morrison Lease as being subject to separate and distinct oil and gas leases.

Response:

5. Provide all Documents and Communications supporting Your response to data request #4.

Response:

6. Admit that You sought and obtained an amendment of the Morrison Lease from Protestants, which amendment amended the Morrison Lease to allow lessee to combine the

Morrison Lease with other lands and leases to form one or more oil units not to exceed 20 acres in size.

Admit _____ **Deny** _____

7. Admit that You declared the Batman-Morrison Unit after You obtained the amendment of the Morrison Lease from Protestants described in data request #8.

Admit _____ **Deny** _____

8. Explain in detail the complete factual basis why You have not paid Protestants' their proportionate share of royalties from the Unit Well.

Response:

9. Explain in detail how You disclosed to Protestants that they would not be receiving their proportionate share of royalties from the Unit Well.

Response:

10. Provide all Documents and Communications supporting Your responses to data requests #8 and #9.

Response:

11. Explain in detail the complete factual basis for Your statement in paragraph 12 of the Application, that the “Morrison B and Batman-Morrison well locations were selected as the optimum locations for the drilling and operation of both wells.”

Response:

12. Provide all Documents and Communications supporting Your response to data request #11.

Response:

13. Explain in detail the complete factual basis for Your statement in paragraph 12 of the Application, that “[t]he proximity of the Morrison B and Batman-Morrison wells to the Morrison A well has not resulted in waste or a violation of correlative rights.”

Response:

14. Provide all Documents and Communications supporting Your response to data request #13.

Response:

15. Provide complete copies of the drill stem test reports referenced in paragraph 13 of the Application.

Response:

16. Explain in detail the complete factual basis for Your statement in paragraph 13 of the Application, that “[t]he Arbuckle formation is historically a strong water drive reservoir, with no pressure depletion between wells.”

Response:

17. Provide all Documents and Communications supporting Your response to data request #16.

Response:

18. Explain in detail the complete factual basis for Your statement in paragraph 13 of the Application, that “[t]his would indicate no pressure interference from well to well, and therefore would indicate no effective drainage from well to well for the 3 wells.” Please specifically identify which “wells” You are referring to in this statement.

Response:

19. Provide all Documents and Communications supporting Your response to data request #18.

Response:

20. Explain in detail the complete factual basis for Your statement in paragraph 13 of the Application, that “[t]he Arbuckle Structure map would also indicate the Morrison B and Batman-Morrison well to be on two separate structures.”

Response:

21. Provide all Documents and Communications supporting Your response to data request #20.

Response:

22. Explain in detail the complete factual basis for Your statement in paragraph 14 of the Application, that “[t]he Morrison B well and Batman-Morrison wells were drilled on 2 well defined structural features.”

Response:

23. Provide all Documents and Communications supporting Your response to data request #22.

Response:

24. Explain in detail the complete factual basis for Your statement in paragraph 14 of the Application, that “[t]hese locations have not created any waste or any undue drainage.” Please specifically identify which “locations” You are referring to in this statement.

Response:

25. Provide all Documents and Communications supporting Your response to data request #24.

Response:

26. Beginning from the date the B Well was first completed in the Arbuckle formation to present, describe the dates that the B Well was producing oil, and the dates the B Well was shut-in.

Response:

27. Provide all Documents and Communications supporting Your response to data request #26, including any pumper reports, barrel tests, gauge reports, well tests, maintenance records, or any other evidence of actual production of oil from the B Well.

Response:

28. Explain in detail the complete factual basis for Your statement in paragraph 15 of the Application that the B Well “is currently shut in due to water encroachment.”

Response:

29. Provide all Documents and Communications supporting Your response to data request #28.

Response:

30. Beginning from the date the B Well was first completed in the Arbuckle formation to present, explain in detail the dates the A Well and the B Well produced, or were equipped to produced, in to a common tank battery.

Response:

31. Provide all Documents and Communications supporting Your response to data request #30, including any Documents related to the acquisition and installation of a separate tank battery to hold oil produced from the B Well separate from the oil produced from the A Well.

Response:

32. Explain in detail the date that the B Well begin producing oil into a tank battery separate from the tank battery the A Well produces oil into.

Response:

33. Provide all Documents and Communications supporting Your response to data request #32.

Response:

34. Explain in detail how the production decline curve referenced in paragraph 15 of the Application and depicted on Exhibit C thereto can depict historical production from the A Well and the B Well during times when both wells were producing into a common tank battery.

Response:

35. Admit that You do not know the exact volume of oil produced from the B Well during the time period that the B Well and the A Well produced oil into a common tank battery.

Admit _____ **Deny** _____

36. Admit that the production decline curve referenced in paragraph 15 of the Application and depicted on Exhibit C thereto is based upon Your own speculation and conjecture as to what the actual production of oil was from the A Well and the B Well during the time period when the A Well and the B Well produced into a common tank battery.

Admit _____ **Deny** _____

37. Admit that the 3-D seismic map referenced in paragraph 14 of the Application and depicted on Exhibit B thereto is a structural depiction of the Lansing formation, not the Arbuckle formation as You suggest in said paragraph 14 of the Application.

Admit _____ **Deny** _____

38. Provide a complete copy of the 3-D seismic survey referenced in paragraph 14 of the Application.

Response:

39. Identify the date the structure map and DST map referenced in paragraphs 13 and 14 of the Application and attached thereto as Exhibit A were prepared, and the person who prepared the structure map and DST map.

Response:

40. Provide all Documents and Communications supporting Your response to data request #39, including Documents and Communications the person who prepared the structure map and DST map referenced or relied upon in preparing the same.

Response:

41. Explain in detail how You would calculate the drainage radius for the B Well and the Unit Well upon the completion of said wells in the Arbuckle formation.

Response:

42. Provide copies of all Documents and Communications supporting Your response to data request #41, including copies of calculations You have made concerning the drainage radius of the B Well and the Unit Well.

Response:

43. If You completed the B Well or the Unit Well with a hydraulic fracture treatment, explain in detail how You conducted each respective hydraulic fracture treatment.

Response:

44. Provide copies of all Documents and Communications supporting Your response to data request #43, including copies of reports prepared by You or third-party vendors relating to the hydraulic fracture treatments.

Response:

45. Explain in detail the complete factual basis for Your statement in paragraph 15 of the Application that “[t]he production decline curve reveals that the addition of the Morrison B and Batman-Morrison wells have had no effect on the production of future production of the Morrison A Well.”

Response:

46. Identify the person who prepared the production decline curve referenced in paragraph 15 of the Application and depicted on Exhibit C, and the date such production decline curve was prepared.

Response:

47. Explain in detail the Documents and Communication You relied upon in creating the production decline curve referenced in paragraph 15 of the Application and depicted on Exhibit C attached thereto.

Response:

48. Provide all Documents and Communications supporting Your responses to data requests #46 and #47.

Response:

49. Explain in detail the intervals, measured in depth from surface and subsea, in which the A Well, B Well, Unit Well are perforated in the Arbuckle formation.

Response:

50. Explain in detail where the top of the Arbuckle formation is encountered, as measured from surface and subsea, in the A Well, B Well, Unit Well.

Response:

51. Provide all Documents and Communications supporting Your responses to data requests #49 and #50.

Response:

52. Explain in details how Your responses to data requests #49 and #50 are depicted on the structure map attached as Exhibit A to Your Application.

Response:

53. Please produce a full and complete copy of all of Applicant's geological and geophysical justification (including maps, charts, logs, diagrams, and any and all documentation) for location of the A Well and the Unit Well.

Response:

54. Provide all logs, drill stem tests, barrel tests, pumper reports, gauge reports, well tests, geologic evaluations, engineering evaluations, seismic surveys, isopach maps, structure maps, production records, title opinions, title and ownership reports, tax records, land files, wells files, correspondence files, and any and all other Documents and Communications in Your

possession pertaining to the A Well, the B Well, the Unit Well, the Morrison Lease, the Batman-Morrison Unit, the Mineral Tract, and the Arbuckle formation.

Response:

55. Provide copies of all Communications between You and the working interest owners of the Morrison Lease and the oil and gas lease unitized with the Morrison Lease to form the Batman-Morrison Unit and relating to the drilling, completion of the Unit Well and the B Well, and any Communications regarding the payment of revenues and royalties therefrom.

Response:

56. If You denied any of the foregoing data requests that request an admission, state the complete factual basis for such denying such requests for admission.

Response:

57. Provide all Documents and Communications You referenced or relied upon in responding to any of the foregoing data requests.

Response:

Submitted,

By: 

Jonathan B. Schlatter, #24848

MORRIS, LAING, EVANS, BROCK
& KENNEDY, CHARTERED

300 N. Mead, Suite 200

Wichita, KS 67202-2745

Telephone - (316) 262-2671

Facsimile -- (316) 262-6226

Email - jschlatter@morrislaing.com

*Attorneys for Robro Royalty Partners, Ltd., and
Bitter End Royalties, L.P.*

VERIFICATION OF RESPONSE

STATE OF _____)
) ss:
COUNTY OF _____)

I, _____, being of lawful age and being first duly sworn upon his oath, deposes and says:

That I am the _____, for _____, that I have reviewed the foregoing data requests and responses thereto, and find the responses to be true, accurate, full and complete, and contain no material misrepresentations or omissions to the best of my knowledge and belief; and will disclose to counsel for Robro Royalty Partners, Ltd., and Bitter End Royalties, L.P., any matter subsequently discovered which affects the accuracy or completeness of the responses to these data requests.

SUBSCRIBED AND SWORN to before me this ____ day of February, 2017.

Notary Public

My Appointment expires: