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September 5, 2017

Kansas Corporation Commission,  
Conservation Division  
266 N Main Street, Suite 220  
Wichita, KS 67202-1513

**Re: Request for Hearing – 18-CONS-3057-CPEN, Benjamin M. Giles, License No. 5446,  
In re: Compliance with K.A.R. 82-3-111 at the Paulsen #1**

To whom it may concern:

We respectfully request a hearing in the above-captioned docket on behalf of Benjamin M. Giles (“Operator”). For the reasons set forth below, we believe the penalty order was issued under circumstances that are unreasonable, arbitrary, and capricious towards Operator, and that imposing the subject penalty order and associated fines will result in waste and violate the correlative rights of Operator and the other interest owners of the Paulsen lease.

The Paulsen #1 well (“Subject Well”) is located in the SW/4 of Section 2-T26S-R4E, Butler County, Kansas, on a valid oil and gas lease known as the Paulsen lease.

Operator *first* filed a temporary abandonment (“TA”) application for the Subject Well in April of 2017. It appears that the TA application was denied on April 13, 2017, because the fluid level test was not current enough for Staff.

On April 25, 2017, Operator conducted a fluid level test on the Subject Well by wireline. Operator then filed a *second* TA application for the Subject Well. Staff denied Operator’s second TA application on May 3, 2017, purportedly because the fluid level test was not witnessed.

On May 31, 2017, Operator conducted a second fluid level test on the Subject Well, this one by echometer. Staff indicated it would accept the echometer tape in lieu of witnessing the fluid level test. Notably, the echometer test was conducted inside the tubing of the Subject Well, not in the annulus between the tubing and production casing. Operator then filed a *third* TA application for the Subject Well and attached the echometer tape. Staff denied Operator’s third

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TA application on June 13, 2017, because “fluid level tape indicates possible casing leak.” Staff is now apparently requiring the Subject Well pass a mechanical integrity test. It was not known whether Staff would grant Operator’s *fourth* TA application if the Subject Well passes a mechanical integrity test, or if Staff would continue to impose new testing requirements.

Without further notice to Operator, on July 21, 2017, Staff recommended a penalty order be entered against Operator for failing to “obtain” TA status for the Subject Well. Staff’s position seems to be that it holds all the keys as to whether a well may “obtain” TA status, regardless of the requirements of its own regulations. On August 1, 2017, the above-referenced penalty order was issued against Operator.

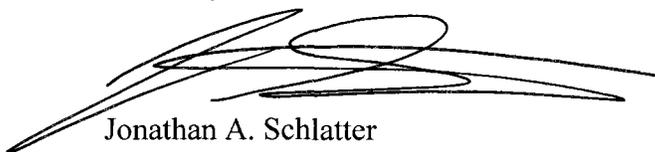
Staff’s basis for denying the *third* TA application is unfounded. The tape from an echometer test cannot be interpreted to show casing leaks. Regardless, the echometer test at issue was taken inside the tubing of the well, therefore, even if the tape from an echometer test could be interpreted to show casing leaks, the one at issue would not.

Staff’s conduct in this matter is unreasonable, arbitrary and capricious towards Operator. By constantly changing what is required to “obtain” TA status at the Subject Well, which requirements are not consistent with its own regulations, Staff has prevented Operator from bringing the Subject Well into compliance. It is not fair to penalize and fine Operator under those circumstances, and that type of enforcement conduct should be condoned by the Commission.

Operator desires to bring the Subject Well back into production. Allowing Operator to bring the Subject Well back into production prevents waste of the oil and gas resources of the State and protects the correlative rights of the interest owners of the Paulsen lease. Economic waste has already resulted from requiring Operator to conduct multiple fluid level tests at the Subject Well. Substantial additional economic waste will result if Staff is permitted to require Operator to conduct a needless mechanical integrity test at the Subject Well.

For the foregoing reasons, Operator respectfully requests that the penalty order in this docket be rescinded, or that this matter be set for hearing.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan A. Schlatter', with a long horizontal flourish extending to the left.

Jonathan A. Schlatter  
For the Firm

*Attorneys for Benjamin M. Giles*

JAS/cda

cc: Joshua D. Wright, KCC Litigation Counsel