

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

In the matter of whether the license of Thor ) Docket No. 24-CONS-3001-CSHO  
Operating, LLC (Operator) should be revoked. )  
 ) CONSERVATION DIVISION  
 )  
 ) License No. 36020  
\_\_\_\_\_ )

In the matter of the failure of Quito, Inc. ) Docket No. 24-CONS-3072-CPEN  
(Operator) to comply with K.A.R. 82-3-120. )  
 ) CONSERVATION DIVISION  
 )  
 ) License No. 33594  
\_\_\_\_\_ )

In the matter of the failure of Quito, Inc. and/or ) Docket No. 24-CONS-3086-CMSC  
Thor Operating, LLC to comply with K.A.R. 82- )  
3-120 and K.A.R. 82-3-133. ) CONSERVATION DIVISION  
 )  
 ) License No. 33594 & 36020  
\_\_\_\_\_ )

**RESPONSE TO MOTION FOR STAY**

Comes Now Staff of the Kansas Corporation Commission (Staff and Commission, respectively), respectfully requesting the Commission issue an order denying the Motion for Stay (Motion) submitted by Quito, Inc. (Quito). In support of its response, Staff states the following:

1. On November 21, 2024, the Commission issued a Final Order in the captioned dockets. As part of that Final Order, the Commission provided that the Penalty Order issued against Quito in Docket 24-CONS-3072-CPEN (Docket 24-3072) was affirmed.<sup>1</sup> The Commission also directed that the 30 and 60-day deadlines in ordering clauses C and D of the Penalty Order be run from the date the Final Order is issued.<sup>2</sup>

2. On December 5, 2024, a motion for reconsideration was filed on behalf of Quito and Thor Operating, LLC (Thor) in the captioned dockets. The motion for reconsideration referenced

<sup>1</sup> Final Order, Ordering Clause C (Nov. 21, 2024).

<sup>2</sup> *Id.*

Docket 24-3072, but the motion for reconsideration did not make any reference or objection to the deadlines contained in ordering clauses C and D of the Commission's Final Order.

3. On January 28, 2025, Quito and Thor filed a petition with the Chautauqua County District Court seeking judicial review of the Commission's Final Order in the captioned dockets. The petition for judicial review specifically states that the agency action at issue regarding Docket 24-3072 is the Commission's decision to assess a fine against Quito.<sup>3</sup> The petition does not make any reference to ordering clauses C and D of the Docket 24-3072 Penalty Order.

4. On January 3, 2025, Commission Staff enforced ordering clause C of the Docket 24-3072 Penalty Order by suspending Quito's license. On or around February 26, 2025, Commission Staff enforced ordering clause D of the Docket 24-3072 Penalty Order by assessing an additional \$5,000 penalty to Quito, revoking any injection authorizations applicable to Quito, and placing the unplugged wells remaining under Quito's license on the state plugging list.

5. Quito has not had an active license since the end of May 2020. Further, Quito failed to request reconsideration regarding the enforcement of ordering clauses C and D in the Docket 24-3072 Penalty Order, nor were any issues regarding these ordering clauses raised in Quito's petition for judicial review. In fact, Quito did not take issue with ordering clauses C and D of the Docket 24-3072 penalty order until almost one month after Staff enforced the ordering clauses. Quito's Motion is untimely and should not be considered by the Commission. Additionally, Quito has not provided any sufficient reason why ordering clauses C and D of the Docket 24-3072 penalty order should not be enforced. Quito's Motion states that revocation of injection authority has resulted in suspension of mechanical integrity testing of injection wells and that suspension of testing may increase the risk of pollution.<sup>4</sup> However, Quito has repeatedly failed to reduce the risk

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<sup>3</sup> Exhibit A.

<sup>4</sup> Motion for Stay, ¶2 (Mar. 25, 2025).

of pollution as it is currently suspended in four separate dockets for failing to timely conduct mechanical integrity tests on nine of its injection wells.<sup>5</sup>

WHEREFORE, for the reasons described above, Staff respectfully requests that the Commission deny the Motion for Stay submitted by Quito, and for such additional further relief as the Commission may find appropriate.

Respectfully Submitted,

/s/ Kelcey Marsh

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<sup>5</sup> Commission Staff requests the Commission take administrative notice of its records. *See* K.A.R. 82-1-230(h).

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CLERK OF THE CHAUTAUQUA COUNTY DISTRICT COURT

CASE NUMBER: CQ-2025-CV-000002

PII COMPLIANT

IN THE DISTRICT COURT OF CHAUTAUQUA COUNTY, KANSAS

Thor Operating, LLC and  
Quito, Inc.

Plaintiffs

vs.

The State Corporation Commission  
of the State of Kansas

Defendant

PETITION

COME NOW the Plaintiffs/Petitioners, Thor Operating, LLC and Quito, Inc., and for their Petition for Judicial Review of Agency Action, pursuant to K.S.A. 77-614, show to the Court as follows:

1. The name and mailing address of the Plaintiffs/Petitioners are: Thor Operating, LLC, 6016 Cornell Dr., Bartlesville, Oklahoma 74006, and Quito, Inc., 1613 W. 6<sup>th</sup> Street, Bartlesville, Oklahoma 74003.

2. The name and mailing address of the Agency whose action is at issue is the State Corporation Commission of the State of Kansas (hereafter the "Commission"), 1500 SW Arrowhead Road, Topeka, Kansas 66604.

3. The agency action at issue is:

(A) the decision to assess a fine against Quito, Inc. in Docket No. 24-3072;

(B) the decision to assess a fine against Thor Operating, LLC in Docket No. 24-3086; and

(C) the decision to not process Request for Change of Operator (T-1) forms in Docket No. 24-3001.

A copy of the agency's Final Order is attached hereto as Exhibit "A".

4. The persons (entities) who are parties in the adjudicative proceedings that led to the agency action were: Thor Operating, LLC (hereafter "Thor"), Quito, Inc. (hereafter "Quito") and the Commission.

5. Thor and Quito are entitled to obtain judicial review based upon the following facts:

(A) On December 5, 2024, and within 15 days after the Commission's Final Order was issued on November 21, 2024, Thor and Quito filed their Petition for Reconsideration as required by K.S.A. 66-118b and K.S.A. 77-529;

(B) On December 31, 2024, the Commission issued its Order on Petition for Reconsideration;

(C) As set forth in K.S.A. 77-613(c), this Petition is filed within 30 days after service of the Order on Petition for Reconsideration;

(D) Prior to issuance of the Commission's Final Order, Thor operated wells on oil and gas leases situated in Chautauqua County, Kansas;

(E) Prior to issuance of the Commission's Final Order, and prior to Thor, Quito operated wells on the same oil and gas leases situated in Chautauqua County, Kansas;

(F) As set forth in K.S.A. 77-609(b), venue is in the county in which the order or agency action is entered or is effective. The Final Order is effective in the county in which Thor and Quito each operated wells on leases situated in that county.

6. Summarized, Quito, Inc. believes that relief should be granted from the Commission's Final Order in Docket No. 24-3072 for the following reasons:

K.A.R. 82-3-120(a)(1) provides in pertinent part:

"Each operator in physical control of any such well or gas storage facility shall maintain a current license even if the well or storage facility is shut in or idle"

By Final Order, dated February 9, 2023, the Commission denied Quito's license renewal application. The Commission's prior action rendered Quito's ability to comply with K.A.R. 82-3-120 impossible.

7. Thor Operating, LLC believes that relief should be granted from the Commission's Final Order in Docket No. 24-3086 for the following reasons:

(A) K.S.A. 55-155(c) sets forth the requirements for licensure of oil operators in Kansas. Thor was qualified to receive and on or about February 17, 2023, was issued an oil operator's license, license number 36020. Certain relationships bear upon an applicant's eligibility for an operator's license under subsection (c)(4) of that same statute. The non-familial connections and business relations existing between Quito, Mark W. McCann, Thor and/or Scott Goetz,

either prior to, at the time of, or after transfer of operator responsibility from Quito to Thor, do not violate, and are not addressed in that statute.

(B) The Commission found that there was essentially no difference between Quito and Thor. The alter ego doctrine arises from and is a product of common law. State agencies lack common law authority; their powers are limited to those conferred by the legislature. The Commission's Final Order exceeds the Commission's authority.

(C) The first sentence of K.S.A. 55-155(f) contemplates transfer of operator responsibility. K.A.R. 82-3-136 is the principle regulation governing transfers of operator responsibility. The transfer of the wells on the eight leases from Quito to Thor complied with K.A.R. 82-3-136. There is no language, express or implied, under K.A.R. 82-3-136 authorizing the Commission to review and to approve or deny transfers.

(D) K.A.R. 82-3-410 governs injection authority. While that regulation does require approval of the Conservation Division, no timely notice was given to Thor following submission of the Request for Authority to Transfer Operator Responsibility (commonly referred to as Form T-1) following the submission of the T-1s to the Commission in this case.

(E) K.S.A. 55-155(d) specifies the manner in which an operator may furnish proof of financial responsibility under the licensing statute. Subsection

(d)(2) provides for the posting of a letter of credit. On May 8, 2023, Thor submitted its letter of credit to the Commission. Thor was not given timely notice of any deficiencies relative to its letter of credit prior to May 17, 2024, when the Pre-filed Testimony of Nancy Borst was filed in the consolidated dockets.

8. Thor believes that relief should be granted from the Commission's Final Order in Docket No. 24-3001 for the following reason:

Thor was eligible to receive an operator's license, and a license was issued to it. Thor was entitled to accept transfer of the 41 wells transferred to it by Quito. For the reason set forth in paragraph 7 above, the Commission lacks authority to direct that the Request for Change of Operator (T-1) forms at issue should not be processed.

WHEREFORE, Thor Operating, LLC and Quito, Inc., each respectively pray the Court for relief as follows:

- (1) Quito, Inc. prays that the Penalty Order in Docket No. 24-3072 be set aside.
- (2) Thor Operating, LLC prays that the Commission's Penalty assessed in Docket No. 24-3086 be set aside; that the Court determine that the Commission's Final Order in Docket Nos. 24-3086 and 24-3001 exceeds the Commission's authority, and that the Court direct the Commission to process the



Request for Change of Operator (T-1) forms from Quito to Thor subject to Thor's compliance with K.S.A. 55-155(d), together with such other and further relief, including, but not limited to injunctive relief, as the Court may deem just and equitable.

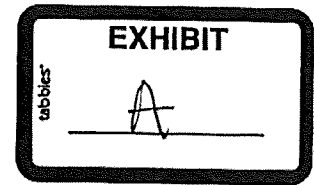
SUBMITTED BY:

JOHN R. HORST, P.A.

By /s/ John R. Horst  
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File #3133.1  
S.Ct. #09412

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Before Commissioners: Andrew J. French, Chairperson  
Dwight D. Keen  
Annie Kuchter



In the matter of whether the license of Thor ) Docket No: 24-CONS-3001-CSHO  
Operating, LLC (Operator) should be revoked. )  
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In the matter of the failure of Quito, Inc. and/or ) Docket No: 24-CONS-3086-CMSC  
Thor Operating, LLC to comply with K.A.R. )  
82-3-120 and K.A.R. 82-3-133. ) CONSERVATION DIVISION  
)  
) License No: 33594 & 36020

**FINAL ORDER**

At issue is the following: whether Quito, Inc. violated K.A.R. 82-3-120 by having unplugged wells on its expired license (Docket 24-3072), whether Quito and Thor Operating, LLC violated K.A.R. 82-3-120 and K.A.R. 82-3-133 by conducting oil and gas operations on wells listed under Quito's inactive and revoked (and expired) license (Docket 24-3086), whether Thor's license should be revoked (Docket 24-3001), and whether certain wells should be transferred from Quito's license to Thor's license (again Docket 24-3001). The Commission rules as follows:

**I. Procedural Background**

1. On July 13, 2023, the Commission granted a July 3, 2023, Commission Staff motion initiating Docket 24-3001. The Commission stated the purpose of the docket would be to consider whether Thor's license should be revoked and whether various wells should be transferred to Thor's

license.<sup>1</sup> In its motion, Staff identified wells on eight leases, where between April 6, 2023, and May 9, 2023, Staff had received Request for Change of Operator (T-1) forms attempting to transfer wells from Quito to Thor.<sup>2</sup>

2. On September 26, 2023, the Commission issued a Penalty Order in Docket 24-3072 against Quito, finding Operator had violated K.A.R. 82-3-120 because Quito remained responsible for unplugged wells on Quito's expired license. The order identified the wells at issue in Docket 24-3001, and other wells.<sup>3</sup> Quito's license has been invalid since at least February 2023, when the Commission issued an order denying Quito's license renewal application in Docket 22-3115.<sup>4</sup>

3. On October 3, 2023, in Docket 24-3086, the Commission issued a Shut-In and Show Cause Order against Quito and Thor, because on July 18, 2023, Staff had found the Sears #30 – a well on Quito's license listed on the T-1 forms at issue in Docket 24-3001 – in operation.<sup>5</sup> The Commission directed Quito and Thor to demonstrate why each should not be assessed a \$25,000 penalty.<sup>6</sup>

4. Thor appeared in Docket 24-3001, Quito requested a hearing in Docket 24-3072, and Thor and Quito jointly appeared in Docket 24-3086.

5. On December 7, 2023, the captioned dockets were consolidated.<sup>7</sup> In May 2024, Thor motioned for summary judgment in Dockets 24-3001 and 24-3086; the Commission held the motion in abeyance so that it could hear evidence.<sup>8</sup> The legal arguments raised in the motion shall be addressed in the Commission's analysis of the dockets below.

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<sup>1</sup> See Docket 24-3001, Order Designating Presiding Officer and Setting Prehearing Conference, ¶ 2 (Jul. 13, 2023).

<sup>2</sup> Staff identified the wells as being located on the Appleby, Dearmond, Flossie-White, McFarland-Delong, Morton, Sears, Wall, and Williamson leases. See *id.*, ¶ 2.

<sup>3</sup> See Docket 24-3072, Penalty Order at Exhibit A (Sep. 26, 2023).

<sup>4</sup> See Docket 22-3115, Final Order (Feb. 9, 2023).

<sup>5</sup> See Docket 24-3086, Shut-In and Show Cause Order, ¶ 9 (Oct. 3, 2023).

<sup>6</sup> See *id.* at ¶ 13.

<sup>7</sup> See Presiding Officer Order Consolidating Dockets and Regarding Electronic Service (Dec. 7, 2023).

<sup>8</sup> See Order Regarding Motion for Summary Judgment (Sep. 10, 2024).

6. On October 8, 2024, the Commission held its evidentiary hearing. Commission Staff was represented by its Litigation Counsel Kelcey Marsh; Thor and Quito were represented by attorney John R. Horst.<sup>9</sup> Parties acknowledge notice of the hearing was proper.<sup>10</sup> At hearing, the Commission heard and accepted testimony from Staff witnesses Ryan Hoffman, Troy Russell, Thad Triboulet, Duane Sims, Nacy Borst, and Denise Klug, and Thor/Quito witnesses Mark McCann and Scott Goetz, all of whom submitted pre-filed testimony between May and July 2024.<sup>11</sup>

## **II. Finding of Fact and Conclusions of Law**

7. Under K.S.A. 74-623, the Commission has exclusive jurisdiction and authority to regulate oil and gas activities. No party contests, and Commission records indicate, Thor and Quito are (or were) Commission-licensed operators pursuant to K.S.A. 55-155, and that the wells at issue exist for production of hydrocarbons. The Commission thus has jurisdiction over these matters.<sup>12</sup>

### **Analysis: Docket 24-3072**

8. The Penalty Order in this docket found Quito violated K.A.R. 82-3-120 because Quito remained responsible for 141 unplugged wells on Quito's expired license. Quito argues it ceased operating the wells after its license renewal application was denied in February 2023, and that it transferred 47 of the wells to Thor between April and May 2023.<sup>13</sup> Whether Quito continued to operate the wells, however, has no bearing on whether Quito was responsible for the wells. Further, even if the transfers were valid or timely (directly at issue in Docket 24-3001), nearly 100 wells would remain. No party substantively contests that Quito is responsible for those remaining wells, or that

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<sup>9</sup> See K.A.R. 82-1-232(a)(2); Tr. 4:16-23.

<sup>10</sup> Tr. 5:14-17.

<sup>11</sup> All pre-filed testimony was admitted into the record. See Tr. 12 (Hoffman); Tr. 29 (Russell); Tr. 46 (Triboulet); Tr. 52 (Sims); Tr. 56 (Borst), Tr. 64 (Klug), Tr. 67 (McCann), Tr. 82 (Goetz).

<sup>12</sup> See also Tr. 5:14-17.

<sup>13</sup> See, e.g., Docket 24-3072, Request for Hearing.

they are unplugged, or that Quito's license is expired, or that such is not a violation of K.A.R. 82-3-120.<sup>14</sup> The Commission finds the Penalty Order should be affirmed.

**Analysis: Docket 24-3086**

9. The Shut-In and Show Cause Order in this docket found Quito and/or Thor violated K.A.R. 82-3-120 and K.A.R. 82-3-133 by conducting oil and gas operations on a well listed on Quito's inactive, revoked license, and directed Quito and Thor to show why each should not be assessed a \$25,000 penalty. No party contests operations were being conducted on wells listed on Quito's inactive, revoked license. McCann and Goetz argue Quito did not conduct any operations after Quito's license renewal application was denied, but instead transferred the wells being operated to Thor, and that the Request for Change of Operator (T-1) forms submitted to the Commission gave Thor authority to operate the wells.<sup>15</sup>

10. Here we must first discuss the essentially non-existent difference between Quito and Thor. Mark McCann, the sole shareholder and officer of Quito, also owns or owned a slew of other companies, including Kansas Production Company, McCann Field Services, and Stellar Field Services.<sup>16</sup> Kansas Production Company, which McCann runs as the sole shareholder and officer, owns interests in oil and gas leases.<sup>17</sup> Before Quito's license renewal application was denied on February 9, 2023, Quito operated the leases for Kansas Production Company.<sup>18</sup> On February 10, 2023, Scott Goetz formed Thor – where he is the sole officer and owner – for the purpose of operating Kansas Production Company leases formerly operated by Quito.<sup>19</sup>

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<sup>14</sup> The Commission notes and rejects Horst's closing argument at Tr. 102:11-19.

<sup>15</sup> See, e.g., Pre-Filed Direct and Rebuttal Testimony of McCann, 7:15 to 8:3; 8:17 to 9:1 (Jun. 7, 2024); Pre-Filed Direct and Rebuttal Testimony of Goetz, 8:14 to 10:7, 13:7-14 (Jun. 7, 2024); see also Thor's Motion for Summary Judgment (May 10, 2024).

<sup>16</sup> See, e.g., Pre-Filed Direct and Rebuttal Testimony of McCann, 2:1-2; 2:9-11; 6:5-7.

<sup>17</sup> See *id.* at 5:15 to 6:4.

<sup>18</sup> See, e.g., *id.*

<sup>19</sup> See, e.g., Pre-Filed Direct and Rebuttal Testimony of Goetz, 4:13 to 5:3.

11. The connections between McCann and Goetz are deep. For example, Goetz was employed by McCann Field Services between 2020 and 2022; Goetz has also done work for Stellar Field Services and signed documents on behalf of Quito.<sup>20</sup> The connections are deep enough that they confuse even McCann and Goetz: Goetz stated in his July 7, 2024, pre-filed testimony that “McCann Field Services, Inc. is an Oklahoma Corporation; it is my understanding that Mr. McCann is the owner of that corporation,”<sup>21</sup> while McCann testified at the October hearing that he transferred McCann Field Services to Goetz on May 20, 2023.<sup>22</sup>

12. And there is no doubt McCann continues to pull the strings. For example, (1) under the operating agreement between Kansas Production Company and Thor, all costs incurred by Thor are borne by Kansas Production Company;<sup>23</sup> (2) the email sent to the Commission to request that Thor have access to electronic filing came from the office manager of McCann Companies;<sup>24</sup> (3) there are multiple text messages showing McCann heavily involved in day-to-day work on specific wells purportedly transferred to Thor;<sup>25</sup> and (4) Goetz testified that financial assurance monies required by the Commission related to Thor’s license would come from McCann.<sup>26</sup>

13. In addition, McCann submitted his pre-filed testimony on behalf of both Quito and Thor. McCann and Goetz also both testified at hearing via Zoom from the same home, and despite Goetz’s denial, the Commission saw McCann communicating with Goetz on multiple occasions while Goetz was testifying.<sup>27</sup> Further, attorney Horst represents both Quito and Thor; this would be ethically

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<sup>20</sup> See, e.g., Pre-Filed Direct and Rebuttal Testimony of McCann, 2:16 to 3:2; Tr. 83:21-23 (Goetz testifying).

<sup>21</sup> Pre-Filed Direct and Rebuttal Testimony of Goetz, 5:7-13.

<sup>22</sup> See Tr. 67:24 to 68:8 (McCann testifying).

<sup>23</sup> See, e.g., Pre-Filed Rebuttal Testimony of Hoffman, at Exhibit RH-1 (Jul. 3, 2024).

<sup>24</sup> See, e.g., Pre-Filed Testimony of Klug, at Exhibit DK-1 (May 17, 2024).

<sup>25</sup> See, e.g., Pre-Filed Rebuttal Testimony of Hoffman, at Exhibit RH-2.

<sup>26</sup> See Tr. 94:18 to 95:2.

<sup>27</sup> See Tr. 97:6-11.

problematic if the entities had divergent interests. And Horst drafted the operating agreement between Kansas Production Company and Thor, with McCann and Goetz working with him.<sup>28</sup>

14. The Commission declines to assess a penalty in this docket against Quito. McCann and Goetz stated that Quito did not operate any wells after the date Quito's license renewal application was denied,<sup>29</sup> and that it was Thor operating the wells. The Commission sees no substantive difference between Quito and Thor, and based upon the evidence finds it unnecessary to focus on Quito or to levy separate penalties against both Quito and Thor.

15. The Commission does, however, find it appropriate to assess a \$25,000 penalty against Thor – McCann and Goetz admit Thor was operating wells that were on Quito's expired, revoked license. Staff had not approved the Request for Change of Operator (T-1) forms necessary to move the wells from Quito's license to Thor's, and Thor had not provided acceptable financial assurance instruments to allow such transfer.<sup>30</sup> Thor complains it was not notified of the status of the forms or that there was a financial assurance deficiency;<sup>31</sup> nevertheless, the onus is upon an operator to ensure compliance with Commission regulations before and while operating wells. Although not weighed especially heavily here, it is also worth noting that Staff filed its motion in Docket 24-3001 on July 13, 2023, stating that it did not believe the T- 1 Forms should be processed; Staff found the Sears #30 in operation on July 18, 2023. While Thor says it did not receive the motion, it was validly served; Thor also says it did not receive the validly served Order Designating Presiding Officer and Setting Prehearing Conference in that matter.<sup>32</sup>

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<sup>28</sup> See Tr. 99:2-15.

<sup>29</sup> The Commission notes McCann stated at hearing a few of the leases were not shut in until the next morning due to lack of personnel. Tr. 69:12-15.

<sup>30</sup> See, e.g., Pre-Filed Testimony of Borst, 4:16 to 5:9 (May 17, 2024).

<sup>31</sup> See Pre-Filed Direct and Rebuttal Testimony of Goetz, 11:1-6.

<sup>32</sup> See, e.g., Docket 24-3001, Supplement to Motion to Vacate Proposed Order (Aug. 15, 2023).

16. Despite all this, Thor argues it committed no wrong-doing because Commission statutes and regulations addressing T-1 transfer forms indicate the processing of such forms is an administrative task, and that the Commission cannot meaningfully review such forms.<sup>33</sup> The Commission disagrees. K.S.A. 55-155(f), K.A.R. 82-3-136, and K.A.R. 82-3-410, for example, merely provide the prior operator with a filing obligation. Indeed, K.A.R. 82-3-136 describes the transferring of responsibility, not the transfer of operational authority, and K.A.R. 82-3-410 speaks of the “intent” to transfer authority. Under K.S.A. 74-623, the Commission has exclusive jurisdiction over all oil and gas matters; statutes and regulations do not obligate the Commission to give a new operator authority to conduct operations on a well just because a prior operator filed something.

17. The Commission also notes that because the wells at issue were on Quito’s inactive license, under K.S.A. 55-179(e) they were “abandoned” wells, and under K.S.A. 55-179(b)(6)(D) Thor’s activities constituted physical operations upon the wells, where such operations were not authorized by the Commission. Even if there were no other regulatory grounds for a penalty in this matter, the Commission finds, given the scope of the operations, that a \$25,000 penalty would be appropriate for Thor’s unauthorized physical operations.

18. Aside from this statutory and regulatory analysis, from a policy perspective, the position of Quito/Thor essentially appears to be that the Commission is powerless to stop McCann from conducting oil and gas operations in Kansas; that shuffling some paperwork allows him to disregard Commission regulations and orders. The policy implications of such a position are horrific – any person could dump well-plugging liabilities upon the State by abandoning those wells under the shell of a defunct corporation and transferring viable wells to a new entity. Any person would be free to ignore Commission orders by getting a non-relative to slap a name on a new corporate entity,

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<sup>33</sup> See, e.g., Thor’s Motion for Summary Judgment, pp. 12-13.



while still retaining full control over that non-relative and the new entity. The Commission and the taxpayers of this State are not statutorily and regulatorily obligated to lose a game of whack-a-mole.

**Analysis: Docket 24-3001**

19. This is the docket that was initiated in July 2023 to determine whether Thor's license should be revoked and whether various wells should be transferred from Quito's license to Thor's. Commission-issued operating licenses run for an annual term.<sup>34</sup> Thor first obtained its license in February 2023, and it expired in February 2024. The record indicates Thor submitted a license renewal application on March 21, 2024.<sup>35</sup> Based upon the specific facts before it, the Commission declines to revoke Thor's license; if necessary, the appropriate status of Thor's license can be resolved through the licensing process in another docket.<sup>36</sup> As well, the Commission finds the Request for Change of Operator (T-1) forms at issue should not be processed. McCann cannot do through Thor what he cannot do through Quito, Thor did not provide acceptable financial assurance instruments to allow such transfer, and as Thor is not currently licensed, such transfer would be immaterial, and inappropriate under K.A.R. 82-3-136(c).<sup>37</sup>

**THEREFORE, THE COMMISSION ORDERS:**

- A. Thor's May 10, 2024, motion for summary judgment is denied.
- B. Regarding Docket 24-3001, Thor's license shall not be revoked, and the wells at issue shall not be transferred.

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<sup>34</sup> See, e.g., K.S.A. 55-155; K.A.R. 82-3-120.

<sup>35</sup> See, e.g., Tr. 61:2-12 (Borst testifying); the Commission also takes administrative notice of its records. See K.A.R. 82-1-230(h).

<sup>36</sup> Thor argued there was no legal basis to revoke its license. See, e.g., Thor's Motion for Summary Judgement, p. 16.

<sup>37</sup> Under K.A.R. 82-3-136(c), transfers cannot be made to entities not currently licensed.

C. Regarding Docket 24-3072, the Penalty Order against Quito is affirmed. Quito shall pay the \$500 penalty within 30 days, and the 30 and 60-day deadlines in ordering clauses C and D of the Penalty Order shall run from the date this Final Order is issued.

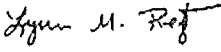
D. Regarding Docket 24-3086, Thor is assessed a \$25,000 penalty. If Thor does not pay within 30 days, then Thor's license shall be suspended without further notice, and shall remain suspended until Thor complies, and Staff may seal any wells on Thor's license until Thor complies.

E. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).<sup>38</sup>

**BY THE COMMISSION IT IS SO ORDERED.**

French, Chairperson; Keen, Commissioner (recused); Kuether, Commissioner

Dated: 11/21/2024

  
\_\_\_\_\_  
Lynn M. Retz  
Secretary to the Commission

Mailed Date: 11/21/2024  
JRM

<sup>38</sup> K.S.A. 55-162; K.S.A. 55-606; K.S.A. 55-707; K.S.A. 77-503(c); K.S.A. 77-531(b).

**CERTIFICATE OF SERVICE**

24-CONS-3001-CSHQ, 24-CONS-3072-CPEN, 24-CONS-3086-CMSC

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of  
electronic service on 11/21/2024.

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/s/ KCC Docket Room  
KCC Docket Room

## **CERTIFICATE OF SERVICE**

24-CONS-3001-CSHO, 24-CONS-3072-CPEN, 24-CONS-3086-CMSC

I, the undersigned, certify that a true and correct copy of the attached Response has been served to the following by means of electronic service on April 4, 2025.

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/s/ Paula J. Murray  
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