

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

In the matter of the failure of Midwest Oil, LLC) Docket No. 22-CONS-3119-CPEN
(Operator) to comply with K.A.R. 82-3-120.)
) CONSERVATION DIVISION
)
) License No. 34497
_____)

PRE-FILED TESTIMONY

OF

NANCY BORST

ON BEHALF OF COMMISSION STAFF

DECEMBER 2, 2021

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

2 A. Nancy D. Borst, 266 N. Main St., Suite 220, Wichita, KS 67202

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 as an
5 Administrative Specialist in the licensing and legal departments.

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

7 A. I worked as the Communications Coordinator and Public Information Officer for Kingman
8 County from 2013 to 2017. Prior to that I was the managing editor of the Kingman Leader-
9 Courier newspaper. I have worked in various roles in journalism for the past forty-two years
10 and continue to own a freelance journalism business. I have a bachelor of science degree from
11 the University of Kansas. I have worked for the Kansas Corporation Commission since
12 February 2018 as an Administrative Specialist. My primary duties include processing and
13 reviewing license applications, processing open records requests, and processing legal filings.

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

15 A. Yes.

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

17 A. The purpose of my testimony is to discuss the evidence supporting the Commission's findings
18 relating to the Penalty Order issued by the Commission against Fuel Source Inc. (Operator)
19 in this docket - Docket 22-CONS-3119-CPEN (Docket 22-3119). Specifically, my testimony
20 will discuss Operator's license.

21 **Q. Please provide a brief overview of the facts in this docket.**

22 A. Operator was penalized for one violation of K.A.R. 82-3-120, because Operator has
23 approximately 16 wells on its expired license. Operator failed to renew its license, obtain a

1 new license and transfer remaining wells onto that license, transfer the remaining wells to
2 another operator, or plug the remaining wells by the deadline provided.

3 **Q. Will you please explain the requirements of K.A.R. 82-3-120?**

4 A. Yes. K.A.R. 82-3-120 provides that each operator in physical control of any oil, gas, injection,
5 or monitoring well or gas storage facility shall maintain a current license even if the well or
6 storage facility is shut-in or idle.

7 **Q. When did Operator's license expire?**

8 A. Operator's license expired on January 30, 2021.

9 **Q. Did Commission Staff send a Notice of Violation (NOV) letter to Operator regarding the**
10 **unplugged wells on Operator's expired license?**

11 A. Yes. On July 27, 2021, Commission Staff sent an NOV letter to Operator requiring Operator
12 to take care of the unplugged wells on its license by August 10, 2021. That letter was attached
13 to the Docket 22-3119 Penalty Order as Exhibit A. Typically this letter would have been sent
14 within two weeks of the license expiration date. However, due to an emergency order issued
15 by Gov. Laura Kelly relating to the COVID-19 pandemic, deadlines for certain types of
16 licenses were stayed, meaning that the KCC could not enforce regulatory license expirations
17 until such time as the emergency order expired, which occurred at the end of May 2021.

18 All licenses that would have otherwise expired during the governor's emergency order
19 remained active under the emergency order, provided the operator was in good standing at the
20 time of the issuance of the Governor's emergency order. In this instance, Operator was in
21 good standing at the time of the emergency order. However, nothing in the Governor's
22 emergency order prohibited operators from filing/renewing their licenses, and nothing in the
23 order alleviated an operator's obligation to pay the annual licensing fees or otherwise comply

1 with Commission regulations relating to oil and gas production activities. Rather, the order
2 merely allowed operators additional time to renew their respective licenses.

3 **Q. Did Operator submit an application to renew its license for 2020-2021?**

4 A. Yes. Operator filed an application for license renewal on January 25, 2021. However, we were
5 unable to renew the license because the company's corporate status with the Kansas Secretary
6 of State had been forfeited.

7 **Q. When was Operator's license renewal application denied?**

8 A. Operator's license application was denied in Docket 22-CONS-3038-CMSC on August 3,
9 2021, because Operator had not demonstrated that it was in good standing with the Kansas
10 Secretary of State. Every operator that submits a license application as a corporation or limited
11 liability company is required to show that it is in good standing with the Secretary of State.

12 Additionally, Operator's license was suspended at the time of denial. Under K.A.R. 82-3-
13 120(g)(2), if the applicant is not registered with the federal securities and exchange
14 commission, the applicant shall demonstrate to the commission that the following individuals
15 comply with all requirements of K.S.A. 55-101 et seq. and amendments thereto, all
16 implementing regulations, and all commission orders and enforcement agreements: (A) The
17 applicant; (B) any officer, director, partner, or member of the applicant; (C) any stockholder
18 owning in the aggregate more than five percent of the stock of the applicant; and (D) any
19 spouse, parent, brother, sister, child, parent-in-law, brother-in-law, or sister-in-law of any of
20 the individuals specified in paragraphs (g)(2)(A) through (C). Either way, since Operator does
21 not comply with all requirements of K.S.A. 55-101 et seq. and amendments thereto, all
22 implementing regulations, and all Commission Orders and enforcement agreements, we
23 would be unable to renew Operator's license.

1 **Q. Did you have any communications with Operator regarding the unplugged wells on its**
2 **expired license?**

3 A. No. The only communication I had was an email on Sept. 9, 2021 from the company that
4 handles the license renewal for this Operator. I had no direct communications with the
5 Operator.

6 **Q. Please summarize your recommendations.**

7 A. I recommend the penalty assessed against Operator by the Commission be affirmed. Operator
8 failed to address the unplugged wells on its expired license by the deadline provided in the
9 NOV, or by the deadline set forth in the Penalty Order in this matter. Additionally, unplugged
10 wells remain on Operator's expired license.

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

12 A. Yes.

CERTIFICATE OF SERVICE

22-CONS-3119-CPEN

I, the undersigned, certify that a true and correct copy of the attached Prefiled Testimony of Nancy Borst has been served to the following by means of electronic service on December 2, 2021.

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/s/ Paula J. Murray

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