

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



Phone: 316-337-6200
Fax: 316-337-6211
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Jay Scott Emler, Chairman
Shari Feist Albrecht, Commissioner
Pat Apple, Commissioner

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

17-CONS-3406-CPEN

This is a notice of a penalty assessment for violation 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:

The Penalty Order may include the assessment of a monetary penalty. You have 30 days from the service date of this Penalty Order to pay \$12,500. Check or money order must be made payable to the Kansas Corporation Commission. Payment is to be mailed to the Conservation Division of the Kansas Corporation Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202, and must include a reference to the docket number of this proceeding. Credit card payment may be made by calling the Conservation Division at 316-337-6200.

The Penalty Order may require you to perform certain actions by deadlines stated therein. Compliance must be obtained by the applicable deadlines to avoid further compliance actions. If you have any questions about how compliance can be obtained, you may contact the legal department or the appropriate department or district office.

IF YOU CONTEST THE PENALTY:

You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Respondent must submit an original and seven copies of the request to the Commission, at 266 N. Main St., Suite 220, Wichita, Kansas 67202, within 30 days, plus three days to account for the mail, from the mailed date on the last page of the Penalty Order. K.A.R. 82-1-215.

IF YOU FAIL TO ACT:

Failure to either comply with the penalty order or request a hearing will result in the attached Penalty Order becoming a Final Order. Failure to comply or request a hearing by the deadlines in the Penalty Order 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.

storage wells, or from tanks, pipelines, dikes, or pits, if the wells, tanks, pipelines, dikes, or pits are involved in or related to any of the following:

- a. the exploration or drilling for oil or gas;
- b. the lease storage, treatment, or gathering of oil or gas; or
- c. the drilling, operating, abandonment, or postabandonment of wells. For purposes of this regulation, “vicinity” means the area within six feet of the wellhead

4. K.A.R. 82-3-603(e)(1) provides that the operator shall clean up any spill or escape that requires notification under this regulation in accordance with the cleanup method approved by the appropriate district office. Except as otherwise required by law or regulation, the operator shall complete the cleanup of the spill or escape within 10 days after discovery or knowledge of the spill or escape, or by the deadline prescribed in writing by the district office.

5. K.A.R. 82-3-603(f) provides that the failure to contain and clean up the spill or escape in accordance with Commission regulations shall be punishable by a \$1,000 penalty for the first violation, a \$2,500 penalty for the second violation, and a \$5,000 penalty and an operator license review for the third violation.

II. FINDINGS OF FACT

6. Operator conducts oil and gas activities in Kansas under license number 3182, and is responsible for the care and control of the following:

- a. the Brainerd lease, located at least in part in the SE/4 of Section 35, Township 24 South, Range 3 East, Butler County, Kansas;
- b. the Quinn lease, located at least in part in the SE/4 of Section 2, Township 25 South, Range 3 East, Butler County, Kansas; and

- c. the Toews A #1 well, API #15-015-21234-00-00, located in the SW/4 of Section 35, Township 24 South, Range 3 East, Butler County.

7. During 2015, Commission District #2 Staff identified three spills for which Operator is responsible: one on the Brainerd lease, one on the Quinn lease, and one at the Toews A #1 well. Substantial communication with Operator resulted in Staff eventually approving Operator's remediation plan, and establishing a November 1, 2016, deadline for completion of remediation.

8. On November 3, 2016, Commission Staff inspected the spills and determined that no remedial work had been done at the spill sites. On November 22, 2016, Commission Staff inspected the Toews A #1 spill site and determined that it had been remediated, but to date the spill on the Brainerd lease and spill on the Quinn lease have not been remediated.

III. CONCLUSIONS OF LAW

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

10. The above findings of fact are sufficient evidence to support the conclusion that Operator has committed three violations of K.A.R. 83-3-603(e) because Operator did not clean up the spills in a timely manner. The Commission notes that in KCC Docket 15-CONS-455-CPEN, Operator was also penalized for failure to clean up a spill in a timely manner, making the spills in the present matter Operator's second, third, and fourth violations of K.A.R. 82-3-603(e) in the last three years.

THEREFORE, THE COMMISSION ORDERS:

A. Pursuant to K.A.R. 82-3-603(e), Operator shall pay a \$12,500 penalty, representing Operator's second, third, and fourth violations of K.A.R. 82-3-603(e) in the last

three years. The Commission may review Operator's license during Operator's next license renewal upon the motion of Commission Staff.

B. Operator shall clean up and remediate the affected areas from the Brainerd lease and Quinn lease spills according to District #2 specifications. If the spill sites are not fully cleaned up and remediated by January 13, 2017, then Operator shall pay an additional \$2,500 penalty.

C. In addition, if the affected areas from the Brainerd lease and Quinn lease spills are not fully cleaned up and remediated by January 27, 2017, then Staff is directed to clean up the spills and remediate the affected areas, and to assess the costs to Operator, with an additional \$5,000 penalty.

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 Operator's right to a hearing.

G. If a party requests a hearing, a corporation or similar entity shall not be permitted to enter an appearance except by its attorney. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record.

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.

BY THE COMMISSION IT IS SO ORDERED.

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated: JAN 05 2017



Amy L. Green
Secretary to the Commission

Mailed Date: January 5, 2017

JRM

CERTIFICATE OF SERVICE

I certify that on 1/5/17, I caused a complete and accurate copy of this Order to be served via United States mail, with the postage prepaid and properly addressed to the following:

Pat H. Cochran
NPF Energy Corporation
PO Box 3827
Tustin, CA 92781-3827

and delivered by e-mail to:

Dan Fox
KCC District #2

Jonelle Rains
KCC Central Office

/s/ Paula J. Murray
Paula J. Murray
Legal Assistant
Kansas Corporation Commission