

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

Shari Feist Albrecht, Chair
Jay Scott Emler, Commissioner
Pat Apple, Commissioner



2015-07-24 13:27:06
Kansas Corporation Commission
/s/ Amy L. Gilbert

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

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

16-CONS-056-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 \$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.

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

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

In the matter of the failure of Jack W.)	Docket No.: 16-CONS-056-CPEN
McFadden ("Operator") to comply with)	
K.A.R. 82-3-400 injection authority and/or)	CONSERVATION DIVISION
K.A.R. 82-3-409 reporting requirements)	
regarding injection that took place during the)	License No.: 8866
<u>2014 calendar year.</u>)	

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. K.S.A. 74-623 provides that the Commission has the exclusive jurisdiction and authority to regulate oil and gas activities. K.S.A. 55-152 provides that 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. The Commission has licensing authority pursuant to K.S.A. 55-155.

2. K.S.A. 55-162 and K.S.A. 55-164 provide the Commission with authority to issue a Penalty Order regarding a violation of Chapter 55 of the Kansas Statutes Annotated, or of any rule, regulation, or order of the Commission. Under K.S.A. 55-164(a), a Penalty Order may include a monetary penalty of up to \$10,000, and each day of a continuing violation constitutes a separate violation, which shall constitute an actual and substantial economic deterrent to the violation for which the penalty is assessed.

3. K.A.R. 82-3-400 provides that the penalty for unauthorized injection shall be \$1,000 for first-time violators, \$5,000 for second-time violators, and \$10,000 and operator license review for third-time violators.

4. K.A.R. 82-3-409(a) provides that each operator of an injection well shall keep current, accurate records of the amount and kind of fluid injected into the injection well.

5. K.A.R. 82-3-409(b) provides that each operator of an injection well shall submit a report to the conservation division, showing for the previous calendar year the following information, by March 1 of the following year: the monthly average wellhead pressure; the maximum wellhead pressure; the amount and kind of fluid injected into each well; and any other performance information required by the conservation division.

II. FINDINGS OF FACT

6. Operator is responsible for the care and control of the well(s) listed in Exhibit A. Exhibit A, which is attached and incorporated into this Order, shall serve as part of the concise and explicit statement of facts required by K.S.A. 77-526.

7. As described in Exhibit A, in Operator's annual injection report, Operator reported rates of injection or pressure that exceeded its permit. If the data in Operator's annual injection report is correct, then Operator violated K.A.R. 82-3-400 by conducting unauthorized injection. If the data in Operator's annual injection report is incorrect, then Operator violated K.A.R. 82-3-409 by submitting an inaccurate report. Therefore, a violation of Commission regulations has clearly occurred.

8. The Commission finds that K.A.R. 82-3-400 calls for a \$1,000 penalty for unauthorized injection and that K.A.R. 82-3-409 does not identify a specific penalty amount for submission of an inaccurate report. Since either a violation of K.A.R. 82-3-400 or a violation of

K.A.R. 82-3-409 occurred, the Commission finds it appropriate use its authority under K.S.A. 55-164 to assess a penalty that will provide the required actual and substantial economic deterrent. The Commission finds the appropriate economic deterrent to be \$500 per well.

III. CONCLUSIONS OF LAW

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

10. The above findings of fact are sufficient evidence to support the conclusion that Operator committed one violation(s) of either K.A.R. 82-3-400 or K.A.R. 82-3-409.

THEREFORE, THE COMMISSION ORDERS:

- A. Operator shall pay a \$500 penalty.
- B. If Operator believes that it misreported a rate of injection or pressure, then Operator shall submit a corrected annual fluid injection report.
- C. 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.
- D. 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.

E. 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.

F. 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.

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.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: JUL 23 2015



Amy L. Gilbert
Secretary

Mailed Date: July 24, 2015

JRM

PENALTY ORDER RECOMMENDATION

*****ROUTINE REPORTED OVER-PRESSURIZATION VIOLATION*****

Note: this sheet will be attached to the Order that is mailed to the operator.

Date of Recommendation:	July 2, 2015
District/Department:	Underground Injection Control
Person Recommending Penalty:	Sanita Dean (Rene Stucky, Supervisor)
Operator Name:	McFadden, Jack W.
Operator License Number:	8866
Well/Lease Name & Well Number:	WINSLOW #J 10
API Number:	15001200400001
Well/Lease Location, and County:	34-24S-20E, ALLEN County
UIC Permit Number:	D21390.0
Regulation Number:	K.A.R. 82-3-400 or K.A.R. 82-3-409
Description of Violation:	Unauthorized or misreported injection for 2014
Nature of Unauthorized Injection	In its Annual Injection Report, Operator reported over-pressurization at the subject well.
Maximum Pressure Reported in 2014, Per Operator's Annual Injection Report (pounds per square inch):	400
Maximum Pressure Allowed, Per UIC Permit (pounds per square inch):	125
Requested Monetary Penalty:	\$500
Requested Operator Activity:	Pay monetary penalty. Submit corrected report if applicable.

CERTIFICATE OF SERVICE

I certify that on July 24, 2015, 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:

Jack W. McFadden dba McFadden Oil Co.
PO Box 394
Iola, KS 66749

/s/ Jonathan R. Myers
Jonathan R. Myers
Litigation Counsel
Kansas Corporation Commission