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State Corporation Commission
of Kansas

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the matter of the failure of Ace Energy, LLC (Operator) to comply with K.A.R. 82-3-407 at the Grundy B #5 SWD well in Greenwood County, Kansas.	)	Docket Nos.: 23-CONS-3195-CPEN CONSERVATION DIVISION License No.: 34998
In the matter of the failure of Ace Energy, LLC (Operator) to comply with K.A.R. 82-3-407 at the Grundy B #5 SWD well in Greenwood County, Kansas.	)	Docket No.: 23-CONS-3268-CPEN CONSERVATION DIVISION License No.: 34998

PRE-FILED DIRECT TESTIMONY

OF

DUANE SIMS

ON BEHALF OF COMMISSION STAFF

OCTOBER 27, 2023

Q. What is your name and business address?

A. Duane Sims, 137 E. 21st Street, Chanute, Kansas 66720.

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

A. I am employed by the Conservation Division of the Kansas Corporation Commission (KCC or Commission), District #3 Office, as Manager for the Underground Injection Control (UIC) Program, and as an Environmental Compliance and Regulatory Specialist (ECRS).

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

A. I started working for the Conservation Division's District #3 Office as an ECRS in December 2007. In December 2019, I was promoted to UIC Program Manager. As an ECRS, I was primarily responsible for the witnessing and monitoring of oil and gas related activities in Chautauqua, Elk, and the west half of Montgomery counties, Kansas. My responsibilities included the witnessing and verification of the drilling and completion of oil, gas, injection, and disposal wells. I investigated spills and complaints directly related to current and historical oil and gas activities in those areas. I also witnessed mechanical integrity tests (MITs) and casing integrity tests (CITs), wells being plugged, and well casing repairs.

Now, in addition to my role as UIC Program Manager, I fill in for other ECRSs within District #3 as needed. This generally includes conducting GPS surveys on new and abandoned wells to verify the exact location and the status of wells on operators' well inventories. Further, I work with District Staff and Central Office Staff to complete various projects and requests.

Q. What are your duties as the UIC Program Manager?

A. As UIC Program Manager, I track and monitor approximately 9,500 injection and disposal wells in District #3. I have oversight of the witnessing of routine and non-routine MIT tests.

Additionally, I witness UIC wells being plugged or repaired. I provide technical support directly to industry, field, and administrative Staff, in order to implement the District's UIC program. This process involves both the direct review and oversight of District Staff by checking documentation in permits to ensure that KOLAR forms are processed in adherence with the associated permits when MITs are conducted. My position also entails generating written notifications specifying testing deadlines within current tracking cycles on subject wells. I am also responsible for generating the 14-day Notice of Violation (NOV) letters and the failed MIT NOV letters for District #3, and tracking those deadlines to ensure compliance. Finally, I work directly with Field Staff to train them on their daily activities and to give them a better understanding of the rules and regulations of the Commission.

Q. Have you previously testified before the Commission?

A. Yes.

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

A. The purpose of my testimony is to discuss the evidence supporting the Commission's findings in regard to the Penalty Orders issued against Ace Energy, LLC (Operator) in Docket 23-CONS-3195-CPEN (Docket 23-3195) and Docket 23-CONS-3268-CPEN (Docket 23-3268).

Q. Please provide a brief overview of the facts in these two dockets.

A. In Docket 23-3195, the Commission penalized Operator for one violation of K.A.R. 82-3-407 at the Grundy B #5 SWD well (Subject Well). Operator failed to perform a current and successful MIT on the Subject Well prior to the Commission's deadline. In Docket 23-3268, the Commission penalized Operator for one violation of K.A.R. 82-3-407 at the Subject Well. Operator did not shut-in the Subject Well after it failed an MIT, and Operator continued to

operate the Subject Well as a disposal well without the well having passed a current and successful MIT.

Q. What are the requirements of K.A.R. 82-3-407?

A. K.A.R. 82-3-407(a) provides that each injection well shall be completed, equipped, operated, and maintained in a manner that will prevent pollution of fresh and usable water, prevent damage to sources of oil or gas, and confine fluids to the intervals approved for injection. That section of the regulation also states that an injection well's mechanical integrity shall be established at least once every five years.

K.A.R. 82-3-407(c) states that the operator of any well failing to demonstrate mechanical integrity shall have no more than 90 days from the date of initial failure to repair and retest the well to demonstrate mechanical integrity, plug the well, or isolate any leaks to demonstrate the well will not pose a threat to fresh or usable water or endanger correlative rights.

K.A.R. 82-3-407(d) provides that mechanical failures or other conditions indicating that a well may not be directing injected fluid into the permitted or authorized zone shall be cause to shut-in a well, and the operator shall orally notify the Conservation Division of any failures or conditions within 24 hours of knowledge. The operator shall also submit written notice of a well failure within five days, with a plan for testing and repairing the well.

K.A.R. 82-3-407(g) provides that no injection well shall be operated before passing an MIT. That section also states that failure to test a well to show mechanical integrity shall be punishable by a $1,000 penalty, and the well shall be shut-in until the test is successfully passed.

Docket 23-3195

Q. Let's begin with Docket 23-3195. Was there a deadline for Operator to perform an MIT on the Subject Well?

A. Yes. Operator had a deadline of September 21, 2022, to perform a successful MIT on the Subject Well. This was five years after the last successful MIT performed on the Subject Well on September 21, 2017.

Q. Did Operator perform a successful MIT on the Subject Well by that deadline?

A. No, Operator did not. Operator performed an MIT on the Subject Well on September 19, 2022; however, the MIT was not satisfactory.

Q. Why was the MIT not satisfactory?

A. For the Subject Well to successfully pass an MIT, it needs to hold 300 psi of pressure for 30 minutes. The Subject Well would not pressure up above 200 psi, and held only 25 psi of pressure after 30 minutes. A copy of the Casing Mechanical Integrity Test form for the Subject Well is attached as Exhibit A to the Penalty Order in Docket 23-3268.

Q. What does an unsatisfactory MIT suggest?

A. An unsatisfactory MIT suggests that the Subject Well does not have integrity. This could mean two things: (1) the casing has a leak; or (2) the integrity of the tubing or packer has failed, allowing brine water to enter the annulus of the casing, which in turn would dilute the corrosion inhibitor that is required in the annulus. This second possibility could potentially cause damage to the casing, causing the casing to fail. In either case, a well that does not have integrity has the potential to pollute fresh and usable water, cause waste, or endanger correlative rights.

Q. Did Staff send a letter to Operator regarding the Subject Well?

A. Yes. I sent a letter to Operator on September 20, 2022. The letter stated that because the Subject Well failed an MIT, under K.A.R. 82-3-407(c) Operator had 90 days to repair and retest the well, plug the well, or isolate all leaks. The letter gave Operator a deadline of December 18, 2022, to bring the well into compliance with the regulation—this deadline was 90 days after the date the Subject Well had failed the MIT. The letter stated that failure to bring the well into compliance by the deadline would be punishable by a $1,000 penalty. The letter also stated the Subject Well must be shut-in and disconnected until it complied with K.A.R. 82-3-407(c). A copy of the letter is attached to the Docket 23-3195 Penalty Order as Exhibit A.

Q. Did Operator conduct a successful MIT of the Subject Well by December 18, 2022?

A. No, Operator did not conduct a successful MIT by December 18, 2022.

Q. Did Operator take any steps to bring the Subject Well into compliance with K.A.R. 82-3-407(c) by December 18, 2022?

A. To my knowledge, Operator took no steps to bring the Subject Well into compliance with the regulation.

Q. When did the Commission issue its Penalty Order in Docket 23-3195?

A. The Commission issued the Penalty Order on February 14, 2023, finding that Operator did not perform a current and successful MIT on the Subject Well by the 90-day deadline. In the Penalty Order, the Commission ordered Operator to perform a successful MIT on the Subject Well or plug the well, and shut-in and disconnect the Subject Well until it had been successfully tested or plugged.

Q. As of the date of this testimony, has Operator performed a current and successful MIT on the Subject Well, or taken any steps to bring the well into compliance with K.A.R. 82-3-407(c)?

A. To my knowledge, Operator has not performed a successful MIT on the Subject Well or taken any other steps to bring the well into compliance.

Docket 23-3268

Q. Let's move on to Docket 23-3268. Did you inspect the Subject Well after the Commission issued the Penalty Order in Docket 23-3195?

A. Yes, I conducted an inspection of the Subject Well on March 22, 2023.

Q. Why did you perform an inspection of the Subject Well?

A. I was checking on whether Operator had begun any repairs on the Subject Well.

Q. What did you find when you inspected the Subject Well?

A. I found that the Subject Well was hooked up to a disposal line. I also found that all the valves on the Subject Well were in the open position. During my inspection, I noted that my cell phone indicated the outside temperature was 80° F. When I touched the disposal line hooked up the Subject Well, the line was cool to the touch. This indicated that there was fluid flowing through the line and into the Subject Well.

I also inspected the tank battery next to the Subject Well. I found that brine water was flowing into the brine tank at the tank battery. The disposal line coming out of the brine tank was connected to the Subject Well, and the valves on both ends of the disposal line were in the open position. From all this evidence, I concluded that Operator was actively disposing of fluids into the Subject Well.

My field report documenting my findings, including the pictures I took while on the lease, is attached as Exhibit C to the Docket 23-3268 Penalty Order.

Q. When you were inspecting the Subject Well, were any wells on the Grundy B lease producing oil or gas?

A. Yes, I discovered the Grundy B #9 well (API #15-073-23411-00-00) producing oil while I was on the lease.

Q. Was the Grundy B #9 the source of the brine water being disposed of in the Subject Well?

A. Yes, I believe the Grundy B #9 was producing brine water as it produced oil, and therefore Operator needed to dispose of the brine water. Operator appears to have been disposing of the brine water in the Subject Well.

Q. After your inspection of the Subject Well, did you contact Operator?

A. Yes, on March 24, 2023, I contacted Jonathan Freiden, who is the sole owner of Ace Energy, LLC. I also contacted Bert Carlson, who is a contractor for Ace Energy, LLC. I documented my conversation with Mr. Freiden in a memo written on March 24, 2023. The memo is attached to the Docket 23-3268 Penalty Order in Exhibit C. After speaking with Mr. Freiden and Mr. Carlson on the phone, I met Mr. Carlson on the Grundy B lease.

Q. What occurred when you met Mr. Carlson on the Grundy B lease?

A. I met Mr. Carlson on the Grundy B lease on March 24, 2023. He agreed with me that the Subject Well was actively disposing of fluids. Mr. Carlson then disconnected the disposal line to the Subject Well. I informed Mr. Carlson that the Subject Well needed to remain disconnected until it was repaired and a satisfactory MIT had been performed on the well.

Q. Are there any Commission regulations regarding injecting fluid into a well that has failed an MIT?

A. Yes, there are. K.A.R. 82-3-407(d) states that mechanical failures or other conditions indicating that a well may not be directing injected fluid into the permitted or authorized zone shall be cause to shut-in a well. In this docket, the Subject Well failed an MIT, indicating that it had a mechanical failure and may not have been directing injected fluid into authorized geological formations. Operator, though, did not shut-in the Subject Well as required by the regulation, but instead continued to dispose of fluids into the well.

Additionally, K.A.R. 82-3-407(g) provides that no injection well shall be operated before passing an MIT. In this case, the Subject Well has not successfully passed a current MIT. Operator, however, continued to operate the Subject Well even though it had not passed an MIT.

Q. What potential threats arise when an operator continues injecting fluids into a disposal well even though the well has failed an MIT?

A. Disposal wells are typically permitted to dispose of fluids into one geological zone where there is no chance the fluid will contaminate fresh water or flood out a producing geological zone. As I discussed previously in my testimony, if a well has failed an MIT it suggests that the well may have a casing leak. The casing leak may occur in a geological formation where fresh water is present or where oil or gas reservoirs exist. If the operator injects fluids into the well, the fluids may escape through the casing leak, thereby contaminating fresh and usable water or flooding out the oil or gas reservoir. If the fluid floods out an oil or gas reservoir, it may cause waste or affect the correlative rights of offset operators. In short, disposing of fluids

into a well that has failed an MIT could potentially cause significant environmental or economic damage.

Q. In Operator's Request for Hearing in Docket 23-3268, Operator suggests that the Subject Well may have been hooked up for disposal by mistake, and that Operator intended its staff to hook up a different disposal well on the lease. Is that a good excuse for disposing of fluids into the Subject Well?

A. No, absolutely not. Operator has a duty to know into which of its wells fluids are being disposed. This is especially true when one of its wells failed an MIT, and disposing of fluid into the well could cause potential environmental harm. If disposing of fluids into the Subject Well was truly a mistake, it was an egregious mistake that may have caused significant damage.

Q. In the Docket 23-3268 Penalty Order, the Commission assessed a heightened penalty of $25,000. Do you believe this penalty amount is appropriate?

A. Yes, I do. Operator was actively disposing of fluids into a well that had failed an MIT; other than allowing a spill to occur, I can think of few actions an operator could take that would have the potential to create more damage to the environment, cause waste, or endanger correlative rights. I believe a heightened penalty is appropriate given Operator's actions.

Q. Please summarize your recommendation.

A. I believe the information gathered by Staff is sufficient to affirm the Commission's Penalty Orders in both Docket 23-3195 and Docket 23-3268. Operator did not timely perform a successful MIT on the Subject Well after the well had failed an MIT. Operator then continued to actively dispose of fluids into the Subject Well even after the failed MIT.

Q. Does this conclude your testimony?

A. Yes.

CERTIFICATE OF SERVICE

23-CONS-3195-CPEN, 23-CONS-3268-CPEN

I, the undersigned, certify that a true and correct copy of the attached Prefiled Testimony of Duane Sims has been served to the following by means of electronic service on October 27, 2023.

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