

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

In the matter of the application of Murfin) Docket No.: 20-CONS-3283-CUIC
Drilling Co., Inc., to authorize the disposal of)
Saltwater into the Mississippi Formation at the) CONSERVATION DIVISION
Culwell 'J' #2 well, located in the NE/4 of)
Section 19, Township 2 South, Range 37 West) License No.: 30606
Cheyenne County, Kansas.)

MOTION TO DISMISS PROTESTS

Murfin Drilling Co., Inc. ("Applicant") requests that the Commission dismiss the protests submitted by Darren and Tana Dale, and Jeter and Nina Isely, and summarily grant the Application submitted in the captioned docket. In support of its motion, Applicant states as follows:

BACKGROUND

1. On April 28, 2020, Applicant filed a Form U-1 Application for Injection Well ("Application") with the Commission requesting a permit for injection authority at its Culwell 'J' 2-19 well ("Disposal Well") pursuant to K.A.R. 82-3-400, *et seq.* For reference, a copy of the Application is attached as Exhibit A.

2. As more particularly described on page 2 and depicted on page 7 of the Application, Applicant operates seven oil wells in the immediate vicinity of the proposed Disposal Well, and desires to utilize the Disposal Well to dispose of saltwater produced from these nearby oil wells. Currently, the saltwater produced from these nearby wells is hauled by truck to another disposal well.

3. Notice of the Application was provided to all interested parties in accordance with K.A.R. 82-3-135a. Specifically, on April 6, 2020, Applicant mailed Notice of the Application to each unleased mineral owner and operator or lessee of record within one-half mile from the Disposal Well as required by K.A.R. 82-3-135a(c). As evidenced by the publisher's affidavit filed

in this docket, on April 9, 2020, notice of the Application was published in *The Saint Francis Herald*, an official newspaper for Cheyenne County, Kansas, as required by K.A.R. 82-3-135a(d).

4. The Application is an “environmental matter” according to K.A.R. 82-3-135a(c); therefore, the protest period expired on May 9, 2020, 30 days after the date of publication. K.A.R. 82-3-135a(e).

5. On April 20, 2020, the Commission docketed a letter dated April 20, 2020, from Darren and Tana Dale (“Dale”), objecting to the Application. In its letter, Dale offered two bases for its objection to the Application, (1) the Application “poses a threat to usable, quality groundwater,” and (2) permitting the Application “can cause an increase in seismic activity.”

6. On May 12, 2020, the Commission docketed a letter dated May 8, 2020, from Jeter and Nina Isely, who apparently do business as Y Knot Farm & Ranch (“Y-Knot”), objecting to the Application. Y-Knot’s objection letter is nearly verbatim to the letter submitted by Dale. Notably, Y-Knot’s objection to the Application was not submitted within the 30-day protest period prescribed by K.A.R. 82-3-135a(e).

7. Dale and Y-Knot may hereinafter be collectively referred to as, “Protesters.”

8. The Disposal Well has been assigned API No. 15-023-31532-0000, and is located in the Southeast Quarter of the Southwest Quarter of the Northeast Quarter (SE/4 SW/4 NE/4) of Section 19, Township 2 South, Range 37 West, Cheyenne County, Kansas.

9. The proposed Disposal Well passed a staff-witnessed mechanical integrity test on March 30, 2020. The ACO-1 Well Completion Report for the Disposal Well was approved by Commission Staff on May 18, 2020, and shows that the well is equipped with 303’ of 8-5/8” surface casing and 5,096’ of 5-1/2” production casing that is cemented from bottom to top.

10. The base of the fresh water table in the area of the Disposal Well is approximately 285' feet from surface.

11. The Disposal Well will not be a “large volume disposal well” as defined by the Commission.¹ Applicant is proposing to dispose of saltwater into the Mississippi formation, not the Arbuckle formation, and has requested a maximum daily injection volume that is more than 40% less than the minimum daily injection volume required to qualify the Disposal Well as a “large volume injection well.”

12. The Protesters do not dispute that the Disposal Well contains two strings of casing cemented in place from surface through the base of the fresh water table, that the Disposal Well passed a staff-witnessed mechanical integrity test only two months ago, or that the Disposal Well is otherwise engineered in compliance with the Commission’s rules and regulations designed to protect fresh water resources. Protesters also do not dispute that permitting the Disposal Well for injection authority represents a proactive capital effort on the part of Applicant to protect fresh water and prevent waste by obviating the need to haul saltwater by truck from nearby oil wells for disposal. Over time, hauling saltwater by truck is significantly more expensive than piping it for disposal, and is far more likely to result in a spill of saltwater on the surface that could contaminate fresh water.

LEGAL AUTHORITY

K.A.R. 82-3-135a(e) requires a protester to file a “valid protest.” A “valid protest” is one that contains “a clear and concise statement of the **direct and substantial interest** of the protester 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

¹ See, Docket No. 15-CONS-770-CMSC, Order Reducing Saltwater Injection Rates, ¶ 11 (March 19, 2015).

of Kansas.”² “A **valid protest of an injection well application must specifically allege facts** as to how granting the application will cause waste, violate correlative rights, or pollute the water resources of the state of Kansas.”³ “Without specific allegations or a statement of the direct and substantial interest of the Protest[er], the Protest[er] has not demonstrated a valid interest [in the Application].”⁴ The Commission has found these requirements are akin to the requirements for standing.⁵

A person can only show a “direct and substantial interest” by demonstrating that, “[1] he or she suffered a cognizable injury and [2] that there is a causal connection between the injury and the challenged conduct.”⁶ “A cognizable injury is established by showing . . . that [an individual] personally suffers some actual or threatened injury as a result of the challenged conduct . . . [and] . . . [t]he injury must be particularized, *i.e.*, it must affect the plaintiff in a personal and individual way.”⁷ A protest that does not allege an individual, personal, particularized, and impending injury, and a causal connection between such injury and the proposed injection activity, does not demonstrate standing, and subjects the protest to dismissal on its face.⁸

Mere allegations of a possible future injury do not make a protest valid.⁹ An operator is entitled to a presumption that it will conduct its operations in compliance with Commission regulations, specifically those designed to protect fresh water.¹⁰ Speculation as to possible harm to fresh water caused by an oil and gas operation is not sufficient to establish cognizable harm.¹¹

² K.A.R. 82-3-135bb(a) (emphasis added).

³ *In re the Application of Cross Bar Energy, LLC*, Docket No. 17-CONS-3689-CUIC, Written Findings and Recommendations, ¶ 28 (emphasis added).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at ¶ 29 (citing *Kansas Bldg. Indus. Workers Comp. Fund v. State*, 302 Kan. 656, 678 (2015)).

⁷ *Id.* (citing *FV-1, Inc. for Morgan Stanley Mortg. Capital Holdings, LLC v. Kallevig*, 306 Kan. 204, 212 (2017)).

⁸ *See id.* at ¶ 31.

⁹ *See id.*

¹⁰ *See id.* at ¶ 34.

¹¹ *Id.*

As to protests concerning injection well applications, “complaints shall be filed within 30 days after the notice is published. Each complaint or objection shall conform to the requirements of K.A.R. 82-3-135b and shall state the reasons why the proposed plan, as contained in the application, may cause damage to oil, gas, or fresh and usable water resources.”¹²

ARGUMENT

The protests submitted by Protesters are not “valid protests” under Commission regulations and orders, and should be dismissed. The letters of protest submitted by Protesters do not contain specific allegations as to why granting the Application would cause waste, violate correlative rights, or pollute fresh water. Moreover, the protest letters are devoid of any explanation of the direct and substantial interest the Protesters have in the Application, including the individual, personal, particularized, and impending cognizable injury they could possibly suffer as result of the Application being granted. Rather, the protest letters contain nothing more than vague and unfounded conjectural statements about fresh water pollution and seismic activity. As such, the protests are not valid and should be dismissed by the Commission.

Protesters offer two generic bases in support of their objections to the granting of the Application. First, Protesters object on the basis that permitting the Disposal Well as an injection well “poses a threat to usable, quality ground water.” How or why this could be the case is left to the imagination of the reader. There is not one single specific allegation as to how the Disposal Well could present a threat to fresh water or cause waste, nor is there any mention as to how it could possibly harm the person or property of Protesters. The Protesters also claim to be “concerned about what efforts [Applicant] has taken to ensure the fluids injected into the disposal

¹² K.A.R. 82-3-402(c). *See also, In re the Application of Cross Bar Energy, LLC*, Docket No. 17-CONS-3689-CUIC, Written Findings and Recommendations¹², ¶ 25.

will be isolated from surrounding groundwater.” This concern is answered on the face of the Application. Indeed, it is not disputed that the Disposal Well will comply with Commission regulations aimed at ensuring injected fluids are isolated from groundwater, just as it is not disputed the Disposal Well will prevent economic waste through reduced saltwater disposal expenses.

Second, Protesters postulate that permitting the Disposal Well will somehow cause an increase in seismic activity (e.g., earthquakes), which would adversely affect the people of Cheyenne County. This complaint is as unsubstantiated and conjectural as the first basis for objection, only in this instance Protesters do not even attempt to tie the utterly hypothetical earthquakes to waste, correlative rights, or freshwater. Instead, Protesters point to the restrictions put in place in Docket No. 15-CONS-770-CMSC, which affects an area several hundred miles away, in support of their unfounded position. Ironically, even if the Disposal Well somehow fell under the purview of this unrelated docket, it would be unaffected by the restrictions put in place, because the Disposal Well does not meet the definition of a large volume disposal well as set forth therein.

In short, the protests do not contain a single specific allegation as to how the proposed Disposal Well could cause waste, violate correlative rights, or pollute freshwater, and are likewise missing any allegations as to how Protesters would or could suffer a cognizable injury as a result of permitting of the Disposal Well for injection authority. Setting aside the fact that the protest submitted by Y-Knot could be dismissed solely on the basis it was not timely submitted, the Precedential Order issued in *Cross Bar* demands that the Commission dismiss the protests.

Again, it is not questioned that the proposed Disposal Well is engineered in compliance with the Commission’s regulations for injection wells, which are intended to protect freshwater

and prevent waste. It is undeniable that the Disposal Well has demonstrated the requisite mechanical integrity necessary to be permitted for saltwater injection authority. It is undisputed that the Disposal Well is necessary to prevent the economic waste associated with hauling saltwater by truck for disposal, and the risk to fresh water associated with the saltwater hauling activity. It being undisputed that granting the Application is necessary to prevent waste and protect freshwater, Applicant respectfully requests the Application be summarily granted.

WHEREFORE, in consideration of the foregoing, Applicant requests that the Commission dismiss the protests filed by Protesters because they are not valid under Commission rules and regulations, and grant the Application requesting authority to dispose of saltwater into its Culwell 'J' 2-19 well without incurring the time and cost of an evidentiary hearing, and to afford such other and further relief as the Commission deems necessary and proper.

Respectfully submitted,

MORRIS, LAING, EVANS, BROCK
& KENNEDY, CHARTERED

By: 


Jonathan A. Schlatter, #24848
300 N. Mead, Suite 200
Wichita, KS 67202-2745
Telephone - (316) 262-2671
Facsimile - (316) 262-6226
Email - jschlatter@morrislaing.com
Attorneys for Murfin Drilling Co., Inc.

VERIFICATION

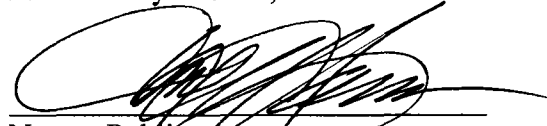
STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

Jonathan A. Schlatter, being of lawful age and being first duly sworn upon his oath, deposes and says:

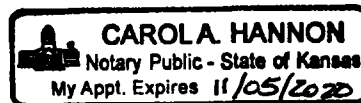
That he is the attorney for Murfin Drilling Co., Inc.; he has read the above and forgoing Motion to Dismiss Protests, and is familiar with the contents, and that the statements made therein are true and correct to the best of his knowledge and belief.


Jonathan A. Schlatter

SIGNED AND SWORN to before me this 3rd day of June, 2020.


Notary Public

My Appointment expires: 11/05/2020



CERTIFICATE OF SERVICE

I, Jonathan A. Schlatter, hereby certify that on this 3rd day of June, 2020, I caused the original of the foregoing **Motion to Dismiss Protests** to be electronically filed with the Conservation Division of the State Corporation Commission of the State of Kansas, and caused true and correct copies of the same to be emailed to the following individuals:

Jonathan R. Myers, Assistant General Counsel
Kansas Corporation Commission
266 N. Main St. Ste. 220
Wichita, KS 67202-1513
j.myers@kcc.ks.gov

Kelcey Marsh, Litigation Counsel
Kansas Corporation Commission
Conservation Division
266 N. Main St. Ste. 220
Wichita, KS 67202-1513
k.marsh@kcc.ks.gov

Rene Stucky
Kansas Corporation Commission
266 N. Main St., Ste. 220
Wichita, KS 67202-1513
r.stucky@kcc.ks.gov

Darren and Tana Dale
2370 HWY 161
Bird City, KS 67731
dales@bwtelcom.net

and true and correct copies mailed by U.S.P.S., regular mail, postage prepaid, to

Jeter and Nina Isely
Y Knot Farm and Ranch
2255 Rd T
Bird City, KS 67731

Darren and Tana Dale
2370 HWY 161
Bird City, KS 67731
dales@bwtelcom.net


Jonathan A. Schlatter

20-CONS-3283-CUIC

KANSAS CORPORATION COMMISSION
OIL & GAS CONSERVATION DIVISION

APPLICATION FOR INJECTION WELL

2020-05-11 15:14:24

Kansas Corporation Commission

/s/ Lynn M. Retz

Form U-1

July 2014

Form must be Typed

Form must be Signed

All blanks must be Filled

Disposal ☒Enhanced Recovery: ☐ Repressuring☐ Waterflood☐ Tertiary

Date: 3/16/2020

Operator License Number: 30606 Exp. 12/30/20

Operator: Murfin Drilling Company Inc.

Address: 250 N. Water

Suite 300

Wichita, KS 67202

Leon Rodak

Contact Person: Rob Kramer (cc)

Phone: 316.858.8666 (316) 267-3241

Email: rkramer@murfininc.com

Permit Number: D-32,965

4-R5✓

API Number: 15-023-31532-00-00

Well Location

- - SW- NE Sec. 19 Twp. 2 S. R. 37 ☐ E ☒ W2310 feet from ☐ N / ☒ S Line of Section1485 feet from ☒ E / ☐ W Line of SectionGPS Location: Lat: 39.8665536, Long: -101.5087868
(e.g. xx.xxxxx) (e.g. -xxx.xxxxx)Datum: ☒ NAD27 ☐ NAD83 ☐ WGS84

Lease Description: N/2 Sec. 19 T2S R37W

Lease Name: Culwell 'J' Well Number: 2-19

Field Name: Wildcat

County: Cheyenne

Deepest Usable Water

Formation: sand

Depth to Bottom of Formation: 285

Check One: ☐ Old Well Being Converted☒ Newly Drilled Well☐ Well to be Drilled

Surface Elevation: 3399 feet Well Total Depth: 5100 feet Plug Back Depth: 5070 feet

Datum of top of injection formation: 5020 feet (reference mean sea level)

Injection Formation Description:

Name	top / bottom	perf / open hole	depth
Mississippi	5020 / 5050	perf	5020 to 5050 feet

List of Wells/Facilities Supplying Produced Saltwater or Other Fluids Approved by the Conservation Division:

(attach additional sheets if necessary)

Lease Operator	Lease/Facility Name	Lease/Facility Description	Well ID & Spot Location
1. see additional sheet			
2.			
3.			

Producing Formation	Strata Depth	Total Dissolved Solids (if available)
1. LKC	4302 to 4546 feet	mg/l
2. Fort Scott	4699 to 4704 feet	mg/l
3. Celia	4770 to 4830 feet	mg/l

Maximum Requested Liquid Injection Rate: 3000 bbls / day; or

Maximum Requested Gas Injection Rate: scf / day. Type of Gas:

Maximum Requested Injection Pressure: 1000 psig

Mail to: KCC - Conservation Division, 266 N Main St, Ste 220, Wichita, Kansas 67202-1513

EXHIBIT A

Lease Operator	Lease/Facility Name	Lease/Facility Description	Well ID & Spot Location
Murfin Drilling Company	Culwell J	N/2 Sec 19 T2S R37W	SE NE Sec 19 T2S R37W
Murfin Drilling Company	Culwell H	S/2 Sec 19 T2S R37W	S/2 Sec 19 T2S R37W
Murfin Drilling Company	Culwell H	S/2 Sec 19 T2S R37W	S/2 Sec 19 T2S R37W
Murfin Drilling Company	Culwell G	NW/4 Sec 20 T2S R37W	NW/4 Sec 20 T2S R37W
Murfin Drilling Company	Culwell G	NW/4 Sec 20 T2S R37W	NW/4 Sec 20 T2S R37W
Murfin Drilling Company	Dorsch	NW/4 Sec 20 T2S R37W	SE/4 Sec 24 T2S R37W
Murfin Drilling Company	C&C	NW/4 Sec 20 T2S R37W	NW/4 Sec 30 T2S R37W

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APR 28 2020

CONSERVATION DIVISION
WICHITA, KS

Well CompletionType: ☒ Tubing & Packer ☐ Packerless ☐ Tubingless

	Conductor	Surface	Intermediate	Production	Tubing
Size		8.625		5.5	2.875
Setting Depth		303		5096	5007
Amount of Cement		285		600	
Top of Cement		0		0	
Bottom of Cement		303		5096	

If Alternate II cementing, complete the following:

Perforations / D.V. Tool at _____ feet, cemented to _____ feet with _____ sx.

Tubing: Type 2 7/8" Seal-Tite Grade J55Packer: Type Loc-Set Depth 5007Annulus Corrosion Inhibitor: Type CORR10228A - Packer Fluid Concentration 1 gal/bbl.List Logs Enclosed: LogTech - Sector Bond/Gamma Ray/CCL logReceived
KANSAS CORPORATION COMMISSION

APR 28 2020

CONSERVATION DIVISION
WICHITA, KS**Well Sketch**

(To sketch installation, darken the appropriate lines, indicate cement, and show depths.)

See additional page

Static fluid level is 2,221 feet below surface.

Spot Location	2310' FSL; 1485' FEL
Sec:	19
Twp:	2
Rge:	37

Size	Weight	Grade	Depth	Cement	Date Cmf'd	Comment
8 5/8	23	J-55	303	285	2/3/20	HSI - circ. 10 bbls..
5 1/2	15.5	MW-55	5096	400/200	2/14/20	HSI - circ. 20 bbls.

NA		

Formation	Top	Btm	SPF	# of holes	Date	Status
Mississippi	5020	5050	4	120	18-Mar	Open

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CONSERVATION DIVISION
WICHITA, KS

CONSERVATION DIVISION
WICHITA, KS

5.5"x2.875"x1.25'(PE) x 6.8'(OA) Loc-Set Pkr @5007'
154 lbs new 2 7/8" seal-tile (5006')

8 5/8 @ 303

Loc-Set @ 5007'

Miss 5020' - 5050'

PBTD	5068
5 1/2 @	5096
RTD	5100
LTD	5100

Offset Operators, Unleased Mineral Owners and Landowners acreage

(Attach additional sheets if necessary)

Name:	Legal Description of Leasehold:
Murfin Drilling Company	S/2 Sec. 18 S2S R37W
Culwell, LLC (Landowner)	N/2 Sec. 19 S2S R37W
Murfin Drilling Company	S/2 Sec. 19 S2S R37W
Murfin Drilling Company	NW/4 Sec. 20 S2S R37W
Murfin Drilling Company	SW/4 Sec. 20 S2S R37W

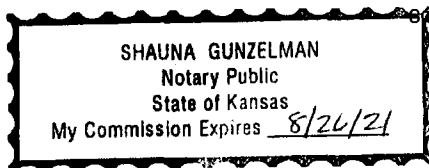
I hereby certify that the statements made herein are true and correct to the best of my knowledge and belief.

Rob Kramer
Applicant or Duly Authorized Agent

Received
KANSAS CORPORATION COMMISSION

APR 28 2020

CONSERVATION DIVISION
WICHITA, KS



Subscribed and sworn before me this 14TH day of APRIL

Shauna Gunzelman
Notary Public

My Commission Expires: 8/26/2021

Instructions:

- Fully complete application, including page 4 (*plat map*) showing subject well and all known oil, gas and input wells, including wells being drilled, inactive wells, or dry holes, within one-half mile. Show lease names and operators or unleased mineral rights owners of all lands within one-half mile. Show well numbers and elevations of producing formation tops.
- Attach some type of log (*drillers log, electric log, etc.*).
- Attach some type of verification of cementing for surface casing, longstring, D.V. tool, perforations, etc. (*Cement ticket and job log, bond log, etc.*)
- Attach Affidavit of Notice.
- Fill in schematic drawing of subsurface facilities including: size, setting depth, amount of cement, measured or calculated tops of cement for each of surface, intermediate (*if any*) and production casing; size and setting depth of tubing and packer; geological zone of injection showing top and bottom of injection interval.
- The original and one copy of the application and all attachments shall be mailed to the State Corporation Commission, Conservation Division.
- Deliver or mail one (1) copy of the application to the landowner on whose land the injection well is located and to each operator or lessee of record and each unleased mineral rights owner within one-half mile of the applicant well.
- Approval of this application, if granted, is valid only as long as there are no substantial changes in operation set forth in the application. A substantial change requires the approval of a new application. **No injection well may be used without prior written authorization.**
- All application fees must accompany the application.

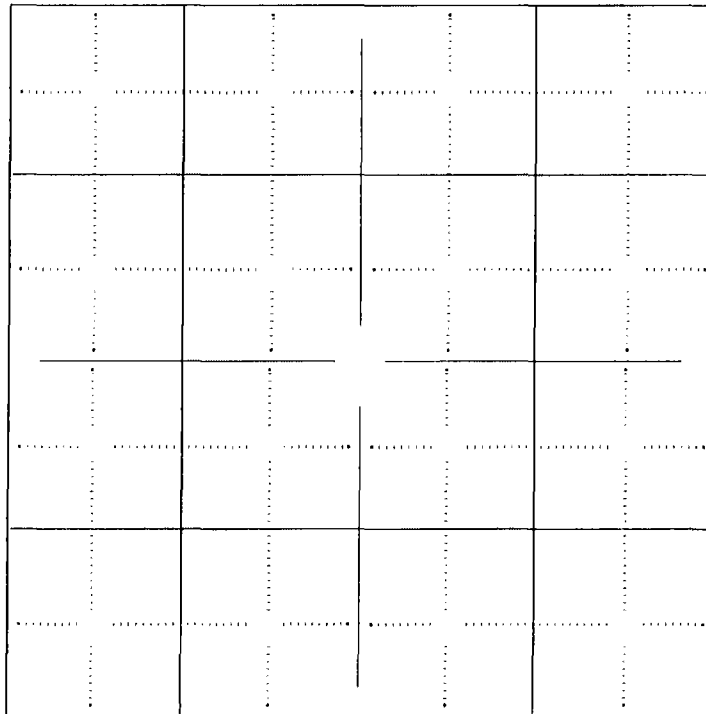
Plat and Certificate of Injection Well Location and Surrounding Acreages

Operator: Murfin Drilling Company, LLC Location of Well: SW NE Sec 19 T1S R37W
 Lease: Culwell 'J' 2310 feet from ☐ N / ☒ S Line of Section
 Well Number: #2-19 SWD 1485 feet from ☒ E / ☐ W Line of Section
 County: Cheyenne Sec. 19 Twp. 1 S. R. 37 ☐ East ☒ West

Plat

Show the following information: applicant injection well, all producing wells, inactive wells, plugged wells, and other wells within a one-half mile radius, all lease boundaries, lease operators, unleased mineral rights owners, well numbers, and producing wells producing formation tops.

See additional
page



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APR 28 2020

CONSERVATION DIVISION
WICHITA, KS

applicant well

producing well

plugged injection well

D & A well

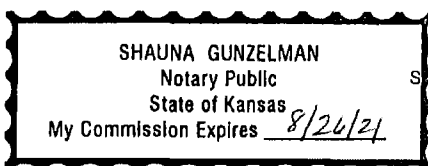
other injection well

temporary abandoned well

plugged producer

water supply well

The undersigned hereby certifies that he / she is a duly authorized agent for Murfin Drilling Company, and that all of the information shown herein is true, complete and correct to the best of his / her knowledge.



Rob Kramer
Applicant or Duly Authorized Agent

Subscribed and sworn before me this 14TH day of APRIL, _____

Shauna Gunzelman
Notary Public

My Commission Expires: 8/26/2021

ARDENE 2-1

CULWELL UNIT 1

18

17

PARK UNIVERSITY 2-17

HBP-T

PARK UNIVERSITY 1-17

12/4/2020

8/17/2022

12/4/20

/11/20

3/8/2021

C & C UNIT 1-30

3/19/2021 3/20/2021 3/20/2021

Received
KANSAS CORPORATION COMMISSION

APR 28 2020

CONSERVATION DIVISION
WICHITA, KS

Affidavit of Notice ServedRe: Application for: Murfin Drilling CompanyWell Name: Culwell 'J' #2-19 SWDLegal Location: NE/4 Sec. 19 T2S R37W

The undersigned hereby certifies that he / she is a duly authorized agent for the applicant, and that on the day 6 of April,
2020, a true and correct copy of the application referenced above was delivered or mailed to the following parties:

Note: A copy of this affidavit must be served as a part of the application.

Name

Address (Attach additional sheets if necessary)

Culwell, LLC

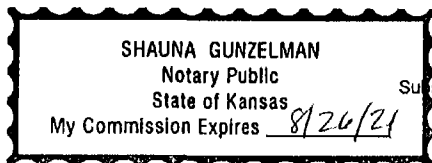
1790 Road B, St. Francis, KS 67756

I further attest that notice of the filing of this application was published in the St. Francis Herald, the official county publication
 of Cheyenne county. A copy of the affidavit of this publication is attached.

Received
 KANSAS CORPORATION COMMISSION

Signed this 14th day of April, 2020

APR 28 2020



Rob Kramer
 Applicant or Duly Authorized Agent

CONSERVATION DIVISION
 WICHITA, KS

Subscribed and sworn to before me this 14TH day of APRIL

Shauna Gunzelman
 Notary Public

My Commission Expires: 8/26/2021

Protests may be filed by any party having a valid interest in the application. Petitions for protests shall be in writing and shall clearly identify the name and address of the protestant and the title of the application. The petition shall include a clear and concise statement of the direct and substantial interest of the protestant in the proceedings, including the manner in which the protestant may be affected, and the nature, extent, character and grounds of the protest. Protestants shall serve the protest upon the applicant by mail or personal service at the same time or before the protestant files the protest with the Conservation Division. Protests must be filed within 30 days of the publication notice of the application.