

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application of Midstates)	Docket No. 19-CONS-3173-CUIC
Energy Operating, LLC to Authorize Injection of)	
Saltwater into the Squirrel Formation at the)	
Thrasher Wells #I-5, #I-4, and #I-3, and to)	
Increase the Injection Pressure on All Wells)	CONSERVATION DIVISION
Encompassed by Permit E-31965, Located in)	
Section 25, Township 13 South, Range 20 East,)	
Douglas County, Kansas.)	License No.: 35503

MOTION TO DISMISS PROTESTS

COMES NOW the Applicant, Midstates Energy Operating, LLC by and through its attorney Keith A. Brock, Anderson & Byrd, LLP, and respectfully moves the Kansas Corporation Commission (the "Commission") for an Order Dismissing Certain Protests filed herein. In support of its Motion, Applicant states:

1. K.A.R. 82-3-135b provides that "protest[s] **SHALL** include a clear and concise statement of the *direct* and *substantial* interest of the protestor 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 of Kansas." (emphasis added).

2. K.A.R. 82-3-135b clearly sets forth several mandatory components that all protest **MUST** contain in order to be valid and to secure consideration before the Commission. Such mandatory components are as follows:

- i. Include a clear and concise statement of the DIRECT and SUBSTANTIAL interest of the protestor in the proceeding; AND
- ii. Include SPECIFIC allegations as to the MANNER IN WHICH the APPLICATION will,
 - a. cause waste;
 - b. violate correlative rights; or
 - c. pollute water resources;

3. Moreover, in *Cross Bar Energy, LLC*, Docket No. 17-CONS-3689-CUIC, the Commission recently issued a Final Precedential Order holding,

3. The Commission orders that, to be considered valid, all protests filed in accordance with K.A.R. 82-3-135a and K.A.R. 82-3-135b must meet the "direct and substantial interest" requirement by demonstrating that each individual protestant has "standing" under Kansas' traditional two-part test for standing. This means each protestant must demonstrate that, "[1] he or she suffered a cognizable injury and [2] that there is a causal connection between the injury and the challenged conduct." The Commission orders that this interpretation of K.A.R. 82-3-135a and K.A.R. 82-3-135b shall have precedential effect pursuant to K.S.A. 77-415(b)(2)(A).

The Commission further ruled that, "[t]he Commission's interpretation of K.A.R. 82-3-135a and K.A.R. 82-3-135b explained in paragraph three (3) above is adopted as precedential pursuant to K.S.A. 77-415(b)(2)(A)."

4. This Docket is not distinguishable from *Cross Bar Energy, LLC*, Docket No. 17-CONS-3689-CUIC, therefore the protests which have been filed in this Docket by Judith L. Wells and Karin Pagel-Meiners should be dismissed pursuant to the authority cited and relied upon by the Commission in said *Cross Bar Energy, LLC* docket.

5. The protests filed by Judith L. Wells and Karin Pagel-Meiners in this Docket reside several miles from the wells which are the subject of this Docket. In addition, neither of these two protests contain any statement or allegation that said protesting parties have a direct and substantial interest in this Docket, nor do such protest contain allegations sufficient to satisfy either portion of the two part test to establish standing as set forth by the Commission in the *Cross Bar Energy, LLC* docket.

6. Since the protests filed by Judith L. Wells and Karin Pagel-Meiners do not contain any allegations demonstrating that such individuals have standing to participate in these proceedings the Commission must dismiss such protests pursuant to the Final Precedential Order issued in the *Cross*

Bar Energy, LLC docket.

7. The protests filed by Judith L. Wells and Karin Pagel-Meiners do not demonstrate or even allege that such protesters would suffer a cognizable injury or that there is a causal connection between such injury and the applications filed in this Docket. "It is a well-recognized rule that [individuals] must assert his [or her] own legal rights and interests, and . . . *an injury must be more than a generalized grievance common to all members of the public.*" *Id.* at 16.

8. Moreover, in order to satisfy the second element of a valid protest the protest must contain SPECIFIC allegations concerning the manner in which THE APPLICATIONS FILED IN THIS DOCKET will result in one of the three events listed in K.A.R. 82-3-135b. The Protests filed by Judith L. Wells and Karin Pagel-Meiners in this Docket simply cite concerns regarding the UIC program in general, the KCC's handling of such program, and the history of certain KCC actions relating to one of the wells which is the subject of this Docket. However, these two protests do not contain any allegations that there is a special risk allegedly posed by the Applications which are the subject of this Docket. These broad allegations concerning the UIC program in general are clearly not sufficient to form the basis for a valid protest in these proceedings and certainly do not constitute SPECIFIC allegations as to the MANNER IN WHICH the APPLICATION will, result in one of the three events listed in K.A.R. 82-3-135b.

9. Protests must meet certain minimum criteria set forth by K.A.R. 82-3-135b. In order to be considered valid, a protest must describe with specificity the direct and substantial interest the Protester has in this Docket, and also describe with specificity the manner in which the application will, cause waste, violate correlative rights or pollute water resources. As demonstrated above the protests filed in this Docket by Judith L. Wells and Karin Pagel-Meiners fail to meet such minimum

criteria and must be dismissed.

WHEREFORE, Applicant moves the Commission for an order dismissing the protests filed in this Docket by Judith L. Wells and Karin Pagel-Meiners.



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was sent via U. S. Mail, postage prepaid, hand-delivery, or electronically, this 15th day of March, 2019, addressed to:

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