

KCC WICHITA

FEB 13 2015

RECEIVED

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

2015.02.13 14:27:27
Kansas Corporation Commission
/S/ Neysa Thomas

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

In the matter of the failure of Patrick)
Development Corporation ("Operator") to) Docket No. 15-CONS-197-CPEN
comply with K.A.R. 82-3-400 at the)
Hegwald #d-1 (WSW), Hendricks #PDC) CONSERVATION DIVISION
11, Hendricks #PDC 10 and Henrichs)
#PDC 9 wells in Woodson and Allen)
Counties, Kansas) License No.: 6279

PETITION FOR RECONSIDERATION

COMES NOW Patrick Development Corporation, by and through its counsel of record, and requests that this Commission reconsider its Order dated February 3, 2015, in this docket. In support of this Petition for Reconsideration, Patrick Development Corporation submits the following:

1. This Petition for Reconsideration follows an Order on Appeal related to the assessment of a \$5,000 penalty against Patrick Development Corporation. As an initial matter, four of the claimed violations were the function of the Commission Staff reviewing the wrong files and those penalties were rescinded.

2. The only remaining penalty related to a U3C that was filed in connection with Patrick Development Corporation's Hegwald #d-1 well. An amended U3C form was submitted, which should have concluded the matter, but this Commission seems intent on punishing our client.

3. The "Findings of Fact" set forth in the Commission's Order that is the subject of this Petition, are accurate as far as they go. What the Commission Staff has apparently failed to

tell the Commission is that by virtue of an email correspondence the undersigned sent to Jon Myers on January 12, 2015, the matter had been settled.

4. The day before the hearing, recognizing that the matter had been settled, Staff counsel sent the undersigned an email indicating that the undersigned need not attend the hearing the next day and that Staff counsel was going to request the Commission approve the settlement. This correspondence is attached to this Petition as **Exhibit A**. As one can see from this correspondence, the matter had been settled and the undersigned had been advised that he need not attend the hearing.

5. To say the undersigned was shocked when he received a later email indicating the Commission's action, which utterly disregarded the settlement, is an understatement. The undersigned was advised that Patrick Development Corporation was now responsible for a \$1,000 penalty and the expense of the court reporter for the hearing.

6. There was absolutely no need for a hearing from and after the email sent to the Commission staff on January 12, 2015, indicating the matter had been settled. It is completely mysterious to the undersigned why a hearing was held and Commission Staff is now in possession of the Settlement Agreement with Patrick Development Corporation's formal approval.

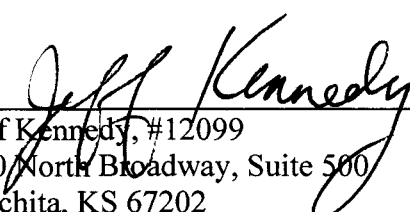
7. The message that apparently is to be taken from the Commission's decision in this docket is that the members of its Staff and the regulated community are unable to reach agreements, unless those agreements are reduced to writing and signed by everybody in advance of any act by the Commission. That is a very dangerous precedent for this Commission to set, and for that reason, Patrick Development Corporation files this Petition for Reconsideration.

8. As previously noted, there should never have been a penalty in this docket and now for it to be doubled and for Patrick Development Corporation to be responsible for court reporting fees for a hearing that could and should have been cancelled several days before it commenced is grossly unfair and sends a poor signal to the regulated community. It makes no sense to the undersigned that Patrick Development Corporation should be fined over \$1,200 for a U3C submission that was clearly erroneous, and thereafter corrected.

WHEREFORE, Patrick Development Corporation requests reconsideration of the Commission's Order dated February 3, 2015, in this docket, as described in this Petition for Reconsideration and requests the Commission rescind the penalty in its entirety, in light of the fact that Patrick Development Corporation has submitted an amended and correct U3C form. Alternatively, the \$500 penalty that Patrick Development Corporation agreed to, through its counsel and through the Commission's Staff counsel, should be enforced.

Respectfully submitted,
MARTIN, PRINGLE, OLIVER,
WALLACE & BAUER, L.L.P.

By: _____


Jeff Kennedy, #12099

100 North Broadway, Suite 500

Wichita, KS 67202

Telephone: (316) 265-9311

Facsimile: (316) 265-2955


jkennedy@martinpringle.com

Attorneys for Patrick Development Corporation

VERIFICATION


STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

Jeff Kennedy, of lawful age, being first duly sworn, upon oath states: that he is the Attorney for the Petitioner above-named; that he has read the above Petition for Reconsideration; that the statements contained therein are true and correct to the best of his knowledge.



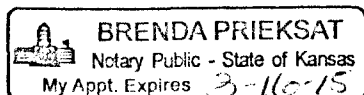
Jeff Kennedy

SUBSCRIBED AND SWORN to before me this 13th day of February, 2015, by Jeff Kennedy.



Notary Public

My Appointment Expires:




CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 13th day of February, 2015, the original and seven (7) copies of the above and foregoing were hand delivered to:

Kansas Corporation Commission
266 N. Main St., Ste. 220
Wichita, KS 67202-1513

With a copy to:

Jonathan R. Myers
Litigation Counsel
Kansas Corporation Commission
266 N. Main St., Ste. 220
Wichita, KS 67202-1513



Jeff Kennedy, #12099

Kennedy, Jeff

From: Jon Myers <j.myers@kcc.ks.gov>
Sent: Wednesday, January 14, 2015 12:59 PM
To: Kennedy, Jeff
Subject: KCC Dkt 15-CONS-197-CPEN, Patrick Development

Jeff,

Per our conversation on Monday, my understanding was that your client would sign the settlement either Tuesday or today. Without a signed settlement agreement, I don't think we can cancel tomorrow's hearing, but I think we can keep it rather short.

If we receive the signed settlement by 9:45 or so tomorrow, then I can file a motion asking for the settlement to be approved. If we don't receive the signed settlement, then at hearing I can reference your email and ask the Commission to issue an order providing the same terms as the settlement. I'd be happy to do that regardless of your attendance (i.e. no motion for default, etc...).

I know we might still receive the signed settlement today or early tomorrow, I just figured I'd outline how Staff would like to handle this if we don't.

Jon Myers

Litigation Counsel
Conservation Division
Kansas Corporation Commission
266 N. Main, Suite 220 | Wichita, KS | 67202-1513
Phone (316) 337-6200 | Fax (316) 337-6106 | <http://kcc.ks.gov/>

From: Kennedy, Jeff [<mailto:jkennedy@martinpringle.com>]
Sent: Monday, January 12, 2015 2:54 PM
To: Jon Myers
Subject: RE: KCC Dkt 15-CONS-197-CPEN, Patrick Development

Purely to conserve everyone's resources and not to concede that an amended U3C form for the Hegwald well should not result in recession of the penalty, Patrick Development will agree to the terms of the attached Settlement Agreement. As soon as my client approves the agreement, I will send it to you. I trust you advise everyone with the Commission that there is no need for a hearing this Thursday.

From: Jon Myers [<mailto:j.myers@kcc.ks.gov>]
Sent: Tuesday, December 30, 2014 9:01 AM
To: Kennedy, Jeff
Subject: KCC Dkt 15-CONS-197-CPEN, Patrick Development

Jeff,

I am in receipt of your December 29, 2014, letter regarding this matter, as well as the amended U3C Form. However, as indicated in my December 1, 2014, email, below, receipt of the amended U3C Form does not resolve the issues that were the subject of the Penalty Order.

To resolve them, Patrick Development still needs to sign the settlement agreement, which will reduce the penalty to \$500, due within 30 days of Commission approval of the settlement. I have attached a copy of the settlement agreement.

Sincerely,

Jon Myers

Litigation Counsel

Conservation Division

Kansas Corporation Commission

266 N. Main, Suite 220 | Wichita, KS | 67202-1513

Phone (316) 337-6200 | Fax (316) 337-6106 | <http://kcc.ks.gov/>

From: Jon Myers

Sent: Monday, December 01, 2014 4:17 PM

To: jkennedy@martinpringle.com

Subject: KCC Docket 15-CONS-197-CPEN, Patrick Development, Proposed Settlement

Jeff,

Per our conversation, I've attached a proposed settlement. If we can agree to a settlement, then your client can sign, I'll sign, and then I'll file a motion with the Commission asking them to approve the settlement.

If Patrick Development still maintains that the data submitted for the Hegwald #d-1 was erroneous, then we'll also need Patrick Development to submit an updated U3C form for the Hegwald #d-1. If Patrick Development believes that the data wasn't erroneous, then we can edit the proposed settlement accordingly.

I've also attached a copy of Staff's pre-filed testimony in this matter.

Jon Myers

Litigation Counsel

Conservation Division

Kansas Corporation Commission

266 N. Main, Suite 220 | Wichita, KS | 67202-1513

Phone (316) 337-6200 | Fax (316) 337-6106 | <http://kcc.ks.gov/>

Confidentiality Notice: Email communication is not a secure method of communication. It may be copied and held by various computers it passes through as it is transmitted, and persons not participating in our communication may intercept our communications. Please notify us immediately if you prefer not to receive communications by email. Because the sender is an attorney or employee of a law firm, the information in this email (including any attachments) may contain information that is confidential and for the sole use of the intended recipient. The information may be protected by the attorney-client privilege, work-product doctrine, or other legal rules. If you are not the intended recipient, you must not read, use, or disseminate this information. If you received this email in error, please call the sender immediately and notify the sender via email that you have received the email in error and are deleting it.