

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

Before Commissioners: Pat Apple, Chairman
Shari Feist Albrecht
Jay Scott Emler

In the matter of the summary denial of)	Docket No.: 17-CONS-3701-CMSC
the application of AX&P, Inc. ("Operator"))	
for renewal of oil and gas well operator's)	CONSERVATION DIVISION
license.)	
<hr/>		License No.: 3830

AFFIDAVIT OF JON R. VIETS

I, Jon R. Viets, being first duly sworn and under oath, state of my personal knowledge that:

1. I am over the age of 18, have never been convicted of a felony, and am competent to make the statements in this affidavit.

2. I am a director, the corporate secretary and a stockholder in AX&P, Inc. the operator in this matter.

3. I am personally acquainted with Jurgen J. Hanke and Jeff Goodrich, who are the other officers, directors and stockholders in AX&P, Inc.

4. Jurgen Hanke is not and has never been a partner in Consolidated Gas & Energy Corp.

5. Jeff Goodrich is not and has never been a partner in Kelt Energy, Inc.

6. I am not and have never been a partner in Kelly Oil Company.

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

FURTHER AFFIANT SAYETH NAUGHT.



Jon R. Viets, #9675

STATE OF KANSAS)
)ss:
COUNTY OF MONTGOMERY)

BE IT REMEMBERED, that on this 4th day of December, 2017, came before me, a Notary Public in and for the County and State aforesaid, Jon R. Viets, personally known to me to be the same person who executed the above and foregoing instrument in writing.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.




NOTARY PUBLIC

Pat Apple, Chairman
Shari Feist Albrecht, Commissioner
Jay Scott Ender, Commissioner

2017.06.28 11:20:59
Governor
Kansas Corporation Commission
/S/ Lynn Retz

NOTICE OF DENIAL of LICENSE RENEWAL APPLICATION

June 19, 2017

A X & P, Inc.
Attn: Jon Viets
PO Box 1176
Independence, KS 67301

License #3830

17-CONS-3701-CMSC

Operator:

Commission Staff is in receipt of your June 5, 2017 license application. Your application is being denied pursuant to K.S.A. 55-155(c)(4) because you appear to be associated with entities that are not in compliance with Commission statutes, regulations, and orders.

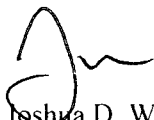
Specifically, Staff believes individual(s) associated with Operator are also associated with:

1. Kelt Energy, Inc., KCC License #4469, which has unplugged well(s) on its suspended license and has not complied with the Commission's Default Order in 16-CONS-204-CSHO.
2. Consolidated Gas & Energy Corp., KCC License #31834, which has unplugged well(s) on its suspended license and has not complied with the Commission's Default Order in Docket 16-CONS-433-CSHO.
3. Kelly Oil Company, KCC License #5632, which has unplugged well(s) on its suspended license and has not complied with the Commission's Default Order in Docket 16-CONS-3816-CSHO.

Under K.A.R. 82-3-120(i), this Notice of Denial constitutes a summary order pursuant to K.S.A. 77-537. You may request a hearing on this Notice of Denial by filing a written request for a hearing with the Commission, at 266 N. Main, Suite 220, Wichita, Kansas 67202, within 15 days of service of this Notice.

If no hearing is requested, then this summary order shall become final, effective upon the expiration of the time for requesting a hearing.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joshua D. Wright', with a stylized, flowing script.

Joshua D. Wright
Litigation Counsel
Kansas Corporation Commission

West's Kansas Statutes Annotated

Chapter 55. Oil and Gas

Article 1. Oil and Gas Wells; Regulatory Provisions

Protection of Surface and Groundwater

K.S.A. 55-155

55-155. Licensure of operators and contractors; requirements; notification of surface owner

Currentness

- (a) Operators and contractors shall be licensed by the commission pursuant to this section.
- (b) Every operator and contractor shall file an application or a renewal application with the commission. Application and renewal application forms shall be prescribed, prepared and furnished by the commission.
- (c) No application or renewal application shall be approved until the applicant has:
- (1) Provided sufficient information, as required by the commission, for purposes of identification;
 - (2) submitted evidence that all current and prior years' taxes for property associated with the drilling or servicing of wells have been paid;
 - (3) demonstrated to the commission's satisfaction that the applicant complies with all requirements of chapter 55 of the Kansas Statutes Annotated, and amendments thereto, all rules and regulations adopted thereunder and all commission orders and enforcement agreements, if the applicant is registered with the federal securities and exchange commission;
 - (4) demonstrated to the commission's satisfaction that the following comply with all requirements of chapter 55 of the Kansas Statutes Annotated, and amendments thereto, all rules and regulations adopted thereunder and all commission orders and enforcement agreements, if the applicant is not registered with the federal securities and exchange commission:
(A) The applicant; (B) any officer, director, partner or member of the applicant; (C) any stockholder owning in the aggregate more than 5% of the stock of the applicant; and (D) any spouse, parent, brother, sister, child, parent-in-law, brother-in-law or sister-in-law of the foregoing;
 - (5) paid an annual license fee of \$100, except that an applicant for a license who is operating one or more gas wells used strictly for personal use on the property where such gas wells are located shall pay an annual license fee of \$25;

(6) complied with subsection (d); and

(7) paid an annual license fee of \$25 for each rig operated by the applicant. The commission shall issue an identification tag for each such rig which shall be displayed on such rig at all times.

(d) In order to assure financial responsibility, each operator shall annually demonstrate compliance with one of the following provisions:

(1) The operator has obtained an individual performance bond or letter of credit, in an amount equal to \$.75 times the total aggregate depth of all wells, including active, inactive, injection or disposal, of the operator.

(2) The operator has obtained a blanket performance bond or letter of credit in an amount equal to the following, according to the number of wells, including active, inactive, injection or disposal, of the operator:

(A) Wells less than 2,000 feet in depth: 1 through 5 wells, \$7,500; 6 through 25 wells, \$15,000; and over 25 wells, \$30,000.

(B) Wells 2,000 or more feet in depth: 1 through 5 wells, \$15,000; 6 through 25 wells, \$30,000; and over 25 wells, \$45,000.

(3) The operator: (A) Has an acceptable record of compliance, as demonstrated during the preceding 36 months, with commission rules and regulations regarding safety and pollution or with commission orders issued pursuant to such rules and regulations; (B) has no outstanding undisputed orders issued by the commission or unpaid fines, penalties or costs assessed by the commission and has no officer or director that has been or is associated substantially with another operator that has any such outstanding orders or unpaid fines, penalties or costs; and (C) pays a nonrefundable fee of \$100 per year.

(4) The operator pays a nonrefundable fee equal to 6% of the amount of the bond or letter of credit that would be required by subsection (d)(2).

(5) The state has a first lien on tangible personal property associated with oil and gas production of the operator that has a salvage value equal to not less than the amount of the bond or letter of credit that would be required by subsection (d)(1) or by subsection (d)(2).

- (6) The operator has provided other financial assurance approved by the commission.
- (e) Upon the approval of the application or renewal application, the commission shall issue to such applicant a license which shall be in full force and effect until one year from the date of issuance or until surrendered, suspended or revoked as provided in [K.S.A. 55-162](#), and amendments thereto. No new license shall be issued to any applicant who has had a license revoked until the expiration of one year from the date of such revocation.
- (f) If an operator transfers responsibility for the operation of a well or gas gathering system or for underground porosity storage of natural gas to another person, such operator shall file a notice of transfer of operator with the commission in accordance with rules and regulations of the commission. The commission shall, upon receipt of such notice, send a copy of such notice to the surface owner, as well as the contact information, including name, address, phone number, fax or email address, for a designated representative of the operator. The commission need not send such information if the operator verifies that the notice filed with the commission has been delivered to the surface owner. The commission need not send a copy of notice to the surface owner for transfers of responsibility for the operation of a gas gathering system or for underground porosity storage of natural gas to another person.
- (g) The commission shall remit all moneys received from fees assessed pursuant to subsection (c)(7) of this section to the state treasurer in accordance with the provisions of [K.S.A. 75-4215](#), and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit 10% of each such deposit to the state general fund with the balance credited to the conservation fee fund created by [K.S.A. 55-143](#), and amendments thereto.
- (h) The commission shall remit all moneys received pursuant to subsections (d)(3) and (d)(4) to the state treasurer in accordance with the provisions of [K.S.A. 75-4215](#), and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the well plugging assurance fund.

Credits

Laws 1982, ch. 228, § 8; Laws 1986, ch. 201, § 10; [Laws 1992, ch. 68, § 3](#); [Laws 1995, ch. 139, § 1](#); [Laws 1996, ch. 263, § 5](#); [Laws 1998, ch. 61, § 2](#); [Laws 2001, ch. 5, § 190](#); [Laws 2001, ch. 191, § 4](#); [Laws 2005, ch. 173, § 1](#); [Laws 2009, ch. 127, § 5](#), eff. July 1, 2009; [Laws 2011, ch. 53, § 19](#), eff. July 1, 2011; [Laws 2015, ch. 44, § 1](#), eff. July 1, 2015.

K. S. A. 55-155, KS ST 55-155

Statutes are current through laws effective on or before July 1, 2017, enacted during the 2017 Regular Session of the Kansas Legislature.

JUN 28 2017

CONSERVATION DIVISION
WICHITA, KS

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

Before Commissioners:

Pat Apple, Chairman
Shari Feist Albrecht
Jay Scott Emler

In the matter of the summary denial of
the application of AX&P, Inc. ("Operator")
for renewal of oil and gas well operator's
license.

) Docket No.: 17-CONS- 3701 - CMSC
)
) CONSERVATION DIVISION
)
) License No.: 3830

MOTION TO SET ASIDE
SUMMARY DENIAL OF LICENSE APPLICATION
AND/OR REQUEST FOR HEARING

COMES NOW AX&P, Inc. ("Operator") and gives the Commission to understand and be informed:

1. Operator is a Kansas corporation organized in 1988 for the purpose of acquiring, redeveloping and operating wells in Neodesha oil field, including the site of the historic 1892 Norman No. 1, the oldest continuously operated oil field in Kansas (and for that matter in the Mid-Continent). Operator sold all of its wells in 2015 and transferred responsibility for such wells to the purchaser, but still holds Operator's License No. 3830 and is in full compliance with the statutes of the State of Kansas and the rules and regulations of the Commission.

2. On June 5, 2017, Operator submitted its application for annual license renewal.

3. On June 19, 2017 Commission Staff issued a Notice of Denial of License Renewal Application, a true and correct copy of which is attached as Exhibit "A". Staff issued the Notice of Denial for the stated reason that "Staff believes individual(s) associated with Operator are also associated with" three (3) named former oil and gas operators not in compliance with Commission Orders.

4. K.S.A. 55-155(c)(4) provides that no renewal application shall be approved until the applicant has demonstrated that the following persons comply with all pertinent requirements, rules and regulations:

"(A) The applicant;

- (B) any officer, director, partner or member of the applicant;
- (C) any stockholder owning in the aggregate more than 5% of the stock of the applicant; and
- (D) any spouse, parent, brother, sister, child, parent-in-law, brother-in-law or sister-in-law of the foregoing.”

5. None of the non-compliant entities have ever owned an interest in Operator.

Neither Operator nor its officers, directors or stockholders have ever owned interests in the non-compliant entities.

6. K.S.A. 55-155 (c)(4) does not prohibit license renewal by reason of association with a non-compliant operator.

7. K.S.A. 55-155(d) provides alternate means for operator to assure financial responsibility, including subsection (3) thereof which requires that operator have no officer or director that has been or is associated substantially with another operator that has outstanding orders or unpaid fines. Perhaps Staff's Notice of Denial was a determination that Operator did not qualify for the method of assuring financial responsibility afforded by subsection (3). Such associations as have existed between Operator's officers and director and the non-compliant entities have been in form of the provision of fee based professional engineering, legal and business services and do not constitute substantial association within the meaning of K.S.A. 55-155(d)(3).

8. Nevertheless, Operator hereby elects to assure financial responsibility under the provisions of K.S.A. 55-155(d)(1), (2), (4) and (5) by tendering herewith a non-refundable \$50.00 and shows the Commission it has zero (0) wells for which Operator is presently responsible.

9. Operator is a Kansas corporation in good standing and qualified to transact business in the State of Kansas. Operator is entitled by law to the issuance of an oil and gas well operator's license having duly applied, qualified and tendered requisite fees.

10. K.A.R. 82-3-120(e) goes beyond the statutory provisions of K.S.A. 55-155(c) (4) regarding the requisite demonstration of an applicant's compliance to provide that applicant “has no officer or director that has been associated substantially with another operator” not in compliance. As aforesaid, Operator's officers and directors are not, and have not been,

"associated substantially" with the named non-compliant entities. Further, in this aspect, the regulation inconsistent with the act of the legislature, is unreasonable, arbitrary, and likely violates the right of free association arising under the First and Fourteen Amendments of the Constitution of the United States.

11. The Commission should summarily set aside the Notice of Denial and direct Commission Staff to issue Operator's license.

12. Alternatively, Operator requests a hearing upon the merits.

WHEREFORE, Operator prays the Commission set aside Staff's Notice of Denial and direct issuance of Operator's renewal license.

Dated this 26th day of June, 2017.

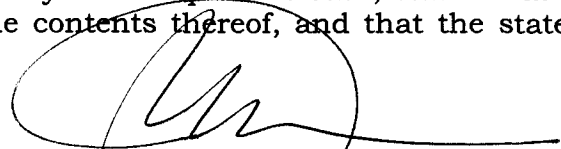


JON R. VIETS #9675
201 N. Penn Ave., Suite 604
P.O. Box 1176
Independence, KS 67301
(620) 331-0144
Attorney for AX&P, Inc.

VERIFICATION

STATE OF KANSAS)
) SS:
MONTGOMERY COUNTY)

The undersigned, after first being duly sworn upon his oath, states that he has read the foregoing Motion 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 26th day of June, 2017.



My Appointment Expires:

9-7-2020

Michelle L. Gustin

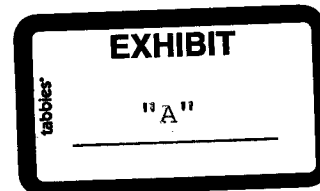
NOTARY PUBLIC

CERTIFICATE OF MAILING

I certify that on 26rd day of June, 2017, I mailed seven (7) copies of the foregoing Motion to Set Aside Summary Denial of License Application and/or for Request for Hearing by depositing the same in the U.S. Mail, postage paid, addressed to the following:

Amy Green
Secretary to the Commission
Kansas Corporation Commission
266 N. Main St., Suite 220
Wichita, KS 67202

JON R. VIETS



NOTICE OF DENIAL
of
LICENSE RENEWAL APPLICATION

June 19, 2017

A X & P, Inc.
Attn: Jon Viets
PO Box 1176
Independence, KS 67301

License #3830

Operator:

Commission Staff is in receipt of your June 5, 2017 license application. Your application is being denied pursuant to K.S.A. 55-155(c)(4) because you appear to be associated with entities that are not in compliance with Commission statutes, regulations, and orders.


Specifically, Staff believes individual(s) associated with Operator are also associated with:

1. Kelt Energy, Inc., KCC License #4469, which has unplugged well(s) on its suspended license and has not complied with the Commission's Default Order in 16-CONS-204-CSHO.
2. Consolidated Gas & Energy Corp., KCC License #31834, which has unplugged well(s) on its suspended license and has not complied with the Commission's Default Order in Docket 16-CONS-433-CSHO.
3. Kelly Oil Company, KCC License #5632, which has unplugged well(s) on its suspended license and has not complied with the Commission's Default Order in Docket 16-CONS-3816-CSHO.

Under K.A.R. 82-3-120(i), this Notice of Denial constitutes a summary order pursuant to K.S.A. 77-537. You may request a hearing on this Notice of Denial by filing a written request for a hearing with the Commission, at 266 N. Main, Suite 220, Wichita, Kansas 67202, within 15 days of service of this Notice.

If no hearing is requested, then this summary order shall become final, effective upon the expiration of the time for requesting a hearing.

Sincerely,



Joshua D. Wright
Litigation Counsel
Kansas Corporation Commission

EXHIBIT

"A"

tabbles

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

Before Commissioners: Pat Apple, Chairman
 Shari Feist Albrecht
 Jay Scott Emler

In the matter of the Notice of Denial of License)	Docket No.: 17-CONS-3701-CMSC
Renewal Application issued to AX&P, Inc.)	
)	CONSERVATION DIVISION
)	
_____)	License No.: 3830

PRE-FILED TESTIMONY

OF

CYNTHIA K. MAINE

1 Q. What is your name and business address?
2 A. Cynthia Maine, 266 North Main Suite 220, Wichita, Kansas 67202.
3 Q. By whom are you employed and in what capacity?
4 A. I'm employed by the Conservation Division of the Kansas Corporation Commission as
5 an administrative assistant in the licensing and legal departments.
6 Q. How long have you been employed by the KCC?
7 A. Since February 2013.
8 Q. Have you previously testified before this Commission?
9 A. Yes.
10 Q. What does your position with the Conservation Division involve?
11 A. My duties include processing and reviewing licensing applications, processing open
12 records requests, and processing legal filings, among other tasks.
13 Q. Are you familiar with this docket, 17-CONS-3701-CMSC?
14 A. Yes.
15 Q. How are you familiar with this docket?
16 A. I have reviewed all filings in this docket.
17 Q. Why was AX&P's license renewal application denied?
18 A. Under K.S.A. 55-155, officers, directors, partners, and members of license applicants must
19 be in good standing with the Commission in order for the applicant to obtain a license.
20 AX&P's license renewal application lists three partners.
21 Jurgen Hanke is president and a partner in AX&P, but Jurgen Hanke, as partner in
22 Consolidated Gas & Energy Corp., License #31834, is not in good standing with the
23 Commission, because Consolidated's license is suspended for non-compliance with
24 Docket 16-CONS-433-CSHO. There are six unplugged wells remaining on that license.
25 Jeff Goodrich is a partner in AX&P, but Jeff Goodrich, as a partner in Kelt Energy, Inc.,
26 License #4469, is not in good standing with the Commission, because Kelt's license is
27 suspended for non-compliance with Docket 16-CONS-204-CSHO. There are 164
28 unplugged wells remaining on that license.
29 Jon R. Viets is a partner in AX&P, but Jon R. Viets, as a partner in Kelly Oil Company,
30 License #5632, is not in good standing with the Commission, because Kelly Oil's license

1 is suspended for non-compliance with Docket 16-CONS-3816-CSHO. There are three
2 unplugged wells remaining on that license.

3 So, under K.S.A. 55-155, AX&P's license application cannot be approved.

4 Q. How do you know Mr. Hanke, Mr. Goodrich, and Mr. Viets are partners in AX&P?

5 A. Because that is what AX&P said in its June 5, 2017, license application.

6 Q. How do you know Mr. Hanke was a partner of Consolidated?

7 A. The Commission's licensing database says that Mr. Hanke was a partner in Consolidated.

8 Q. How do you know Mr. Goodrich was a partner of Kelt Energy?

9 A. The Commission's licensing database says that Mr. Goodrich was a partner in Kelt Energy.

10 Q. How do you know Mr. Viets was a partner in Kelly Oil?

11 A. The Commission's licensing database says that Mr. Viets was a partner in Kelly Oil.

12 Q. How do you know the Commission's licensing database is accurate?

13 A. The database is a repository for all information provided by an operator when submitting
14 a license or license renewal application. So the information in the database is exactly what
15 was provided by the operator itself.

16 Q. How do you know Consolidated's license is suspended for non-compliance with Docket
17 16-CONS-433-CSHO?

18 A. The Default Order says Consolidated's license shall remain suspended until such time as
19 compliance is obtained by Consolidated plugging the wells on its license, reimbursing the
20 Commission for the costs of plugging the subject wells, or transferring the subject wells to
21 a licensed operator. Consolidated has done none of those things in regard to the six
22 unplugged wells remaining on its expired license. So, the license remains suspended in
23 Commission databases.

24 Q. How do you know Kelt's license is suspended for non-compliance with Docket 16-CONS-
25 204-CSHO?

26 A. For the same reason as with Consolidated. The Default Order says Kelt's license shall
27 remain suspended until such time as compliance is obtained by Consolidated plugging the
28 wells on its license, reimbursing the Commission for the costs of plugging the subject
29 wells, or transferring the subject wells to a licensed operator. Kelt has done none of those
30 things in regard to the 164 unplugged wells remaining on its expired license. So, the license
31 remains suspended in Commission databases.

1 Q. How do you know Kelly Oil's license is suspended for non-compliance with Docket 16-
2 CONS-3816-CSHO?

3 A. Same thing. The Default Order says Kelly Oil's license shall remain suspended until such
4 time as compliance is obtained by Kelly Oil plugging the wells on its license, reimbursing
5 the Commission for the costs of plugging the subject wells, or transferring the subject wells
6 to a licensed operator. Kelly Oil has done none of those things in regard to the three
7 unplugged wells remaining on its expired license. So, the license remains suspended in
8 Commission databases.

9 Q. What would AX&P have to do for its license application to satisfy K.S.A. 55-155?

10 A. Mr. Hanke, Mr. Goodrich, and Mr. Viets would either have to divest themselves of all
11 interest in AX&P; or Consolidated, Kelt, and Kelly Oil would have to brought into
12 compliance with the dockets under which their licenses are suspended.

13 Q. How could Consolidated, Kelt, and Kelly Oil bring themselves into compliance with the
14 dockets under which their licenses are suspended?

15 A. As stated in the Commission's default orders in those dockets, the wells remaining on their
16 licenses would have to be plugged or transferred to a current operator's license.

17 Q. And then AX&P's license application could be processed?

18 A. Yes.

19 Q. Does this conclude your testimony as of this date, November 30, 2017?

20 A. Yes.

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

Before Commissioners: Pat Apple, Chairman
 Shari Feist Albrecht
 Jay Scott Emler

In the matter of the Notice of Denial of License)	Docket No.: 17-CONS-3701-CMSC
Renewal Application issued to AX&P, Inc.)	
)	CONSERVATION DIVISION
)	
_____)	License No.: 3830

CERTIFICATE OF SERVICE

I, Paula Murray, certify that on November 30, 2017, I did cause a true and correct copy of the Pre-Filed Testimony of Cynthia K. Maine to be served electronically to the following:

Timothy E. McKee
Amy Fellows Cline
Triplett Woolf Garretson, LLC
2959 N. Rock Road, Suite 300
Wichita, Kansas 67226
temckee@twgfirm.com
amycline@twgfirm.com
Attorneys for AX&P, Inc.

Jonathan R. Myers, Litigation Counsel
KCC Central Office

Michael Duenes, Assistant General Counsel
KCC Topeka Office


Paula Murray
Legal Assistant
Kansas Corporation Commission