

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



Phone: 316-337-6200  
Fax: 346-337-6211  
<http://kcc.ks.gov/>

Dwight D. Keen, Chair  
Shari Feist Albrecht, Commissioner  
Susan K. Duffy, Commissioner

Laura Kelly, Governor

**NOTICE OF PENALTY ASSESSMENT**  
**20-CONS-3147-CPEN**

November 21, 2019

Pamela K. Smith  
M & S Energy, LLC  
403 Village Rd.  
El Dorado, KS 67042-3042

This is a notice of a penalty assessment for violation(s) of Kansas Oil and Gas Conservation Statutes, Rules, and Regulations. For a full description of the penalty and process please refer to the Penalty Order that is attached to this notice.

**IF YOU ACCEPT THE PENALTY:**

You have been assessed a \$1,000 penalty. You have 30 days from the service date of this Penalty Order to pay the fine amount. Check or money order must be made payable to the Kansas Corporation Commission and mailed to the Conservation Division of the Kansas Corporation Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202. The payment must include a reference to the docket number of this proceeding. Payment by credit card may be made by calling the Conservation Division at 316-337-6200.

**IF YOU CONTEST THE PENALTY:**

You have the right to request a hearing. A written request for hearing must be made within 30 days after service of the Penalty Order setting forth the specific grounds upon which relief is sought. Respondent must submit the request to the Commission, at 266 N. Main St., Suite 220, Wichita, Kansas 67202. The Commission shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act within 30 days after receipt of such request. K.S.A. 55-164; K.S.A. 77-542; K.A.R. 82-1-215.

**IF YOU FAIL TO ACT:**

Failure to pay the fine amount, or in the alternative, provide a written request for a hearing, within thirty (30) days of service of the Penalty Order, will result in the attached Penalty Order becoming a Final Order and may result in additional sanctions, including additional monetary penalties, the suspension of your oil and gas operating license, and the shutting-in of all operations until compliance is obtained. K.S.A. 55-164; K.S.A. 77-537.

Respectfully,

Michael Glamann  
Litigation Counsel  
316-337-6200

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

Before Commissioners:

Dwight D. Keen, Chair  
Shari Feist Albrecht  
Susan K. Duffy

In the matter of the failure of M & S Energy, LLC (“Operator”) to comply with K.A.R. 82-3-407 at the Spencer #4A in Greenwood County, Kansas.	)	Docket No.: 20-CONS-3147-CPEN
	)	
	)	CONSERVATION DIVISION
	)	
	)	License No.: 35431

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**PENALTY ORDER**

The above captioned matter comes before the State Corporation Commission of the State of Kansas. Having examined the files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

**I. JURISDICTION**

1. The Commission has the exclusive jurisdiction and authority to regulate oil and gas activities in Kansas.<sup>1</sup> The Commission has jurisdiction to regulate the “construction, operation, and abandonment of any well and the protection of the usable water of this state from any actual or potential pollution from any well.”<sup>2</sup> Every operator conducting oil and gas activity in Kansas must be licensed by the Commission.<sup>3</sup>

2. The Commission has the authority to issue a Penalty Order for violation of any provision of K.S.A. 55-101 *et seq.*, rule, regulation, or order of the Commission.<sup>4</sup> The Commission shall take appropriate action which may include, but not be limited to, imposing a monetary penalty “not to exceed \$10,000, which shall constitute an actual and substantial

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<sup>1</sup> K.S.A. 74-623.

<sup>2</sup> K.S.A. 55-152.

<sup>3</sup> K.S.A. 55-155.

<sup>4</sup> K.S.A. 55-162; K.S.A. 55-164.

economic deterrent to the violation for which the penalty is assessed.”<sup>5</sup> “In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.”<sup>6</sup>

3. Each injection well shall be completed, equipped, operated, and maintained in a manner that will prevent pollution of fresh and usable water, prevent damage to sources of oil or gas, and confine fluids to the intervals approved for injection. An injection well shall be considered to have mechanical integrity if there are no significant leaks in the tubing, casing, or packer, and no fluid movement into fresh or usable water. An injection well’s mechanical integrity shall be established at least once every five years.<sup>7</sup>

4. The operator of any well failing to demonstrate mechanical integrity shall have no more than 90 days from the date of initial failure to repair and retest the well to demonstrate mechanical integrity, plug the well, or isolate any leaks to demonstrate the well will not pose a threat to fresh or usable water or endanger correlative rights.<sup>8</sup>

5. Mechanical failures or other conditions indicating that a well may not be directing injected fluid into the permitted or authorized zone shall be cause to shut in a well, and the operator shall orally notify the Conservation Division of any failures or conditions within 24 hours of knowledge. The operator shall submit written notice of a well failure within five days, with a plan for testing and repairing the well.<sup>9</sup>

6. No injection well shall be operated before passing a mechanical integrity test (“MIT”). Failure to test a well to show mechanical integrity shall be punishable by a \$1,000 penalty, and the well shall be shut-in until the test is passed.<sup>10</sup>

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<sup>5</sup> K.S.A. 55-164.

<sup>6</sup> *Id.*

<sup>7</sup> K.A.R. 82-3-407(a).

<sup>8</sup> K.A.R. 82-3-407(c).

<sup>9</sup> K.A.R. 82-3-407(d).

<sup>10</sup> K.A.R. 82-3-407(g).

## **II. FINDINGS OF FACT**

7. Operator conducts oil and gas activities in Kansas under license number 35431.

8. Operator is responsible for the care and control of the Spencer #4A (“the subject well”) API #15-073-30006-00-00, authorized for injection pursuant to Underground Injection Control Permit #E-13198, and located in Section 18, Township 25 South, Range 9 East, Greenwood County, Kansas.

9. The Commission has no evidence that the subject well has been subjected to a current and successful MIT as required by K.A.R. 82-3-407. Staff witnessed no such test and Operator did not inform Staff that such a test had been conducted.

10. On October 14, 2019, Commission Staff sent a letter to Operator, requiring Operator to bring the subject well into compliance with K.A.R. 82-3-407 by October 28, 2019.<sup>11</sup>

11. To date, Operator has not conducted a current and successful MIT at the subject well in accordance with Commission regulations.

## **III. CONCLUSIONS OF LAW**

12. The Commission concludes that it has jurisdiction over Operator and this matter under K.S.A. 55-152 and K.S.A. 74-623.

13. The Commission concludes Operator committed one violation of K.A.R. 82-3-407 because a current and successful MIT has not been performed on the subject well.

### **THEREFORE, THE COMMISSION ORDERS:**

- A. Operator shall pay a \$1,000 penalty.
- B. Operator shall perform a successful MIT on the subject well or plug the well.
- C. Operator shall shut-in and disconnect the subject well until such time as a successful MIT has been performed or the well has been plugged.

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<sup>11</sup> Exhibit A.

D. If no party requests a hearing, and Operator is not in compliance with this Order within 30 days, then Operator's license shall be suspended without further notice. The notice and opportunity for a hearing on this order shall constitute the notice required by K.S.A. 77-512 regarding license suspension. The Commission may impose further sanctions, including additional monetary penalties and any other remedies available to the Commission by law, without further notice.

E. Checks and money orders shall be payable to the Kansas Corporation Commission. For credit card payments, include the type of card (Visa, MasterCard, Discover, or American Express), account number, and expiration date. Payments shall be mailed to the Kansas Corporation Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202. The payment must include a reference to the docket number of this proceeding.

F. Any party may request a hearing on the above issues by submitting a written request, pursuant to K.S.A. 55-164, K.S.A. 77-537, and K.S.A. 77-542, setting forth the specific grounds upon which relief is sought, to the Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202, within 30 days from the date of service of this Order. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of the Operator's right to a hearing.

G. A corporation shall appear before the Commission by a Kansas licensed attorney.<sup>12</sup>

H. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.


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<sup>12</sup> K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

**BY THE COMMISSION IT IS SO ORDERED.**

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 11/21/2019



Lynn M. Retz  
Executive Director

Mailed Date: 11/21/2019

JMG



Dwight D. Keen, Chair  
Shari Feist Albrecht, Commissioner  
Susan K. Duffy, Commissioner

Corporation Commission

Laura Kelly, Governor

**NOTICE OF VIOLATION**  
**MECHANICAL INTEGRITY TEST (MIT)**

LICENSE 35431  
M & S ENERGY, LLC  
403 VILLAGE RD  
EL DORADO KS 67042-3042

October 14, 2019

**Re: Past Due Mechanical Integrity Test**

Operator:

Commission records indicate that a current Mechanical Integrity Test (MIT) has not been conducted for the wells listed on the next page.

It is a violation of K.A.R. 82-3-407 for an operator to fail to conduct a timely MIT.

**Failure to conduct an MIT on the well(s)  
by October 28, 2019  
shall be punishable by a \$1,000 per well penalty.**

- The date of the MIT must be mutually agreed upon with Commission staff.
- Please contact the Commission district staff at least 2 days prior to your proposed testing date.
- A representative of the operator must be on site during the MIT.
- The well must be shut-in and disconnected until it complies with K.A.R. 82-3-407(c) of the General Rules and Regulations for the State of Kansas.

**You will be penalized if you do not contact District staff by October 28, 2019.**

If you received a letter with a later deadline because this well failed an MIT, disregard this letter.

Sincerely,

  
LARRY MARCHANT  
KCC District # 3

October 14, 2019

**List of Wells: PAST Due for a Mechanical Integrity Test**

DOCKET	API Well #	Lease Name / Well #	Well Location	County	MIT Expiration
E13198.4	15-073-30006-00-00	SPENCER 4 A	18-25S-9E, NESESW	GREENWOOD	10/6/2019



## **CERTIFICATE OF SERVICE**

20-CONS-3147-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 11/21/2019.

JOHN ALMOND  
KANSAS CORPORATION COMMISSION  
DISTRICT OFFICE NO. 3  
137 E. 21ST STREET  
CHANUTE, KS 66720  
Fax: 785-271-3354  
j.almond@kcc.ks.gov

PAMELA K. SMITH  
M & S ENERGY, LLC  
403 VILLAGE RD  
EL DORADO, KS 67042-3042

MICHAEL GLAMANN, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
CENTRAL OFFICE  
266 N. MAIN ST, STE 220  
WICHITA, KS 67202-1513  
Fax: 785-271-3354  
m.glamann@kcc.ks.gov

RENE STUCKY  
KANSAS CORPORATION COMMISSION  
266 N. Main St., Ste. 220  
WICHITA, KS 67202-1513  
Fax: 785-271-3354  
r.stucky@kcc.ks.gov

/S/ DeeAnn Shupe  
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DeeAnn Shupe