

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Shari Feist Albrecht, Chair
Jay Scott Emler
Dwight D. Keen

In the Matter of the Application of Unit)	Docket No. 19-CONS-3097-CUIC
Petroleum Company to authorize injection of)	
saltwater into the Mississippi formation at)	CONSERVATION DIVISION
the Royce A #1 enhanced recovery well,)	
located in Section 16, Township 25 South,)	License No. 33596
Range 9 West, Reno County, Kansas.)	
_____)	

**UNIT PETROLEUM COMPANY'S RESPONSE TO
JUDITH WELLS' REQUEST FOR RECONSIDERATION**

Applicant Unit Petroleum Company ("Unit Petroleum") responds to the Request for Reconsideration of Commission Order to Dismiss Protests (the "Request for Reconsideration") filed by Judith L. Wells. The Request for Reconsideration is nothing more than an unfounded attack on the validity of the Commission's regulations (K.A.R. § 82-3-135b), and an unwarranted collateral attack on the order of the Commission in Docket No. 17-CONS-3689-CUIC. In addition, Ms. Wells cites no facts in the record supporting her contention that the order dismissing her protest was improperly granted as required by K.S.A. § 77-529(a).

Unit Petroleum responds to the Request for Reconsideration as follows:

1. The Request for Reconsideration does not contain any argument or authority demonstrating that the Order Dismissing Protests was erroneous. Specifically, it does not refer to any evidence in the record supporting a finding that this protestant, Judith L. Wells, either (A) demonstrated a prima facie case for standing showing that she has a "direct and substantial interest" in the proceeding, or (B) set forth any specific allegations as to the manner in which the

grant of Unit Petroleum's Application will cause waste, violate correlative rights, or pollute the water resources of Kansas.¹ In fact, the Commission properly determined that Ms. Wells' generalized concerns about possible earthquakes and pollution of fresh usable water were insufficient to show that she had personally suffered some actual or threatened injury, or that she faces a specific impending harm as a result of Unit Petroleum's planned actions.² Thus, the Commission should take no further action on this Request for Reconsideration.

2. The protest filed by Ms. Wells clearly did not satisfy the standing requirements established by the Commission in the Final Precedential Order entered in Docket No. 17-CONS-3689-CUIC. She failed to make even a prima facie showing of a "direct and substantial interest" or a "cognizable [personal] injury" suffered or threatened as a result of the relief sought in the Application. In addition, Ms. Wells' protest did not include **specific allegations as to the manner in which** the proposed injection application **will** allegedly pollute the water resources of the state of Kansas. For those reasons, her protest was properly dismissed by the Commission.

3. K.A.R. § 82-3-135b provides that "protest[s] **shall** include a clear and concise statement of the *direct* and *substantial* interest of the protestor in the proceeding, including specific allegations as to the manner in which the grant of the application will cause waste, violate correlative rights, or pollute the water resources of the state of Kansas." (emphasis added).

4. Ms. Wells does not cite any evidence in the record demonstrating that she satisfied the requirements of K.A.R. § 82-3-135b. Moreover, if Ms. Wells were allowed to participate in this Docket based on the generalized grounds stated in her Protest, then all members of the public would be entitled to participate in every docket.

¹ K.A.R. § 82-3-135b(a).

² Order on Motion to Dismiss Protests, ¶ 23.

5. Ms. Wells also argues that the Commission erred in dismissing Mr. Holmes protest based on his failure to serve his protest on Unit Petroleum.³ The Commission should ignore that argument. Ms. Wells protest was not dismissed for that reason, and she is not an attorney and has no basis to seek reconsideration for any of the other Protestants in this docket.

6. The Commission correctly found in paragraph 23 of its Order on Motion to Dismiss Protests issued in this Docket as follows:

The Commission finds that Judith Wells failed to make a valid protest. Her allegations do not demonstrate a direct and substantial interest in an injection well located over 200 miles from her home. Again, such a distance forecloses the possibility of demonstrating that any alleged cognizable injury she may suffer has a causal connection to the proposed injection well. Ms. Wells' mere quotations of statutes, regulations and procedures are irrelevant to the protest requirements under K.A.R. 82-3-135b and the 17-3689 Docket, and further, constitute an unwarranted and unsubstantiated collateral attack on such regulations and procedures. Ms. Wells' assertions regarding engineering studies are also irrelevant to the requirements for injection well Applications, and thus, do not validate her protest. Moreover, her concerns about seismic activity and any effects from such activity are grievances common to all members of the public. Also like Ms. Hoedel's protest, Ms. Wells' statement about "potential harm" to usable water amounts to the improper inference that *any* injection well, by its very existence, may potentially pollute usable water, and therefore, fails for the same reason. Ms. Wells failed to provide any specific allegations as to the manner in which the grant of the Operator's Application will cause waste, violate correlative rights, or pollute the water resources of Kansas. Thus, Ms. Wells' Protest and Response allege no facts specific to the Operator's particular Application which demonstrate a *prima facie* case for standing, and therefore, her protest is not valid.

The Request for Reconsideration does not show that the Commission was wrong in making any of those findings and conclusions.

WHEREFORE, for the reasons set forth herein, Applicant respectfully requests that the Commission take no action of any kind with respect to the Request for Reconsideration or, in the

³ Request for Reconsideration, ¶ 12.

alternative, to deny that request, and for such other and further relief as may be just and equitable.

/s/ David E. Bengtson

David E. Bengtson (#12184)
STINSON LEONARD STREET LLP
1625 N. Waterfront Parkway, Suite 300
Wichita, Kansas 67206-6620
(316) 265-8800
Fax: (316) 265-1349
Email: david.bengtson@stinson.com

Attorneys for Unit Petroleum Company

VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

David E. Bengtson, of lawful age, being first duly sworn on my oath, states that I have been retained to represent Unit Petroleum Company in this docket; that I have read Unit Petroleum's Response to Judith Wells' Request for Reconsideration; that I know the contents thereof and declare that the statements made therein are true and correct to the best of my knowledge and belief.



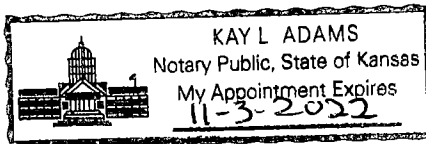
David E. Bengtson

SUBSCRIBED AND SWORN to before me this 20th day of December, 2018.



Notary Public

My appointment expires:



CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 20th day of December, 2018, he caused a true and correct copy of the foregoing Unit Petroleum's Response to Judith Wells' Request for Reconsideration to be filed via the Kansas Corporation Commission Electronic Filing System (EFS), and that he caused a copy to be served via first class mail and electronic mail to the following parties:

Greg Holmes
acejackalope@gmail.com

Cindy Hoedel
205 Mercer St.
Matfield Green, KS 66862
cindyhoedel@gmail.com

Felix Revello
1862 150th Ave.
Larned, KS 67550
linda@gbta.net

Judith Wells
3317 W. 68th St.
Mission Hills, KS 66206
judithlouisewells@gmail.com

Lori Lawrence
321 N. Lorraine
Wichita, KS 67214
lawrenceloid@gmail.com

Lauren Wright
Litigation Counsel
Kansas Corporation Commission
266 N. Main, Suite 220
Wichita, KS 67202-1513
l.wright@kcc.ks.gov

Michael J. Duenes
Assistant General Counsel
Kansas Corporation Commission
1500 SW Arrowhead Rd.
Topeka, KS 66604
m.duenes@kcc.ks.gov

/s/ David E. Bengtson

David E. Bengtson