

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

Before Commissioners: Dwight D. Keen, Chair
 Susan K. Duffy
 Andrew J. French

In the matter of the failure of Mike) Docket No.: 23-CONS-3023-CPEN
McClenning dba Production Maintenance)
Service (Operator) to comply with K.A.R.) CONSERVATION DIVISION
82-3-111 at the Barton #3, HWR #1, Moyer)
#1, Welton #1, and Wilmoth #24-1 wells in) License No.: 32219
Montgomery County, Kansas.)

PENALTY ORDER

The Commission finds Operator has violated K.A.R. 82-3-111 regarding the captioned wells, assesses a \$500 penalty, directs Operator to come into compliance, and further rules as more fully described below.

I. JURISDICTION

1. K.S.A. 74-623 provides the Commission exclusive jurisdiction and authority to regulate oil and gas activities in Kansas. K.S.A. 55-152 provides the Commission with jurisdiction to regulate the construction, operation, and abandonment of any well, and also the protection of the usable water of this state from any actual or potential pollution from any well. The Commission has licensing authority under K.S.A. 55-155.

2. K.S.A. 55-162 and K.S.A. 55-164 provide the Commission authority to issue penalty orders for violations 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 penalty order may include a monetary penalty of up to \$10,000, the penalty must constitute a substantial and actual economic deterrent to the violation, and each day of a continuing violation constitutes a separate violation.

3. K.A.R. 82-3-111 provides that within 90 days after operations cease on any well, the operator of that well shall plug the well, return the well to service, or file an application with the Conservation Division requesting temporary abandonment (TA) status. If not plugged or returned to service, the operator must obtain TA approval; TA status may be denied by the Conservation Division if necessary to prevent pollution. A well shut-in for 10 years or more cannot be granted TA status without the operator filing an application for an exception pursuant to K.A.R. 82-3-100 and approval from the Commission. K.A.R. 82-3-111(e) provides a TA exemption for certain wells fully equipped and capable of production.

II. FINDINGS OF FACT

4. Operator is licensed to conduct oil and gas activities in Kansas and is responsible for the following wells (Subject Wells) in Montgomery County, Kansas:

- a. Barton #3, API #15-125-02490-00-00, located in Section 29, Township 33 South, Range 16 East;
- b. HWR #1, API #15-125-31221-00-00, located in Section 25, Township 34 South, Range 14 East;
- c. Moyer #1, API #15-125-30995-00-00, located in Section 24, Township 34 South, Range 14 East;
- d. Welton #1, API #15-125-30864-00-00, located in Section 25, Township 34 South, Range 14 East; and
- e. Wilmoth #24-1, API #15-125-31331-00-00, located in Section 24, Township 34 South, Range 14 East.

5. Prior to the issuance of this Penalty Order, Commission Staff reviewed Commission records regarding the Subject Wells. The records indicated the Subject Wells had

been inactive and unplugged for longer than the 90 days allowed by K.A.R. 82-3-111, that the wells were not exempt pursuant to K.A.R. 82-3-111(e), and that the wells were not approved for TA status. Thus, Commission Staff sent letters to Operator, requiring Operator to bring the Subject Wells into compliance with K.A.R. 82-3-111 by a date certain.¹ The date has elapsed, and no evidence in the possession of the Commission indicates Operator has brought the Subject Wells into compliance.

III. CONCLUSIONS OF LAW

6. The Commission has jurisdiction over Operator and this matter under K.S.A. 74-623 and K.S.A. 55-152.

7. Operator has committed five violations of K.A.R. 82-3-111 because the Subject Wells have been inactive in excess of the time allowed by regulation without being plugged, returned to service, or approved for TA status.²

THEREFORE, THE COMMISSION ORDERS:

A. Operator shall pay a \$500 penalty.

B. Operator shall plug the Subject Wells, or return the wells to service, or obtain TA status for the wells if eligible.

C. Commission Staff may require Staff-witnessed static fluid level measurements before a Subject Well is returned to service. A Subject Well may not be returned to service if (1) any measurement has shown fluid in the wellbore at or above the appropriate minimum surface casing requirement described in Table I of the Commission's August 1, 1991, Order in Docket 34,780, (2) any measurement has shown fluid in the wellbore at or above any salt formation or other corrosive formation, or (3) in the opinion of Staff, variation in measurements indicates the

¹ See Exhibit A.

² K.S.A. 55-164; K.A.R. 82-3-111(b).

possibility of a casing leak. Provided, however, a Subject Well may be returned to service upon (a) passing a casing integrity test after issuance of this Penalty Order to the satisfaction of Staff, or (b) Staff providing written, well-specific authorization after issuance of this Penalty Order.

D. Operator 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, to the Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202, within 30 days from the date of service of this Order. A request for hearing must comply with K.A.R. 82-1-219.

E. Failure to timely request a hearing will result in a waiver of Operator's right to a hearing. If no party timely requests a hearing, then this Order shall become final.

F. If Operator is not in compliance with this Order and the Order is final, then Operator's license shall be suspended without further notice and shall remain suspended until Operator complies. If a Subject Well has been inactive for more than 10 years and Operator applies for an exception to the 10-year limit on TA status for the Subject Well prior to this Order becoming final, and Operator would be in compliance with this Order if the application were approved, then suspension shall not be enforced unless: (1) the application is denied, and (2) 30 days have elapsed since the denial. The notice and opportunity for a hearing on this Order shall constitute the notice required by K.S.A. 77-512 regarding license suspension.

G. A party may petition for reconsideration of a final order pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).³

H. Credit card payments may be made by calling the Conservation Division at 316-337-6200. Checks and money orders shall be payable to the Kansas Corporation Commission. Payments shall be mailed to the Kansas Corporation Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202. Payments must reference the docket number of this proceeding.

³ See K.S.A. 55-162; K.S.A. 55-164; K.S.A. 55-606; K.S.A. 55-707; K.S.A. 77-503(c); K.S.A. 77-531(b).

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Duffy, Commissioner; French, Commissioner

Dated: 07/28/2022



Lynn M. Retz
Executive Director

Mailed Date: 07/28/2022

TSK

March 10, 2022

Mike McClenning
McClenning, Mike dba Production
Maintenance Service
PO BOX 275
TYRO, KS 67364-0275

Re: Temporary Abandonment
API 15-125-02490-00-00
BARTON 3
SE/4 Sec.29-33S-16E
Montgomery County, Kansas

Dear Mike McClenning:

Your application for Temporary Abandonment (TA) for the above-listed well is denied for the following reasons(s):

Shut-in Over 10 years

Pursuant to K.A.R. 82-3-111, the well must be plugged or returned to service by 04/09/2022.

If you wish to instead file an application for an exception to the 10-year limitation of K.A.R. 82-3-111, demonstrating why it is necessary to TA the well for more than 10 years, then you must file the application for an exception by 04/09/2022.

This deadline does NOT override any compliance deadline given to you in any Commission Order.

You may contact me if you have any questions.

Sincerely,
Levi Burnett ECRS
KCC DISTRICT 3

March 10, 2022

Mike McClenning
McClenning, Mike dba Production
Maintenance Service
PO BOX 275
TYRO, KS 67364-0275

Re: Temporary Abandonment
API 15-125-31221-00-00
HWR 1
NW/4 Sec.25-34S-14E
Montgomery County, Kansas

Dear Mike McClenning:

Your application for Temporary Abandonment (TA) for the above-listed well is denied for the following reasons(s):

Shut-in Over 10 years

Pursuant to K.A.R. 82-3-111, the well must be plugged or returned to service by 04/09/2022.

If you wish to instead file an application for an exception to the 10-year limitation of K.A.R. 82-3-111, demonstrating why it is necessary to TA the well for more than 10 years, then you must file the application for an exception by 04/09/2022.

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You may contact me if you have any questions.

Sincerely,
Levi Burnett ECRS
KCC DISTRICT 3

March 10, 2022

Mike McClenning
McClenning, Mike dba Production
Maintenance Service
PO BOX 275
TYRO, KS 67364-0275

Re: Temporary Abandonment
API 15-125-30995-00-00
MOYER 1
SE/4 Sec.24-34S-14E
Montgomery County, Kansas

Dear Mike McClenning:

Your application for Temporary Abandonment (TA) for the above-listed well is denied for the following reasons(s):

Shut-in Over 10 years

Pursuant to K.A.R. 82-3-111, the well must be plugged or returned to service by 04/09/2022.

If you wish to instead file an application for an exception to the 10-year limitation of K.A.R. 82-3-111, demonstrating why it is necessary to TA the well for more than 10 years, then you must file the application for an exception by 04/09/2022.

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Sincerely,
Levi Burnett ECRS
KCC DISTRICT 3

March 10, 2022

Mike McClenning
McClenning, Mike dba Production
Maintenance Service
PO BOX 275
TYRO, KS 67364-0275

Re: Temporary Abandonment
API 15-125-30864-00-00
WELTON 1
NE/4 Sec.25-34S-14E
Montgomery County, Kansas

Dear Mike McClenning:

Your application for Temporary Abandonment (TA) for the above-listed well is denied for the following reasons(s):

**Lack of Lease
Shut-in Over 10 years**

Pursuant to K.A.R. 82-3-111, the well must be plugged or returned to service by 04/09/2022.

If you wish to instead file an application for an exception to the 10-year limitation of K.A.R. 82-3-111, demonstrating why it is necessary to TA the well for more than 10 years, then you must file the application for an exception by 04/09/2022.

This deadline does NOT override any compliance deadline given to you in any Commission Order.

You may contact me if you have any questions.

Sincerely,
Levi Burnett ECRS
KCC DISTRICT 3

March 10, 2022

Mike McClenning
McClenning, Mike dba Production
Maintenance Service
PO BOX 275
TYRO, KS 67364-0275

Re: Temporary Abandonment
API 15-125-31331-00-00
WILMOTH 24-1
SW/4 Sec.24-34S-14E
Montgomery County, Kansas

Dear Mike McClenning:

Your application for Temporary Abandonment (TA) for the above-listed well is denied for the following reasons(s):

Shut-in Over 10 years

Pursuant to K.A.R. 82-3-111, the well must be plugged or returned to service by 04/09/2022.

If you wish to instead file an application for an exception to the 10-year limitation of K.A.R. 82-3-111, demonstrating why it is necessary to TA the well for more than 10 years, then you must file the application for an exception by 04/09/2022.

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You may contact me if you have any questions.

Sincerely,
Levi Burnett ECRS
KCC DISTRICT 3

CERTIFICATE OF SERVICE

23-CONS-3023-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 07/28/2022.

RYAN DULING
KANSAS CORPORATION COMMISSION
DISTRICT OFFICE NO. 3
137 E. 21ST STREET
CHANUTE, KS 66720
r.duling@kcc.ks.gov

TRISTAN KIMBRELL, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
CENTRAL OFFICE
266 N. MAIN ST, STE 220
WICHITA, KS 67202-1513
t.kimbrell@kcc.ks.gov

MIKE MCCLENNING
D/B/A PRODUCTION MAINTENANCE SERVICE
PO BOX 275
TYRO, KS 67364-0275

TROY RUSSELL
KANSAS CORPORATION COMMISSION
DISTRICT OFFICE NO. 3
137 E. 21ST STREET
CHANUTE, KS 66720
t.russell@kcc.ks.gov

/S/ DeeAnn Shupe
DeeAnn Shupe
