

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

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

In the Matter of the Application of Town Oil) Docket No.: 15-CONS-241-CUIC
Company, Inc. to commence injection of)
Saltwater into the Squirrel Formation at the) CONSERVATION DIVISION
Savage Lease, Well #1-W, #2-W, #3W, #5W,)
and #6W, located in the NW/4 of Section 5,) License No.: 6142
Township 18 South, Range 21 East, Franklin)
County, Kansas)

MOTION TO DISMISS PROTESTS

Town Oil Company, Inc., (“Applicant”), by and through its counsel, Jeffrey A. Wilson, Anderson & Byrd, LLP, hereby moves the Kansas Corporation Commission (“KCC”) for an order dismissing the protest filed in this docket by Mark and Rebecca Enright, and Terry and Alana Groshong, and granting the application filed herein without holding a hearing in this Docket. In support of its Motion, Applicant states:

1. Applicant believes there are multiple grounds for dismissing the protests, as set forth herein.

The Protests Were Not Timely Filed

2. K.A.R. 82-3-402(a) and K.A.R. 82-3-135a(d) require that notice of the application be filed “in at least one issue of the official county newspaper of each county in which the lands affected by the application are located.”
3. The land affected by the application is entirely within Franklin County.
4. Applicant gave notice as required by K.A.R. 82-3-402 by mailing notice to those persons listed in K.A.R. 82-3-135a(c) and publishing a notice in the *Ottawa Herald*, the official county newspaper of Franklin County, Kansas. The notice was published on August 14,

2014 as evidenced by proof of publication included with the filed application. It is important to note that while Applicant erroneously stated in its application that the requested pressure was 100psig, an error since corrected through an amendment, the published notice stated the correct requested pressure of 400 psig and therefore was proper publication notice, notwithstanding some irregularity in the application.

5. Neither K.A.R. 82-3-402 nor K.A.R. 82-3-135a requires the notice to be published in an additional location. Noticeably, K.A.R. 82-3-135a(d) mandates that applications relating to production matters also be published in the *Wichita Eagle* newspaper. In contrast, applications relating to environmental matters, such as this one, do not require notice publication in the *Wichita Eagle* newspaper. K.A.R. 82-3-135a(d).
6. K.A.R. 82-3-135b(c)(1)(B) provides that the protestants had 30 days to file their protests, in writing, beginning when the notice was published in the official county newspaper.
7. The 30 day time limit is not affected by the mailing of notices required in K.A.R. 82-3-135a(c). K.A.R. 82-3-135b(c)(1)(B) (“The protest shall be filed with the conservation division according to the following deadlines: ... (B) for each protest of environmental matters, within 30 days after *publication of the notice of the application*”) (emphasis added).
8. Therefore, the protestants had 30 days to file a protest, in writing, beginning when the notice was published in the *Ottawa Herald* on August 14, 2014. K.A.R. 82-3-402(c); K.A.R. 82-3-135a(e).
9. Consequently, the 30 day time limit ran out on September 13, 2014, which equates to September 15, 2014, the next day in which the KCC offices were open following the expiration of the time deadline.

10. Protestants Mark and Rebecca Enright filed their protest on September 19, 2014, which was beyond the 30 day time limit imposed by K.A.R. 82-3-402(c) and K.A.R. 82-3-135b(c)(1)(B).
11. Protestants Terry and Alana Groshong filed their protest on September 26, 2014, which was beyond the 30 day time limit imposed by K.A.R. 82-3-402(c) and K.A.R. 82-3-135b(c)(1)(B).
12. Therefore, none of the protestants filed a timely protest as required by the rules, regulations, and laws affecting this proceeding.
13. K.A.R. 82-3-135b(c)(2) provides that “failure to file a timely protest *shall* preclude the interested person from appearing as a protester” (emphasis added).
14. Therefore, the protests filed in this docket should be dismissed and the Applicant’s application, to the extent it is in compliance with applicable law, should be granted without a hearing.

The Protests Are Moot

15. In addition to the protests being untimely filed, the issues raised in the letters of protest are moot, inapplicable to this application, and not in compliance with KCC regulations.
16. Protestants Mark and Rebecca Enright, in their letter of protest, raised one concern: that there are multiple abandoned wells on their property that need to be plugged before the permit requested in this proceeding may be granted. There are no other alleged grounds for protesting this application.
17. In conversations with KCC Conservation division staff, it was discovered that the wells alleged to be abandoned and unplugged have been plugged as of the submission of this motion.

18. Therefore, the only concern raised by the protestants Mark and Rebecca Enright is now moot, and their protest should be dismissed.
19. Protestants Terry and Alana Groshong raised two concerns in their letter of protest: (1) that the granting of the permit will drain the oil and gas from underneath their tract, and (2) that increasing the injection pressure will lead to environmental harm.
20. Applicant is not currently operating injection wells on the subject land nor is it requesting increased injection pressure, so the second point raised by the Groshongs is not applicable to this application.
21. Furthermore, the Groshong tract is located more than ½ miles from the land where Applicant seeks to operate the injection wells.
22. There are more than 20 producing oil wells and 8 enhanced recovery injection wells separating the Savage lease from the Groshong tract, which can be seen on the map attached to this motion as exhibit A.
23. K.A.R. 82-3-135b requires protesters to state “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.”
24. The Groshongs have not indicated that the grant of this application will pollute groundwater, or cause waste in any way.
25. The Groshongs did mention that increased injection pressure may cause pollution, but those concerns, as discussed above, are not applicable here as the Applicant is not requesting increased injection pressure.

26. The Groshongs passing mention of possible drainage does not approach “specific allegations as to the manner in which these injection wells will violate their correlative rights.” Therefore, the Groshongs have not complied with K.A.R. 82-3-135b.
27. Therefore, the Groshong protest should be dismissed as the concerns raised in their letter are either inapplicable to Applicant, or fail to meet the requirements of the regulations duly promulgated by the KCC.

WHEREFORE, Applicant prays for an order dismissing the protests filed herein as untimely filed and, in any event, as raising issues that are moot, inapplicable, or too vague to comply with K.A.R. 82-3-135b, and the granting of the application filed herein without a hearing upon said application.



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VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF FRANKLIN)

Jeffrey A. Wilson, of lawful age, being first duly sworn, upon oath states:


That he is an attorney for Town Oil Company, Inc., the applicant herein, that he has read the above and foregoing Motion to Dismiss, knows the contents thereof, knows that all the statements made therein are true, and is authorized to make this Motion to Dismiss for the applicant.



Jeffrey A. Wilson, #26527

Subscribed and sworn to before me this 18th day of November, 2014.





Notary Public

My appointment expires:

CERTIFICATE OF SERVICE

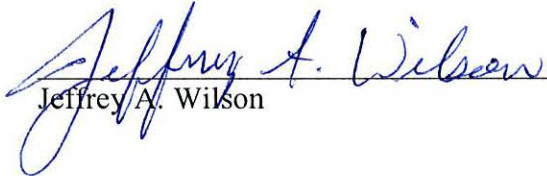
On this 19th day of November, 2014, the undersigned certifies that he served a copy of the foregoing via first class mail, postage prepaid, as follows:

Alan Snider
Tony Vail
KCC UIC Department
266 N. Main St., Suite 220
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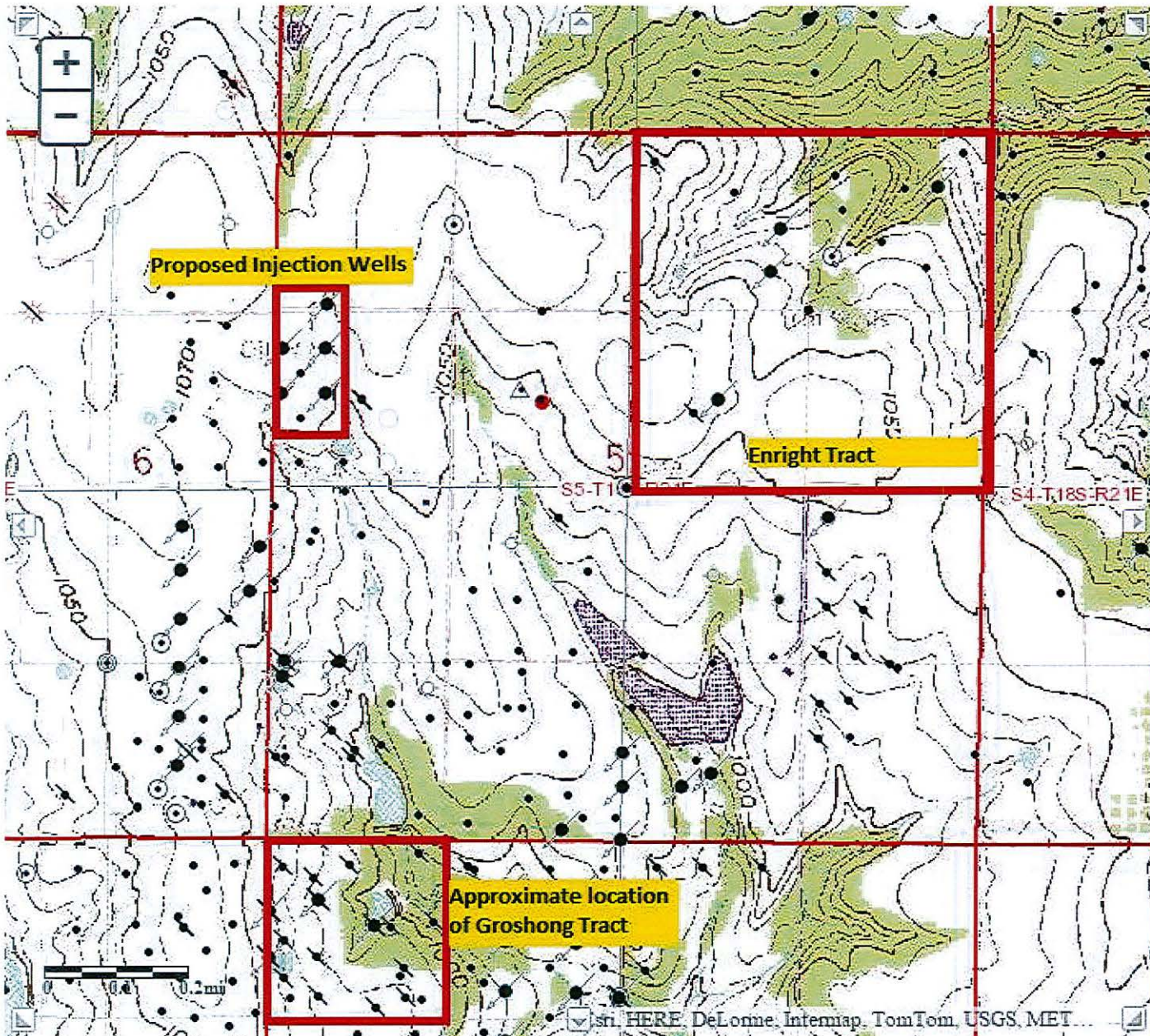
Terry and Alana Groshong
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Jeffrey A. Wilson



Layers Info Legend Links

Wells

- Coal Bed Methane
- Coal Bed Methane - Plugged and Abandoned
- ◇ Dry and Abandoned
- Enhanced Oil Recovery
- ✕ Enhanced Oil Recovery - Plugged/Abandoned
- ⊙ Gas
- ✕ Gas - Plugged and Abandoned
- Injection
- ✕ Injection - Plugged and Abandoned
- Intent
- Location
- ★ Oil and Gas
- ★ Oil and Gas - Plugged and Abandoned
- Oil
- ✕ Oil - Plugged and Abandoned
- Other
- ✕ Other - Plugged and Abandoned
- △ Salt Water Disposal
- ✕ Salt Water Disposal - Plugged and Abandoned
- WWC5 Water Well
- WWC5 Water Well - Plugged

Wells Spudded in Last 90 Days (reported)

■

Proposed Injection Wells

Enright Tract

Approximate location of Groshong Tract

