

Conservation Division
266 N. Main St., Ste. 220
Wichita, KS 67202-1513



Phone: 316-337-6200
Fax: 316-337-6211
<http://kcc.ks.gov/>

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

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Sam Brownback, Governor

NOV 02 2017

CITY MANAGER'S OFFICE
LAWRENCE, KS

October 30, 2017

Tom Markus
Lawrence City Manager
PO Box 708
Lawrence, Kansas 66044-0708

Craig Weinaug
Douglas County Administrator
1100 Massachusetts Street
Lawrence, KS 66044

Re: Midstates Energy Operating's injection applications for the Hadl and Thrasher Leases

Mr. Markus and Mr. Weinaug,

Thank you for your October 19, 2017, letter regarding the referenced applications. The Conservation Division of the Kansas Corporation Commission is statutorily charged with protecting usable water, protecting correlative rights, and preventing waste. We appreciate and welcome your concern over this important matter. We hope you find the following information helpful and that it provides some clarity to our process.

Per K.A.R. 82-3-135a(e), the length of the protest period for any Class II Underground Injection Control (UIC) permit is 30 days from the date of publication, not 15 days. The KCC has notified the operator it must republish notice on the above-referenced wells. The 30-day protest period will begin once the new notice is published.

Under K.A.R. 82-3-135a(c), operators are also required to notify specific parties of the application. These include unleased mineral owners and operators of leased minerals within a ½ mile radius of the well and the landowner where the well is located.

Kansas law addresses the burden of proving no harm. The operator is required to demonstrate and staff is required to verify the wellbore is constructed in accordance with the rules and regulations. The Conservation Division's regulations allow any interested party to protest any application in which they have a valid interest.

The applications referenced above have been formally protested and docketed. It will be processed in accordance with the Kansas Administrative Procedures Act K.S.A 77-501 *et. seq.* The docket number for the Hadl application is 18-CONS-3195-CUIC and the docket number for the Thrasher application is 18-CONS-3196-CUIC. Both can be viewed on the Commission's website and will contain the specific well applications and related documents. Please note it would be inappropriate to provide specific documentation as to what data our Staff has reviewed or contemplated as it has or is being done in preparation for hearing. The KCC website has a frequently asked questions section that may help in providing additional information

<http://kcc.ks.gov/oil-gas> and the Kansas Geological Survey website is another valuable source of information <http://www.kgs.ku.edu/PRS/petroDB.html> .

The Commission's response to induced seismicity can be accessed from the KCC website. There is a specific section of the website dedicated to induced seismicity <http://kcc.ks.gov/oil-gas/induced-seismicity>. For more information on what is known regarding induced seismicity and deep formation saltwater disposal in Kansas please see Kansas Geologic Survey Public Information Circular 36. You can access a digital copy at <http://www.kgs.ku.edu/Publications/PIC/pic36.html> .

The protest period for this matter is established by regulation and Staff does not have the authority to extend a protest period for any amount of time. We have noted your letters as an indication of your intent to protest the applications. Please see the attached letter regarding how to request a hearing to participate as a party in this matter.

Please do not hesitate to call if you have any further questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan A. Hoffman", with a stylized flourish at the end.

Ryan A. Hoffman, Director, Conservation Division
Kansas Corporation Commission

Encl.

82-3-135. NOTICE OF HEARINGS.

- (a) Scope. The notice requirements in this regulation apply to each hearing arising under any rule or regulation or statutory provision for the conservation of crude oil and natural gas or for the protection of fresh and usable water, heard by the commission or any agent appointed by the commission.
- (b) Hearings initiated by the attorney general or the commission.
 - (1) Notice of the hearing shall be published by the commission in the Wichita Eagle newspaper and in the Kansas Register. Notice of the hearing shall also be published in the official county newspaper of each county in which the lands affected by the hearing are located. If that county does not have an official county newspaper, notice may be published in any newspaper satisfying the requirements of K.S.A. 64-101 in a county in which the lands affected by the hearing are located.
 - (2) A copy of the notice of the hearing shall be mailed by the commission to each person who has filed for the purpose of receiving notice. The notice shall be mailed not less than 10 days prior to the hearing date.
 - (3) Any additional notice required by any rule, regulation or statute which applies to the hearing or which is necessary to provide due process to any person whose property may be affected by the hearing shall be provided by the commission.
- (c) Hearings initiated by any person other than the attorney general or commission.
 - (1) Anyone who initiates a hearing shall publish notice of the hearing in the Wichita Eagle newspaper and in the official county newspaper of each county in which the lands affected by the hearing are located. Anyone who initiates a hearing may publish notice in any newspaper satisfying the requirements of K.S.A. 64-101 in a county in which the lands affected by the hearing are located, if that county does not have an official newspaper.
 - (2) A copy of the notice of the hearing shall be mailed by the commission to each person who has filed for the purpose of receiving notice. The copy of the notice shall be mailed not less than 10 days prior to the hearing date.
 - (3) Anyone who initiates a hearing shall provide any additional notice required by any rule, regulation or statute which applies to the hearing or is necessary to provide due process to any person whose property may be affected by the hearing.
- (d) Proof of notice. If the commission is required to publish notice, it shall be proven by commission staff that notice has been properly published. Acceptable proof of notice may include an affidavit sworn by the commission staff that notice has been perfected. Anyone who initiates the hearing shall provide that notice has been properly published. An affidavit sworn by the person who initiates the hearing certifying that notice has been perfected may be accepted as proof of notice. The affidavit shall be filed with the commission on or before the hearing date.
- (e) Filing for the purpose of receiving notice. Anyone who desires to receive notice of any hearings shall file annually with the conservation division that person's name, address and other information as may be reasonably required by the commission. The filing shall be on a form required by the commission and shall be accompanied by an annual \$50 fee.

(Authorized by K.S.A. 1989 Supp. 55-152, 55-604, K.S.A. 55-602, 55-704; implementing K.S.A. 1989 Supp. 55-605, 55-706, effective, T-85-51, Dec. 19, 1984; effective May 1, 1985; amended May 1, 1986; amended May 1, 1988; amended April 23, 1990.)

82-3-135a. NOTICE OF APPLICATION.

- (a) Scope. Except as otherwise provided in K.A.R. 82-3-100, 82-3-108, 82-3-109, 82-3-138, 82-3-203, 82-3-208, 82-3-209, 82-3-300, and 82-3-300a, the notice requirements in this regulation shall apply to each application for an order or permit filed pursuant to any regulation, special order, or statutory provision for the conservation of crude oil and natural gas or for the protection of fresh and usable water.
- (b) Production matters. Except as otherwise provided in K.A.R. 82-3-100, 82-3-108, 82-3-109, 82-3-138, 82-3-203, 82-3-208, 82-3-209, 82-3-300, and 82-3-300a, each applicant for an order filed pursuant to K.A.R. 82-3-100 through K.A.R. 82-3-314 shall give notice of the application on or before the date the application is filed with the conservation division by mailing or delivering a copy of the application to the following:
 - (1) Each operator or lessee of record within a one-half mile radius of the well or of the subject acreage; and
 - (2) each owner of record of the minerals in unleased acreage within a one-half mile radius of the well or of the subject acreage.
- (c) Environmental matters. Each applicant for an order or permit filed pursuant to K.A.R. 82-3-400 through 82-3-412 and K.A.R. 82-3-600 through 82-3-607 shall give notice of the application on or before the date the application is filed with the conservation division by mailing or delivering a copy of the application to the following:
 - (1) Each operator or lessee of record within a one-half mile radius of the well or of the subject acreage;
 - (2) each owner of record of the minerals in unleased acreage within a one-half mile radius of the well or of the subject acreage; and
 - (3) the landowner on whose land the well affected by the application is located.
- (d) Publication of notice. Notice of the application shall be published in at least one issue of the official county newspaper of each county in which the lands affected by the application are located. In addition, notice of applications relating to production matters shall also be published in at least one issue of the Wichita Eagle newspaper.
- (e) Protest. Once notice of the application is published pursuant to subsection (d), the application shall be held in abeyance for 15 days for production matters and 30 days for environmental matters, pending the filing of any protest pursuant to K.A.R. 82-3-135b. If a valid protest is filed or if the commission, on its own motion, deems that there should be a hearing on the application, a hearing shall be held. The applicant shall publish notice of the hearing pursuant to K.A.R. 82-3-135.

(Authorized by K.S.A. 2012 Supp. 55-152, K.S.A. 55-704, K.S.A. 2012 Supp. 55-901; implementing K.S.A. 55-605, K.S.A. 2012 Supp. 55-901, K.S.A. 55-1003; effective April 23, 1990; amended Oct. 24, 2008; amended Aug. 16, 2013.)

82-3-135b. PROTESTERS.

Each protest against the granting of an application for an order or permit filed pursuant to K.A.R. 82-3-135a shall be considered under the following conditions and requirements:

- (a) A protest may be filed by any person having a valid interest in the application. Each protest shall be submitted in writing and shall provide the name and address of the protester and the

title and docket number of the proceeding. The protest shall include a clear and concise statement of the direct and substantial interest of the protester 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.

- (b) If the protester opposes only a portion of the proposed application, the protester shall state with specificity the objectionable portion.
- (c) (1) The protest shall be filed with the conservation division according to the following deadlines:
 - (A) For each protest of production matters, within 15 days after publication of the notice of the application required in K.A.R. 82-3-135a; and
 - (B) for each protest of environmental matters, within 30 days after publication of the notice of the application required in K.A.R. 82-3-135a.
- (2) Failure to file a timely protest shall preclude the interested person from appearing as a protester.
- (d) Each protester shall serve the protest upon the applicant at the same time or before the protester files the protest with the conservation division. The protest shall not be served on the applicant by the conservation division.
- (e) To secure consideration of a protest, the protester shall offer evidence or a statement or participate in the hearing.

(Authorized by K.S.A. 55-152, 55-704, and 55-901; implementing K.S.A. 55-605, 55-901, 55-1003; effective April 23, 1990; amended Oct. 24, 2008.)

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Pat Apple, Chairman
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October 27, 2017

Tom Markus
Lawrence City Manager
PO Box 708
Lawrence, Kansas 66044-0708

Craig Weinaug
Douglas County Administrator
1100 Massachusetts Street
Lawrence, KS 66044

RE: Applications for Injection Authority
Docket 18-CONS-3195-CUIC: Hadle Lease
Docket 18-CONS-3196-CUIC: Thrasher Lease
Hadl Lease

Mr. Markus and Mr. Weinaug:

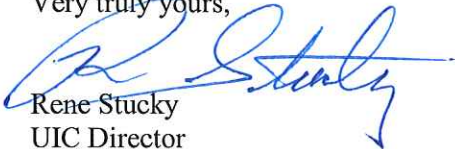
This letter acknowledges receipt of your protest/objection to the above-referenced applications.

Please advise me within ten (10) days of receiving this letter if you feel a hearing should be scheduled in these matters. If a hearing is scheduled, you will be expected to participate in the hearing either in person or through legal counsel. Should you decide that you will not participate in a hearing, none will be scheduled and the application will be handled administratively and your protest will be noted. The U.S. Environmental Protection Agency (EPA) requires a hearing be held where significant interest is demonstrated. Failure to participate in the hearing process after filing a protest or objection indicates a lack of significant interest and no useful purpose would be served by holding a hearing if you, as opposing party, are not there to present testimony or cross-examine applicant's witnesses. If you are going to appear, you will receive a Notice of Hearing and should carefully comply with that Notice, including the requirement of pre-filed testimony. Any person requiring special accommodations under The Americans With Disabilities Act needs to give notice to the Commission at least ten (10) days prior to the scheduled hearing date. If you have questions regarding the hearing process, please contact Jon Meyers (316-337-6200) of our legal staff.

Commission staff has the duty to represent the public in general in recommending approval or denial of applications for injection or disposal well authority. One of the Commission's primary concerns is the protection of our groundwater and environment. If no hearing is held on this application, your objection will be taken into consideration by our staff in making a recommendation on this application. All of our staff geologists and technicians have qualified as expert witnesses and are sensitive to the concerns expressed by you and the citizens of our State.

Enclosed is a copy of the Conservation Division regulations regarding applications, hearings, and protestants. If you have any other questions, please do not hesitate to contact me.

Very truly yours,



Rene Stucky
UIC Director

cc: District Office # 3
Legal
File

Encl.