

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

In the matter of the failure of Tailwater, Inc.	)	Docket No. 20-CONS-3234-CPEN
("Operator") to comply with K.A.R. 82-3-	)	
407 at the Finkenbinder #6-IW in Anderson	)	CONSERVATION DIVISION
County, Kansas.	)	
_____	)	License No. 32461

**PRE-FILED DIRECT TESTIMONY**

**OF**

**KEITH CARSWELL**

**ON BEHALF OF COMMISSION STAFF**

**JULY 10, 2020**

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

2 A. Keith Carswell, 137 E. 21<sup>st</sup> Street, Chanute KS 66720

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

4 A. I am employed by the Conservation Division of the Kansas Corporation Commission (KCC  
5 or Commission), District #3 Office, as an Environmental Compliance and Regulatory  
6 Specialist.

7 **Q. Would you please briefly describe your educational background and work experience?**

8 A. In 2007, I graduated High School from Ottawa High School in Ottawa, Kansas. In 2009, I  
9 graduated from Longview Community College in Lee's Summit, Missouri with an  
10 Associate's Degree in Applied Science.

11 After graduating, I worked for 8 years cementing, plugging, and completing oil, gas, and  
12 injection wells for Consolidated Oil Well Services until July 2019, at which time I came to  
13 work for the Kansas Corporation Commission as an ECRS.

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

15 A. No

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

17 A. As an ECRS, I am responsible for the witnessing and monitoring of oil and gas related  
18 activities in Anderson, Franklin, Linn, and Miami County, Kansas. My job involves  
19 inspections, documentation, investigation, and consultation with lease operators, landowners  
20 and Commission Staff on compliance issues related to oil and gas production in Kansas. I  
21 witness and monitor the drilling and completion of oil, gas, injection and disposal wells. I also  
22 investigate spills and complaints, inspect surface pits, witness mechanical integrity tests, and  
23 witness the plugging and completion of wells. In addition, I conduct GPS surveys on new and

1 abandoned wells to verify the exact location and the status of wells. I work with District Staff  
2 and Central Office Staff when required to complete various projects and requests.

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

4 A. The purpose of my testimony is to offer Commission District Staff's testimony with regard to  
5 the violation issued against Tailwater, Inc. (Operator) in Docket No. 20-CONS-3234-CPEN.

6 **Q. Are you familiar with this docket, 20-CONS-3234-CPEN?**

7 A. Yes, the operator was penalized for one violation of K.A.R. 82-3-407 for failing to either  
8 conduct a successful mechanical integrity test (MIT) or plug the Finkenbinder #6-IW (Subject  
9 Well), which is located in Anderson County, Kansas.

10 **Q. Would you please explain the requirements of K.A.R. 82-3-407?**

11 A. Yes. Each authorized injection well within the State of Kansas must be completed, equipped,  
12 operated, and maintained in a manner that will prevent pollution of fresh and usable water,  
13 prevent damage to sources of oil or gas, and confine fluids to intervals approved for injection.  
14 An injection well is considered to have mechanical integrity if there are no significant leaks  
15 in the tubing, casing, or packer, and no fluid movement into fresh and usable water. An  
16 injection well's mechanical integrity shall be established at least once every five years by a  
17 pressure test. The operator of any well failing to demonstrate mechanical integrity shall have  
18 no more than 90 days from the date of initial failure to repair and retest the well, plug the well,  
19 or isolate the leak(s) to demonstrate that the well will not pose a threat to fresh or usable water  
20 resources or endanger correlative rights.

21 **Q. What is the penalty for failure to comply with K.A.R. 82-3-407?**

22 A. The penalty for not meeting the deadlines listed in K.A.R. 82-3-407 is a \$1,000 monetary  
23 penalty and the operator must repair and retest or plug the well.

1   **Q. How did the Subject Well come to your attention?**

2   A. The Subject Well is authorized for injection pursuant to Underground Injection Control (UIC)  
3   Permit #E-30287. A review of Commission records indicated that it was due for its five-year  
4   MIT. On November 8, 2019, the Operator performed a Staff-witnessed MIT, but the Subject  
5   Well failed to pass the MIT.

6   **Q. Why did the Subject Well fail the MIT on November 8, 2019?**

7   A. It failed because the Subject Well was unable to hold the requisite pressure to be successful.  
8   I personally witnessed the failed MIT, and was on-site with a contractor for Operator, Midwest  
9   Surveys, Inc., who measured the fluid level of the Subject Well. The fluid level at the time of  
10   the test was 81 feet from surface. The perforation footages in the casing, 706 feet to 712 feet,  
11   were taken from the UIC Permit associated with this well. This meant the required pressure  
12   for the fluid depression test was 269 pounds. In order for a MIT to be successful, the well  
13   must hold the applied pressure for one hour. Midwest Surveys, Inc. pumped air pressure into  
14   the casing of the Subject Well for nearly one hour, but the well would not pressure up to the  
15   required pressure of 269 pounds. This indicates a casing failure has occurred above the  
16   perforations. Otherwise the casing would have pressured up to and maintained the required  
17   pressure. Based on the failed MIT, the Subject Well was considered to be out of compliance  
18   with K.A.R. 82-3-407.

19   **Q. Did you notify Operator of the deadline to bring the Subject Well into compliance with**  
20   **K.A.R. 82-3-407?**

21   A. Yes, on November 19, 2019, Staff sent a standard NOV letter to Operator. The NOV stated  
22   that the Subject Well failed its MIT on November 8, 2019. The NOV then gave a deadline of  
23   February 6, 2020 to bring the well into compliance pursuant to K.A.R. 82-3-407(c) by

1 repairing and retesting the well to show mechanical integrity, plugging the well, or isolating  
2 all leaks to demonstrate the well does not pose a threat to fresh or usable water or endanger  
3 correlative rights. The NOV was attached to the Penalty Order as *Exhibit A*.

4 **Q. Did the operator bring the Subject Well into compliance with K.A.R. 82-3-407 on or**  
5 **before February 6, 2020 deadline?**

6 A. No. Therefore, a penalty recommendation was made to Legal Staff in Wichita, and a Penalty  
7 Order was issued by the Commission on March 5, 2020.

8 **Q. Did staff have any contact with the operator after the Subject Well failed the MIT on**  
9 **November 8, 2019 but before the February 6, 2020 deadline?**

10 A. Yes, on January 7, 2020, District #3 Staff attempted to contact Operator by telephone, but  
11 there was no answer. Staff left a voice mail message to let Operator know to call Staff back  
12 concerning the Subject Well, so Staff would know what Operator's plans were to bring the  
13 well into compliance. Staff also reminded Operator of the upcoming February 6, 2020  
14 deadline. On January 23, 2020, Staff again tried to contact Operator, but there was no answer.  
15 Staff left Operator another voice mail message. Operator returned that call approximately a  
16 half-hour later. Operator wanted to know about an extension of time to plug the well and Staff  
17 informed Operator to contact John Almond the District #3 Compliance Officer.

18 District #3 Staff also tried to contact Operator on January 24, 2020, but once again Operator  
19 did not answer the phone. Staff left another voice mail message about Operator's February 6,  
20 2020 deadline. A few hours later, Operator called and left a message with Staff. When Staff  
21 attempted to return Operator's call there was no answer. On January 26, 2020 Operator sent  
22 Staff an e-mail requesting an extension to plug the Subject Well. I have attached that email  
23 hereto, as *Exhibit KC-1*.

1   **Q. Did Staff immediately respond to Operator's e-mail?**

2   A. No, on January 27, 2020, District #3 Staff forwarded the e-mail from Operator to District #3  
3       Supervisor Troy Russell because any extension of time to plug the Subject Well would have  
4       to come from the District Supervisor. On February 13, 2020, District Staff sent Operator an  
5       e-mail stating that the District's position is that there have been sufficient opportunities for  
6       this well to be repaired or plugged since it failed its MIT on November 8, 2019. I have attached  
7       that email hereto, as *Exhibit KC-2*.

8   **Q. Did Operator have sufficient opportunities to bring the Subject Well into compliance?**

9   A. Yes, District #3 records indicate 73 MIT tests were performed on UIC wells within the district  
10       from November 2019 through February 2020 during the 90-day deadline the operator had to  
11       repair and retest or plug the Subject Well, 39 of those MIT tests were in Anderson and the  
12       adjoining counties. District records also indicate that 26 wells in Anderson and the adjoining  
13       counties were plugged in January 2020 alone.

14   **Q. Did the operator ever bring the Subject Well into compliance?**

15   A. Yes, on May 20, 2020, Operator plugged the Subject Well. It was 194 days after the Subject  
16       Well failed the MIT on November 8, 2019 and 110 days after the February 6, 2020 deadline.

17   **Q. Please summarize your recommendations.**

18   A. The Penalty Order should be affirmed. The Operator failed to plug or conduct a successful  
19       MIT on the Subject Well by the required February 6, 2020 deadline. The assessment of the  
20       \$1,000.00 penalty for the well is reasonable and should be upheld.

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

22   A. Yes.

## John Almond

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**From:** John Almond  
**Sent:** Monday, January 27, 2020 7:13 AM  
**To:** Troy Russell  
**Subject:** RE: Plugging 6-IW Finkenbinder

Troy,  
I did not respond to Mr. Martin. I can send him an e-mail if you would like or you may want to respond. Thank you.

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**From:** Christian Martin <martinoilproperties@coxinet.net>  
**Sent:** Sunday, January 26, 2020 12:47 PM  
**To:** John Almond <j.almond@kcc.ks.gov>  
**Cc:** John Chappell <jchappell@jchap.com>  
**Subject:** Plugging 6-IW Finkenbinder

**This is an EXTERNAL EMAIL. Think before clicking a link or opening attachments.**

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John, Due to plowed ground and the amount of snow and rain, I am requesting an extension on plugging 6-IW on the Finkenbinder Lease. I have not waited to try to plug this well, corn that that was in the field and the the rain plus plowing has not allowed to proceed. Thank you, Chris

Christian Martin  
Tailwater, Inc.  
Voice: 405.810.0900  
Fax: 405.810.0012

## John Almond

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**From:** Troy Russell  
**Sent:** Thursday, February 13, 2020 4:11 PM  
**To:** Christian Martin  
**Cc:** John Almond; Duane Sims  
**Subject:** RE: Plugging 6-IW Finkenbinder

Christian,

The District's position is that there have been sufficient opportunities for this well to be repaired or plugged since it failed its MIT on 11/8/2019. District records indicate that there were 73 MITs performed with 39 UIC wells tested in Anderson and the surrounding counties as well as 26 wells plugged in January alone, in Anderson and the immediate surrounding counties. The 90 day deadline was 2/6/2020. Today's date is 2/13/2020, a penalty recommendation will be sent to legal staff on 2/14/2020, 98 days after the well failed. If you have any further questions please feel free to contact me at the number listed below.

Thank You,



**Troy A. Russell**  
*District #3 Supervisor, P.G.*  
Kansas Corporation Commission  
Conservation Division, District III  
137 E. 21<sup>st</sup> Street, Chanute Ks 66720  
Office: 620-902-6451  
Cell: 620-432-6509

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**From:** Christian Martin <martinoilproperties@coxinet.net>  
**Sent:** Thursday, February 13, 2020 2:27 PM  
**To:** Troy Russell <t.russell@kcc.ks.gov>  
**Cc:** John Chappell <jchappell@jchap.com>  
**Subject:** Re: Plugging 6-IW Finkenbinder

**This is an EXTERNAL EMAIL. Think before clicking a link or opening attachments.**

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Troy, sent request for an extension for plugging due to weather, to wrong person. sent to John Almond. We have honestly been trying to get it done for 60 days. Crops, plowed ground, snow rain, again and again. We are doing what we can. Thanks, Chris

Christian Martin  
Tailwater, Inc.  
Voice: 405.810.0900  
Fax: 405.810.0012



On Jan 26, 2020, at 12:47 PM, Christian Martin <[martinoilproperties@coxinet.net](mailto:martinoilproperties@coxinet.net)> wrote:

John, Due to plowed ground and the amount of snow and rain, I am requesting an extension on plugging 6-IW on the Finkenbinder Lease. I have not waited to try to plug this well, corn that that was in the field and the the rain plus plowing has not allowed to proceed. Thank you, Chris

Christian Martin  
Tailwater, Inc.  
Voice: 405.810.0900  
Fax: 405.810.0012

## **CERTIFICATE OF SERVICE**

20-CONS-3234-CPEN

I, the undersigned, certify that a true copy of the attached Prefiled Testimony of Keith Carswell has been served to the following by means of electronic service on July 10, 2020.

JOHN ALMOND  
KANSAS CORPORATION COMMISSION  
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137 E. 21ST STREET  
CHANUTE, KS 66720  
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j.almond@kcc.ks.gov

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/S/ Paula J. Murray  
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Paula J. Murray