

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

Before Commissioners: Mark Sievers, Chairman
 Ward Loyd
 Thomas E. Wright

In the matter of the failure of Robuck Petroleum,) Docket No.: 12-CONS-171-CPEN
LLC, to comply with K.A.R. 82-3-407 at the)
Bryan #4 well located in the Southwest Quarter of) CONSERVATION DIVISION
the Northeast Quarter of the Northeast Quarter of)
Section 13, Township 5 South, Range 31 West,)
Rawlins County, Kansas.) License No.: 31100

PENALTY ORDER

Now, the above matter comes before the State Corporation Commission of the State of Kansas ("Commission" or "KCC") on its own motion. The Commission, being fully advised in the premises, and giving due consideration to the statutes of Kansas and the regulations of this Commission, finds and concludes as follows:

1. Robuck Petroleum, LLC ("Robuck" or the "operator"), is a foreign limited liability company. KCC records indicate that the operator can be served through its resident agent, Steven W. Hirsch, at 124 South Penn, Oberlin, Kansas 67749. KCC records indicate the operator is currently licensed to conduct oil and gas activities in Kansas pursuant to K.S.A. 55-155. KCC records further indicate that before October 27, 2011, Brett D. Robuck operated as an individual under the same license number, and that on October 27, 2011, he changed the entity type associated with license number 31100 to the above limited liability company. For clarity, the operator is referred to as Robuck throughout, without regard to this change.

2. KCC records indicate that the operator is responsible for the care and control of the Bryan #4 well, which is identified as API #15-153-20457-00-00 ("Bryan #4" or the "subject well"). The subject well is located in the Southwest Quarter of the Northeast Quarter of the

Northeast Quarter of Section 13, Township 5 South, Range 31 West, Rawlins County, Kansas. KCC records indicate the subject well is authorized for injection activities pursuant to Underground Injection Control (“UIC”) Permit #D-21,455.

I. JURISDICTION

3. Pursuant to K.S.A. 55-164, the Commission may assess monetary penalties to operators or contractors who are in violation of Chapter 55 of the Kansas Statutes Annotated, or any rule, regulation, or order of the Commission. The maximum monetary penalty is \$10,000, and each day of a continuing violation constitutes a separate violation.

4. K.A.R. 82-3-407(a) provides that 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 interval or 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. K.A.R. 82-3-407(a) further provides that operators shall establish an injection well’s mechanical integrity at least once every five years.

5. K.A.R. 82-3-407(c) provides that 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 that the well will not pose a threat to fresh or usable water or endanger correlative rights.

6. K.A.R. 82-3-407(g) provides that no injection well shall be operated before having passed a mechanical integrity test. Furthermore, the operator’s failure to test a well to

show its mechanical integrity shall be punishable by a \$1,000 penalty, and the well shall be shut-in until the required test has been passed.

II. FACTUAL FINDINGS

7. KCC records indicate Robuck performed a mechanical integrity test ("MIT") on the Bryan #4 on November 3, 2009. The well was pressured up to 300 pounds, and after 10 minutes, the pressure decreased to 160 pounds, indicating that the well did not have integrity. The Bryan #4 well was determined to have failed the MIT.

8. On November 13, 2009, KCC District #4 Staff sent a letter to Robuck stating that the Bryan #4 had failed an MIT on November 3, 2009. The letter referenced K.A.R. 82-3-407 and stated that Robuck must repair and retest the well to demonstrate mechanical integrity, plug the well, or isolate any leaks. The letter provided a deadline of February 3, 2010, to bring the well into compliance. The letter informed Robuck that the well must be immediately shut-in and disconnected, and that it must remain shut-in until it has been brought into compliance. The letter warned that the failure to comply would result in the matter being referred to the legal department for further action.

9. On April 19, 2011, District #4 Staff inspected the Bryan lease and the Springer lease, noting that the two leases share a common tank battery, and he documented the status of several wells on the lease. District #4 Staff found that the Bryan #4 had not been disconnected from the PVC brine supply line, and both ball valves installed on the line were in the open position. District #4 Staff noted that the Bryan #4 appeared to be in use, and he could hear fluid traveling through the PVC supply line into the tubing at the wellhead of the subject well. District #4 Staff also noted that there did not appear to be tracks from any heavy trucks that would

indicate the produced water was being hauled off of the lease. District #4 Staff took several photographs to document the violation.

10. On May 9, 2011, District #4 Staff sent a Notice of Violation letter to Robuck. The letter notified Robuck of the failure to comply with the November 13, 2009, letter regarding the failed MIT, and it stated that a recent lease inspection found the Bryan #4 to be in use. The letter stated that the matter was being forwarded to the legal department with a recommendation for the appropriate penalty.

III. STAFF'S RECOMMENDATIONS

11. Based upon the above facts, Staff recommended the Commission find that the operator has committed one violation of K.A.R. 82-3-407, and that the operator should be assessed a monetary penalty of \$1,000 for the violation.

12. Staff further recommended that the operator should be ordered to bring the subject well into compliance by performing a successful MIT on the well, plugging the well, or appropriately isolating any leaks pursuant to K.A.R. 82-3-407. The operator should be ordered to shut-in and disconnect the subject well until such time as compliance is achieved.

IV. CONCLUSIONS

13. The Commission finds and concludes that it has jurisdiction over the operator and over this matter, pursuant to K.S.A. 55-100 et seq.

14. The operator has committed one violation of K.A.R. 82-3-407.

15. The operator should be ordered to bring the subject well into compliance by performing a successful MIT on the well, plugging the well, or appropriately isolating any leaks pursuant to K.A.R. 82-3-407. The operator should be ordered to shut-in and disconnect the subject well until such time as compliance is achieved.

16. The failure of the operator to comply with this Penalty Order should be punishable by license suspension until such time as compliance is obtained.

THEREFORE, THE COMMISSION ORDERS THAT:

- A. Robuck is assessed a monetary penalty of \$1,000.
- B. Robuck shall perform a successful MIT on the Bryan #4, plug the well, or appropriately isolate any leaks pursuant to K.A.R. 82-3-407.
- C. Robuck shall shut-in and disconnect the Bryan #4 until such time as compliance with this Penalty Order is achieved.
- D. The operator shall comply with this Penalty Order within 30 days of the service date of this order. If service is by mail, three days will be added to the deadline.
- E. The operator has 30 days from service of this Penalty Order to appeal, pursuant to K.S.A. 55-164. If service is by mail, three days will be added to the deadline. The appeal must indicate whether the appellant requests a full evidentiary hearing before the Commission. If a hearing is not requested, the appeal will be considered administratively, without a hearing. All appeals must be served on the Executive Director of the Commission, at 130 South Market, Room 2078, Wichita, Kansas 67202.
- F. The failure by the operator to comply with this Penalty Order or timely submit an appeal shall be punishable by license suspension until such time as compliance is obtained.

G. The Commission retains jurisdiction of the subject matter and the parties. The Commission may enter additional orders as it deems appropriate, and additional orders may include the imposition of additional requirements or monetary penalties.

BY THE COMMISSION IT IS SO ORDERED.

Sievers, Chmn.; Loyd, Com.; Wright, Com.

Dated: DEC 21 2011



Patrice Petersen-Klein
Executive Director

Mailed Date: 12-21-2011

LRP

I CERTIFY THE ORIGINAL
COPY IS ON FILE WITH
The State Corporation Commission

DEC 21 2011



CERTIFICATE OF SERVICE

I hereby certify that on 12-21-2011, I caused a true and correct copy of the foregoing "Penalty Order" to be served by placing the same in the United States mail, postage prepaid, and properly addressed to the following:

Brett D. Robuck
Robuck Petroleum, LLC
P.O. Box 345
McCook, Nebraska 69001-0345

Steven W. Hirsch
Resident Agent for Robuck Petroleum, LLC
124 South Penn
Oberlin, Kansas 67749

David Wann
KCC District #4
2301 E. 13th Street
Hays, Kansas 67601-2651

And delivered by hand to:

Alan Snider
KCC UIC Supervisor

/s/ Lane R. Palmateer
Lane R. Palmateer
Litigation Counsel
Kansas Corporation Commission