

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

In the Matter of the Application of Darrah)	Docket No. 25-CONS-3342-CWLE
Oil Company, L.L.C. for a well location)	
exception for its Drummond #1 well, to be)	CONSERVATION DIVISION
located in the S/2 SE/4 of Section 26,)	
Township 33 South, Range 5 East, Cowley)	License No. 35615
<u>County, Kansas.</u>)	

PRE-FILED DIRECT TESTIMONY OF

MIKE ATTERBURY

DARRAH OIL COMPANY, LLC

1 **Q. Please state your name and business address for the record.**

2 A. Mike Atterbury. I am employed by Darrah Oil Company, LLC (“Darrah Oil”) at 330 N
3 Mead Ste 200, Wichita, Kansas, 67202.

4
5 **Q. What position do you hold at Darrah Oil, and what are your responsibilities?**

6 A. I am the Land Manager for Darrah Oil. My responsibilities include overseeing the Land
7 Department. This includes leasing and negotiating with landowners, whether saltwater
8 disposal agreements, leases or surface usage and ROW agreements. I supervise and am
9 responsible for the preparation of leases, directing and curing title defects from title
10 opinions to prepare locations for drilling and division order, and keeping and maintaining
11 healthy relationships with our landowners. I also coordinate drilling activities through
12 location preparation and directions with vendors and landowners to make sure we are all
13 working together in an advantageous way. I am also in charge of regulatory compliance,
14 including ensuring the company remains compliant with Commission regulations and
15 timely submits filings through the KOLAR system. In that regard, I am familiar with
16 Commission regulations.

17
18 **Q. Please summarize your educational background and work experience?**

19 A. I began my land career in late 2009 at J. Fred Hambright Inc. I was employed there for
20 about 5 years and was responsible for buying leases, running and curing title issues and
21 negotiating with landowners to get the best outcome for all parties. Following my years at
22 Hambright I went out on my own to buy leases and perform seismic permitting to learn a
23 bigger picture of the industry. After a couple years I returned to JFH as an in-office hand
24 to Fred Hambright, the president of the company, helping him manage his field landman
25 and relationships with various operators. It was during this time I met Mr. Darrah and
26 eventually went to work directly for him in the Land Manager role in the summer of 2016,
27 which I’ve held to present.

28
29 **Q. Are you familiar with the Application for Well Location and Allowable**
30 **(“Application”) on file in this docket?**

1 A. Yes, the Application was prepared and filed at my direction as Land Manager of Darrah
2 Oil.

3

4 **Q. In paragraph 3 of the Application, you reference certain rights of Darrah Oil to drill**
5 **the proposed Drummond #1 well. Can you please elaborate on those rights?**

6 A. Yes, but some background will be helpful before I get there. As explained in greater detail
7 in the prefiled testimony of Jarred Leis, Darrah Oil believes there may be untapped oil
8 reserves within Mississippi Chert formation that could be drained by drilling the
9 Drummond #1 as an infill development well between several historically productive and
10 economic wells. The proposed Drummond #1 well would be a lease line location between
11 the Brown #3 well on the Brown Lease to the south, and the Muret #6 well on the Muret
12 Lease to the north.

13 In 2021, Darrah Oil acquired the Brown lease, which covers the NE/4 of Section 35-T33S-
14 R5E, Cowley County, Kansas. The protesters are the mineral owner of those lands, and is
15 the successor-lessor under the Brown lease. That lease was granted in 1975, and has been
16 held by production of paying quantities of oil to this date. Four wells were drilled on the
17 Brown lease in 1976, which have cumulatively produced more than 230,000 barrels of oil.
18 These wells are depicted on Figure 1 and Figure 2 attached to the prefiled testimony of
19 Jarred Leis. The Brown #2 and #4 continue to produce oil to this day. The Brown #1 and
20 #3 are plugged and abandoned.

21 Zenith Drilling operates the Muret Lease, which covers the SW/4 and S/2 SE/4 of Section
22 26-T33S-R5E, Cowley County, Kansas. The S/2 SE/4 of Section 26 are the lands directly
23 to the North of the lands covered by the Brown Lease. The Muret Lease was granted in
24 1972, and has also been held by production of paying quantities of oil since that time. The
25 Muret Lease has cumulatively produced more than 418,000 barrels of oil since 1975. The
26 Muret #5 and #6 wells continue to produce to this day, and are depicted on Figure 1 and
27 Figure 2 attached to the prefiled testimony of Jarred Leis.

28 After the Drummond #1 prospect was identified by Darrah Oil's exploration department, I
29 approached Zenith Drilling about jointly drilling a lease line well between the Brown #3
30 and Muret #6 wells. Zenith Drilling concurred with our evaluation of the Mississippi

1 Chert, and we worked out a deal where Darrah Oil would drill and operate the Drummond
2 #1 well, with both companies and their co-working interest owners participating pursuant
3 to a joint operating agreement.
4

5 **Q. Why is Darrah Oil not drilling the well as a unit location?**

6 A. The Brown Lease and Muret Lease do not contain unitization provisions that would allow
7 the lessee to combine the lands covered by the leases to form a drilling unit so that the
8 Drummond #1 well could be drilled at a "legal location." When I say "legal location," I
9 mean to drill well at a location that is not closer than 330' from any lease or unit boundary
10 line, which is the statewide minimum setback prescribed by K.A.R. 82-3-108.
11

12 **Q. Can you explain what a unitization provision is?**

13 A. Yes. A unitization provision is a fairly standard provision in newer leases. The provision
14 allows the lessee to combine the lands covered by one lease with other leases covering
15 adjoining lands to form a drilling unit for the drilling of a well at a legal location. The lessee
16 can rely on these provisions to unilaterally form a unit, which is done by recording a
17 Declaration of Unit with the Register of Deeds office. Notably, before the leases can be
18 unilaterally combined (unitized) by declaration, the lands to be included in the unit must
19 be subject to a lease that allows for unitization. When a unit is formed and a successful
20 well drilled on the unit, the royalty owners of each lease that is unitized share in royalty on
21 an acreage basis. For example, if each lease provides for a 1/8 royalty, and 5 acres from
22 each lease were contributed to form a 10-acre unit, then each royalty owner would receive
23 1/2 of their 1/8 royalty on oil sold from the well because each lease would have contributed
24 one-half of the acreage needed to form the unit.
25

26 **Q. Did you attempt to work with the lessors of the Brown Lease and Muret Lease to form
27 a drilling unit?**

28 Yes. I had our Land Department contact the lessor-mineral owners of each lease to see if
29 they would agree to amend the lease to include a unitization provision that would allow for
30 the formation of unit so that the Drummond #1 well could be drilled at a legal location.

1 The lessor-mineral owner of the Muret Lease agreed to amend its lease to allow for the
2 formation of a 10-acre drilling unit. The protesters, who are the lessor-mineral owner of
3 the Brown Lease, would not agree to amend the lease on reasonable terms. In fact, we made
4 numerous attempts to explain the situation with the protesters, including phone calls and
5 in person visits. We shared our drilling plans, provided the geologic justification for drilling
6 the well at the proposed location, suggested accommodations to minimize surface impact,
7 and even offered to fix their title issues on our time. Notwithstanding these efforts, the
8 protesters refused to agree to a lease amendment that would allow for unitization.

9 As explained above, both leases had to be amended to include a unitization provision before
10 Darrah Oil could declare a unit so that the Drummond #1 could be drilled at a legal location.
11 Because the protesters would not agree to an amendment, Darrah Oil elected to proceed
12 with seeking a well location exception to allow for the drilling of the Drummond #1 well
13 at the location proposed in the Application.

14
15 **Q. What do you mean by your testimony that the protesters would not agree to**
16 **reasonable terms to amend the Brown Lease to include a unitization provision?**

17 A. The protesters would not agree to amend the 40-year old Brown Lease to include a
18 unitization provision. Rather, the protesters demanded that Darrah Oil release the Brown
19 Lease as to the N/2 NE/4 of Section 35, and then grant a new lease covering that same
20 acreage. The terms proposed for this new lease prohibited Darrah Oil from conducting any
21 drilling operations on the lands covered thereby, only provided for a primary term of 6
22 months, allowed for unitization but would have included a Pugh clause that caused the
23 lease to terminate as to any lands not included in the 10-acre unit after the conclusion of
24 the 6-month term. Effectively, the protesters demanded that Darrah Oil release its
25 longstanding leasehold property rights, in exchange for allowing the protesters to share in
26 royalty from a well drilled on its neighbor's land. The consequence of agreeing to such
27 terms is that Darrah Oil would have effectively been forced to surrender its leasehold rights
28 as to all but the approximate the 3.5 acres that would have been included in the 10-acre
29 unit surrounding the Drummond #1 well.

1 Darrah Oil viewed this demand as inequitable and unreasonable. It would be inequitable
2 to the lessor-mineral owner of the Muret Lease, who would bear all of the burden of the
3 Drummond #1 development well while receiving reduced royalty. It is also unreasonable
4 to demand that Darrah Oil forfeit its decades-old leasehold property rights, which presently
5 allow Darrah Oil to drill anywhere on protester's property and to continue to hold acreage,
6 in exchange for the right to drill a well that could directly benefit protesters.

7 I would also like to point out that there are other operators developing the Mississippi Chert
8 and Lime in the area of the Drummond #1. One such operator has a relationship with
9 protesters, and protesters even granted a top lease over Darrah Oil's Brown Lease, which
10 caused us problems obtaining a clean drilling title opinion.

11 If Darrah Oil had capitulated to the unreasonable demands of protesters and released its
12 leasehold rights, the door would almost immediately have been opened to competing
13 operators to lease protester's acreage. If the Drummond #1 is successful, then our
14 competitors could drill offset wells, and exploit oil reserves that Darrah Oil otherwise
15 would have had rights to.

16 Moreover, if the Drummond #1 proves to be successful, there is a development location
17 near the center of the NE/4 of Section 35 covered by the Brown Lease that could be drilled.
18 If Darrah Oil released the N/2 of the NE/4 of Section 35, it would not be able to drill the
19 development well at a legal location, causing oil reserves to be wasted and Darrah Oil's
20 leasehold property rights to be further violated.

21
22 **Q. Do you believe drilling the well at the proposed location will violate protesters'**
23 **correlative rights?**

24 A. I am not a trained petroleum engineer or geologist, and cannot testify as to the probability
25 that uncompensated drainage would occur if the Drummond #1 were drilled at the proposed
26 location. What I can say is that correlative rights should be viewed a two-way street. The
27 lessor-mineral owner has a right to have his mineral estate developed, and to prevent waste
28 in the process, which is what Darrah Oil is trying to do. The protesters seem to believe that
29 any perceived threat to his correlative rights can be used as an opportunity to negotiate to
30 take away Darrah Oil's property rights free of charge. I do not believe that is an appropriate

1 or equitable way to view correlative rights, nor do I view that as a good faith practice.
2 Darrah Oil proposed a way for the protesters to share in the proceeds from the Drummond
3 #1 well, which would be drilled at Darrah Oil's risk and expense. The protesters have
4 attempted to use that as an opportunity to leverage away Darrah Oil's rights to the direct
5 benefit of protesters, resulting in an uncompensated transfer of rights in favor of protesters.
6

7 **Q. Do you believe that the Application should be granted?**

8 A. Yes. The requirements for a well location exception application are spelled out in K.A.R.
9 82-3-108(c). That regulation states that a well location may be granted to allow for drilling
10 inside the statewide minimum setback if "necessary either to prevent waste or to protect
11 correlative rights." I believe that drilling the Drummond #1 at the proposed location is
12 necessary to prevent waste by developing untapped oil reserves from the Mississippi Chert.
13 I also note that the regulation was crafted to only require the applicant to show the drilling
14 of the well is necessary to (a) prevent waste or (b) protect correlative rights, not both. I
15 think that is an important distinction due to the present situation, where the protesters are
16 using their correlative rights as a tool to try and take away Darrah Oil's lawfully obtained
17 and longstanding property rights.
18

19 **Q. Does the Application otherwise satisfy the requirements of K.A.R. 82-3-108.**

20 A. Yes. The requirements for the Application are set forth in K.A.R. 82-3-108(d)-(f) and have
21 been satisfied. The Application contains an explanation of the exception requested, the
22 proposed location of the well and its distance to the nearest lease line, a list of all offsets
23 entitled to notice, the proposed acreage attributable to the well, a requested allowable, and
24 a draft notice of intent to drill and plat. Additionally, notice has been provided to all offsets
25 and was published in the official county newspaper and the Wichita Eagle. The publisher's
26 affidavits are on file in this docket.
27

28 **Q. Does this conclude your testimony?**

29 A. Yes.

VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

Mike Atterbury, being first duly sworn, deposes and says that he is the Mike Atterbury referred to in the foregoing "PRE-FILED DIRECT TESTIMONY OF MIKE ATTERBURY" to be filed before the State Corporation Commission of the State of Kansas in Docket No. 25-CONS-3342-CWLE, and that the contents thereof are true and correct to the best of his information, knowledge, and belief.



Mike Atterbury

SIGNED AND SWORN to before me on this 2nd day of July, 2025.



Notary Public

My Commission expires: 3-9-2027



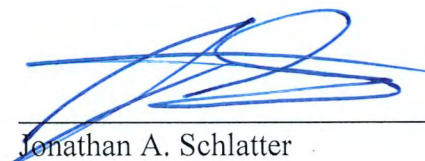
CERTIFICATE OF SERVICE

The undersigned certifies that on this 2nd day of July, 2025, I caused the original of the foregoing **Pre-Filed Direct Testimony of Mike Atterbury** 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 delivered by electronic mail to the following persons:

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

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

Thomas Rhoads, Attorney
Law Office of Thomas R. Rhoads, LC
200 E. 1st Street
Suite 301
Wichita, KS 67202
tmrhoads@sbcglobal.net
Attorney for Protesters



Jonathan A. Schlatter