

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

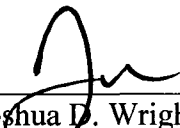
Before Commissioners: Pat Apple, Chairman  
Shari Feist Albrecht  
Jay Scott Emler

In the matter of an Order to Show Cause issued ) Docket No.: 17-CONS-3262-CSHO  
to Edward Broyles dba Jenkins & Broyles )  
Production Company ("Operator") regarding ) CONSERVATION DIVISION  
responsibility under K.S.A. 55-179 for )  
unplugged wells on an expired license. ) License No.: 5643

**PROPOSED DEFAULT ORDER**

Commission Staff proposes the attached Default Order as a means of resolving this  
docket.

Respectfully submitted,

  
\_\_\_\_\_  
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Phone: 316-337-6200; Fax: 316-337-6211

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**DEFAULT 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. BACKGROUND**

1. On October 20, 2016, Commission Staff filed a Motion for an Order to Show Cause, the Designation of a Prehearing Officer, and Setting a Prehearing Conference (Staff's Motion). Staff's Motion alleged:

- a. The wells listed on Exhibit A attached to Staff's Motion are unplugged;<sup>1</sup>
- b. The wells listed on Exhibit A attached to Staff's Motion are listed on Operator's license, which is expired, therefore the wells appear to be abandoned;<sup>2</sup> and
- c. Pursuant to Kansas statutes and Commission regulations, Operator appears to be responsible for plugging the wells.<sup>3</sup>

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<sup>1</sup> Staff's Motion, ¶7.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

2. On January 19, 2017, the Commission issued its Order to Show Cause, Designating a Prehearing Officer, and Setting a Prehearing Conference (January 19, 2017 Order). The Commission's order found that Operator should appear and show cause why Operator is not responsible for the wells listed on Exhibit A attached to Staff's Motion.<sup>4</sup>

3. The Prehearing Conference was initially scheduled for February 9, 2017, but was continued at the joint request of the parties on February 9, 2017 and once at the request of Staff on April 6, 2017 to May 4, 2017.<sup>5</sup>

4. On May 4, 2017, the Prehearing Conference was held as scheduled. Operator did not appear. Counsel for Commission Staff verbally moved for a default order and subsequently filed its Motion for Default Order.

## **II. JURISDICTION**

5. Pursuant to K.S.A. 55-101 *et seq.* and K.A.R. 82-3-100 *et seq.*, the Commission has jurisdiction to regulate oil and gas production in Kansas.

6. K.S.A. 55-179 provides the Commission with authority to determine the persons legally responsible for the proper care and control of oil and gas wells, including the responsibility to plug the wells. Subsection (b) provides that a person who is legally responsible for the proper care and control of an abandoned wells shall include one or more of the following:

- a. Any operator of a waterflood or other pressure maintenance program deemed to be causing pollution or loss of usable water;
- b. The current or last operator of the lease upon which such well is located, irrespective of whether such operator plugged or abandoned such well;
- c. The original operator who plugged or abandoned such well; and

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<sup>4</sup> January 19, 2017 Order, ¶6.

<sup>5</sup> See Prehearing Officer Order Continuing Prehearing Conference (Feb. 20, 2017), Prehearing Officer Order Continuing Prehearing Conference (Apr. 6, 2017).

- d. Any person who without authorization tampers with or removes surface equipment or downhole equipment from an abandoned well.

### **III. DISCUSSION**

7. K.S.A. 77-520 governs default actions within administrative proceedings. The statute provides, in part:

- (a) If a party fails to attend or participate in a pre-hearing conference, hearing, or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties written notice of a proposed default order, including a statement of the grounds

8. K.S.A. 77-520 also provides that the proposed default order shall become final seven days after service unless the party against whom it was issued submits a written request that the proposed default order be vacated and states the grounds relied upon.<sup>6</sup>

### **IV. FINDINGS AND CONCLUSIONS**

9. The Commission finds and concludes that Operator failed to attend the May 4, 2017 Prehearing Conference.

10. Operator's failure to attend the prehearing conference constitutes default under K.S.A. 77-520. The Commission finds Staff's Motion to be reasonable and therefore Staff's Motion for a default order should be granted.

11. The Commission finds Edward Broyles dba Jenkins & Broyles Production Company in default of these proceedings.

12. The Commission finds Edward Broyles dba Jenkins & Broyles Production Company to be the responsible party for the wells identified in Exhibit A to Staff's Motion, and in violation of K.S.A. 55-179 for having unplugged wells on an expired license.

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<sup>6</sup> K.S.A. 77-520(b)-(c).

**THEREFORE, THE COMMISSION ORDERS:**

- A. Staff's motion for a default order is granted.
- B. Operator's license shall be suspended until such time as compliance is obtained by Operator plugging the subject wells, reimbursing the Commission for the costs of plugging the subject wells, or transferring the subject wells to a licensed operator.
- C. Staff is directed to place the subject wells on the appropriate state plugging list, to plug them according to priority and as funds allow, and to assess the plugging costs to Operator. This shall not preclude Staff from investigating additional potentially-responsible parties.
- D. Staff shall revoke any injection authorizations applicable to the subject wells.
- E. The pre-hearing conference in this docket is cancelled.
- F. Pursuant to K.S.A. 77-520, this order serves as notice to Edward Broyles dba Jenkins & Broyles Production Company of the Proposed Default Order. Edward Broyles dba Jenkins & Broyles Production Company may file a written motion requesting that the Proposed Default Order be vacated, stating the grounds relied upon, within seven days after service of this proposed order. If no motion is filed, this order will become a Final Order of Default. If a motion to vacate is filed within seven days, the Commission will either vacate the Proposed Default Order or issue a Final Order of Default.
- G. 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.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: \_\_\_\_\_

\_\_\_\_\_  
Lynn M. Retz  
Secretary to the Commission

Mailed Date: \_\_\_\_\_

SF

**CERTIFICATE OF SERVICE**

I certify that on 7/21/17, I caused a complete and accurate copy of this Proposed Default Order to be served via United States mail, with the postage prepaid and properly addressed to the following:

Edward Broyles dba Jenkins & Broyles Production Company  
PO Box 902  
Arkansas City, KS 67005

and delivered by email to:

Joshua D. Wright, Litigation Counsel  
KCC Central Office

Samuel Feather, Deputy General Counsel  
KCC Topeka Office

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