

1 **Q. Please state your name, address and telephone number.**

2 A. Jon R. Viets, 201 N. Penn Ave, Suite 604, Independence, KS 67301, telephone
3 620-331-0144.

4 **Q. What is your occupation?**

5 A. I am an attorney-at-law engaged in private practice, Kansas Supreme Court Registration
6 No. 9675.

7 **Q. How long have you been so engaged?**

8 A. Since passing the Bar Examination in August, 1977.

9 **Q. What is your educational background?**

10 A. I graduated from Independence, KS High School in 1970, from the University of Kansas
11 in 1973 (B.A. in Economics), attended the Kellogg School of Management, Northwestern
12 University in 1973-1974, and completed post graduate studies at the University of Kansas
13 in 1977 (M.B.A., J.D.).

14 **Q. What is your work and professional history?**

15 A. I joined the Hall, Levy & Lively law firm in Coffeyville, Kansas in 1977, then in 1987
16 opened my office in the present location in Independence and have since practiced
17 principally as a sole practitioner, although for many years I have shared offices with
18 attorney Dana L. Gorman.

19 **Q. What is the nature of your law practice?**

20 A. My practice has principally related to business organization, real estate, and natural
21 resource law. In the 1980's, I was counsel to the area natural gas distribution company,
22 Union Gas System, Inc. and principally focused on natural gas storage and transportation
23 issues. In the 1990's, I was special counsel to Governor Graves on the Legislative task
24 force dealing with FERC's de-regulation of intrastate natural gas prices and transmission.

1 Much of my work since has been in representation of oil and gas operators, pipeline
2 operators, and oil and gas service and supply companies.

3 **Q. How many oil and gas operators, pipeline operators, and oil and gas service and**
4 **supply companies have you represented in your legal career?**

5 A. I would estimate 300-400.

6 **Q. What sort of legal services did you provide to clients in this industry?**

7 A. Business organization, transactional work (acquisitions and divestments), lease negotiation
8 and documentation, title examination, and some litigation.

9 **Q. What is your relationship to the operator in this docket, AX&P, Inc.?**

10 A. I am a director, the corporate secretary, and a stockholder.

11 **Q. Who are the other officers, directors and stockholders of AX&P, Inc.?**

12 A. Jurgen J. Hanke and Jeff Goodrich.

13 **Q. What is the business of AX&P, Inc.?**

14 A. AX&P, Inc. was formed in 1988 for the purpose of acquiring the Neodesha Field Unit I,
15 an old waterflood operation, including the site of the old Norman No. 1, the first
16 commercial well in Kansas. AX&P, Inc. successfully rehabilitated the Neodesha Field
17 Unit I, operated it for 27 years, and sold all of its wells in the fall of 2015, transferring
18 operatorship to the buyer by assignment and T-1 filings.

19 **Q. Does AX&P, Inc. currently have an oil and gas well license?**

20 A. It did, operator's license No.3830, until renewal was denied by KCC staff, and that denial
21 is the subject of this docket.

22 **Q. If AX&P, Inc. has transferred its wells, why did it apply for renewal?**

23 A. AX&P, Inc. monitors the activity of its buyer to make certain all its past regulatory
24 obligations are fulfilled. Should any regulatory issues arise, AX&P, Inc. desires to be

1 licensed so that it can immediately and lawfully address those issues, both in the field and
2 before the Commission. Secondly, because AX&P, Inc. continues to evaluate oil and
3 gas properties for future acquisition or operation.

4 **Q. Is AX&P, Inc. in compliance with all Commission rules, regulations and orders?**

5 A. Yes, however it now lacks a license due to the Staff's allegations in this Docket.

6 **Q. Are Jurgen Hanke, Jeff Goodrich and you in compliance with all Commission rules,**
7 **regulations and orders?**

8 A. Yes.

9 **Q. Are you familiar with Kelt Energy, Inc. and, if so, how?**

10 A. Yes. Kelt Energy, Inc. was organized in Delaware in 1985 and qualified to transact
11 business in Kansas in 1987. In 1997, Kelt Energy, Inc. sold the stock of its subsidiary, Kelt
12 Kansas, Inc., which was owner of its Kansas assets, and Kelt Energy, Inc. withdrew from
13 Kansas and dissolved in Delaware.

14 **Q. What is, or was, your relationship to Kelt Energy, Inc.?**

15 A. Up until the sale of the stock of Kelt Kansas, Inc. in 1999, I provided transactional legal
16 services consisting of title examinations and associated title curative work, including quiet
17 title and partition suits. These services primarily related to Kansas assets, but also extended
18 to Kelt's assets in Ohio, New Mexico and California.

19 **Q. Were you an officer, director or stockholder of Kelt Energy, Inc. or its subsidiaries,**
20 **or were you a partner, member or participant in any common business enterprise**
21 **with any of them?**

22 A. No.

23 **Q. Did Hanke or Goodrich have any relationship to Kelt Energy, Inc.?**

1 A. Yes, Hanke served as an engineering contractor to Kelt in the late 1980's and he also briefly
2 served as its Vice President at that time but was no longer employed in by 1987 Goodrich
3 was employed by Kelt Oil & Gas, Inc., a subsidiary of Kelt Energy, Inc. in the late 1980's
4 and early 1990's, but then took an engineering position in London, England and has lived
5 and worked there ever since.

6 **Q. Were Hanke or Goodrich stockholders, members, partners or participants in**
7 **common business enterprise with Kelt Energy, Inc. or its affiliated corporations?**

8 A. No, Hanke was an independent contractor and Goodrich was an employee.

9 **Q. Who were the stockholders of Kelt Energy, Inc.?**

10 A. To my knowledge, Hubert Perrodo of Paris, France and his family members.

11 **Q. What portion of your legal practice was devoted to the business of Kelt Energy, Inc.?**

12 A. For the time interval 1987-1997 I would estimate 3% of my practice, and since 1997, none.

13 **Q. What became of the business and assets of Kelt Energy, Inc.?**

14 A. To my knowledge, by 1997 all of its assets were liquidated and the corporation was
15 dissolved.

16 **Q. What became of the Kansas assets, the wells described in Commission Docket No 16-**
17 **CONS-204-CSHO?**

18 A. Those wells, and the oil and gas leases on which they are situated, were owned by Kelt
19 Kansas, Inc., a wholly owned subsidiary of Kelt Energy, Inc.. In April 1997, Kelt Energy,
20 Inc. sold all of the stock of Kelt Kansas, Inc. to a company by the name of Capital
21 Acquisitions, Inc., which immediately changed the name of Kelt Kansas, Inc. to become
22 Capital Kansas, Inc.

23 **Q. What became of Capital Acquisitions, Inc. and Capital Kansas, Inc.?**

1 A. I recently examined the public records from which it appears that those corporations and/or
2 their assets were placed in receivership in the matter of Securities and Exchange
3 Commission vs. Capital Acquisitions, Inc. et al, Case No. 2: 97 CV 09775 in the United
4 States District Court for the District of Utah, Central Division, and Robert W. Wing, Esq.
5 was appointed Receiver. By multiple Assignments dated October 22, 1999, the Receiver
6 assigned the wells and leases to the New Donna Lee Oil Company and a sample of those
7 Assignments is attached as Exhibit "3". There were quite a number of leases involved and
8 I have not tracked title to all of them, but, based on the record, it appears some were later
9 sold, some expired, and some were released by New Donna Lee Oil Company.

10 **Q. Was Kelt Energy, Inc. the last owner or operator of the wells described in**
11 **Commission Docket No. 16-CONS-204-CSHO?**

12 A. No.

13 **Q. Were AX&P, Inc., Mr. Hanke, Mr. Goodrich or yourself officers, directors,**
14 **stockholders, members, partners or otherwise engaged in common business**
15 **enterprise with Capital Kansas, Inc., Capital Acquisitions Inc., Robert W. Wing, Esq.**
16 **as Receiver, or New Donna Lee Oil Company?**

17 A. No.

18 **Q. Are you familiar with Kelly Oil Company and, if so, how?**

19 A. Yes, in 1984, a petroleum geologist and client, A. Wesley Karns, asked me to organize
20 Kelly Oil Company for Kelly Lynch Karns, a lady whom he had recently married. I
21 incorporated Kelly Oil Company, served as its resident agent and as its corporate secretary.
22 By 1998, the Karns had divorced, and Kelly Lynch Karns relocated to Sherman, Texas and
23 moved the business office there.

24 **Q. What type of legal services did you provide to Kelly Oil Company?**

1 A. Organization of the corporation, maintenance of its minute book and stock book,
2 transactional work (lease purchases and sales), title examination, and one litigation case.

3 **Q. How much of your legal practice was devoted to the business of Kelly Oil Company,**
4 **Inc.?**

5 A. From the interval 1984-1998 I would estimate well less than 1%, although the trial of the
6 case in Greenwood County took 3 days, so perhaps in that particular year 2%. When the
7 business relocated to Texas, I shipped the stock book, minute book, corporate seal, and
8 open legal files to that office.

9 **Q. Did you continue after 1998 to serve Kelly Oil Company?**

10 A. Yes, I remained resident agent. I learned in 2013 that Kelly Oil Company continued to list
11 me as it's secretary on annual reports, but I did not agree to serve and don't recall providing
12 service or receiving any remuneration as secretary, resident agent, or attorney after 1998.

13 **Q. Were you ever a stockholder, partner, member or engaged in common business**
14 **enterprise with Kelly Oil Company?**

15 A. No. Kelly Lynch Karns was the sole stockholder.

16 **Q. What became of the assets and business of Kelly Oil Company?**

17 A. In 2013 and 2014, I received service of process in several matters as resident agent of Kelly
18 Oil Company. I forwarded those items to the Sherman, Texas office, and was informed by
19 Kelly Lynch Hiser (formerly Kelly Lynch Karns) that the corporation had experienced
20 severe operating losses and was going out of business. My impression is that all assets
21 were lost in foreclosure, but I don't know any of the particulars.

22 **Q. What is the status of the wells described in Commission Docket**
23 **16-CONS-3816-CSHO relating to Kelly Oil Company?**

24 A. I do not know anything about the status of the wells.

1 **Q. Are you familiar with Consolidated Gas & Energy Corporation, and if so, how?**

2 A. Consolidated was organized as a Kansas corporation in January 1996. It was initially
3 owned by Allan L. Levine, a Los Angeles tax attorney. Its business consisted of a number
4 of wells and leases in Southeast Kansas.

5 **Q. Did you provide legal services to Consolidated?**

6 A. I do not recall doing so. The Kansas attorney for Consolidated was Dana L. Gorman.
7 However, I had represented Mr. Levine prior to 1996 and I may have spoken with him in
8 the course of Mr. Gorman's representation of Consolidated.

9 **Q. Were you an officer, director, stockholder of Consolidated, or were you a partner,
10 member or engaged with that corporation in any common business enterprise?**

11 A. No. To my knowledge, Allan L. Levine was the original stockholder until the shares and
12 assets were sold in 2003.

13 **Q. Do you have any knowledge regarding the ownership and operations of the wells
14 described In the Matter of an Order to Show Cause issued to Consolidated Gas &
15 Energy Corp. ("Operator") regarding responsibility under K.S.A. 55-179 for
16 unplugged wells on an expired license, Docket No: 16-CONS-433-CHSO?**

17 A. I have no actual knowledge of the wells themselves, but I have recently examined the real
18 estate records on file in the office of the Register of Deeds of Chautauqua County,
19 Kansas, for the information those records contain pertaining to the wells and the leases
20 upon which they are located.

21 **Q. What did your examination of the real estate records reveal?**

22 A. On April 30, 2003, Consolidated Oil & Gas assigned the wells and leases to Oil & Gas
23 Technology Fund, James R. Heuer and James R. Franklin, and those three assignees
24 accepted the assignment and expressly assumed all liability for regulatory compliance,

1 plugging and remediation and agreed to indemnify Consolidated Oil & Gas from such
2 liabilities, and a copy of that assignment is marked as Exhibit "5".

3 **Q. Did your examination reveal anything further regarding the wells and leases?**

4 A. Yes, on January 10, 2007, the Sheriff of Chautauqua County assigned the leases to
5 Wandering Star Partners No. 1, LLP and Mariah Exploration, LLC pursuant to an order of
6 sale and confirmation of sale issued by the District Court of Chautauqua County, Kansas,
7 in the matter of Levine v. Oil & Gas Technology Fund, Inc., et al, Case No. 06 CV 3, and
8 a copy of that assignment is marked as Exhibit "6".

9 **Q. Was Consolidated the last owner and operator of the wells described in Docket No:**
10 **16-CONS-433-CHSO?**

11 A. Based on the records in Chautauqua County, it does not appear so.

12 **Q. What portion of your legal practice was devoted to the business of Consolidated?**

13 A. None.

14 **Q. Were Kelt Energy, Inc. or its stockholders, Kelly Oil Company, Inc. or its**
15 **stockholder, or Consolidated Gas & Energy Corporation or its stockholders, ever**
16 **stockholders, partners, members or engaged in common business enterprises with**
17 **AX&P, Inc.?**

18 A. No.

19 **Q. What did AX&P, Inc. do in response to the denial of license renewal?**

20 A. AX&P, Inc. filed a motion to set aside the denial, requested a hearing, and offered
21 alternatives for the provision of financial assurance as an operator.

22 **Q. When and why did AX&P, Inc. offer alternatives for financial assurance?**

23 A. Because the denial was based on alleged associations, it was believed KCC Staff was
24 confusing the conditions for qualification for a license under K.S.A. 55-155(c) with the six

1 (6) available and optional methods for providing financial assurance under K.S.A.
2 55-155(d), where one of the six options is unavailable if officers or directors of the operator
3 are “associated substantially” with a non-compliant operator. We made that offer on June
4 28, 2017.

5 **Q. Did KCC staff respond to the offer of alternative means of financial assurance?**

6 **A. No.**

VERIFICATION

STATE OF KANSAS)
) SS:
MONTGOMERY COUNTY)


The undersigned, after first being duly sworn upon his oath, states that he has read the foregoing Pre-Filed Testimony of Jon R. Viets and knows the contents thereof, and that the statements therein made are true and correct.



JON R. VIETS

Subscribed and sworn to before me by Jon R. Viets this 7th day of December, 2017.




NOTARY PUBLIC

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

BEFORE COMMISSIONERS: Pat Apple, Chair
 Jay Scott Emler, Commissioner
 Shari Feist Albrecht, Commissioner

In the Matter of the Application AX&P,)	Docket No. 17-CONS-3701-CMSC
Inc. for an Operator's License Renewal.)	
)	CONSERVATION DIVISION
)	
)	License No. 3830

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of December, 2017 a true and correct copy of
the Pre-Filed Testimony of Jon R. Viets was served electronically on:

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