

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

2015-12-11 14:59:52
Kansas Corporation Commission
/s/ Amy L. Green

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>)	

PRE-FILED TESTIMONY

OF

RENE STUCKY

1 Q. What is your name and business address?

2 A. Rene Stucky, 266 North Main Suite 220, Wichita, Kansas 67202.

3 Q. By whom are you employed and in what capacity?

4 A. I'm employed by the Conservation Division of the Kansas Corporation Commission, as
5 Supervisor of the Underground Injection Control ("UIC") Department and the Production
6 Department.

7 Q. How long have you been employed by the KCC?

8 A. About 10 years. Before becoming Supervisor, I was an Environmental Scientist in the
9 UIC Department, where I reviewed and processed injection applications.

10 Q. Have you previously testified before this Commission?

11 A. Yes.

12 Q. What does your position with the Conservation Division involve?

13 A. I supervise everyone in the Conservation Division's UIC and Production Departments.

14 Q. Are you familiar with this KCC Docket, 16-CONS-056-CPEN?

15 A. Yes.

16 Q. How are you familiar with this Docket?

17 A. When a member of the UIC Department intends to make penalty recommendations, I
18 review the recommendations to make sure they are appropriate before they are sent to the
19 Legal Department. So I reviewed the penalty recommendation that Sanita Dean
20 submitted in this matter before the penalty was issued, and I reviewed this matter again in
21 more detail before preparing this testimony.

22 Q. Is the penalty recommendation that you reviewed the same penalty recommendation that
23 is Exhibit A of the Commission's Penalty Order?

24 A. Yes.

25 Q. Did you draw any conclusion from your review?

26 A. Yes. Staff's penalty recommendation was appropriate.

27 Q. Why was the recommendation appropriate?

28 A. Under K.A.R. 82-3-400(a), injection is permitted only after an operator has filed an
29 application for injection authority and the Conservation Division has issued a written
30 permit granting the application. And under K.A.R. 82-3-409(b), each operator must
31 submit a report to the Conservation Division on a yearly basis, by March 1st of the

1 following year, showing the maximum wellhead pressure and the amount of fluid
2 injected into each well, among other data.

3 On January 22, 2015, Operator submitted a report for the 2014 calendar year for the
4 Winslow #J 10 (Exhibit A). Operator stated that the maximum injection pressure it used
5 was 400 pounds per square inch, but Operator was only permitted to pressurize at 125
6 pounds per square inch. Given this fact, Operator either violated the terms of its permit in
7 violation of K.A.R. 82-3-400(a), or submitted false data in violation of K.A.R. 82-3-
8 409(b).

9 Q. How do you know that Operator was only permitted to inject at the pressure you just
10 described?

11 A. You can look in RBDMS, which is the Commission's electronic well database, because
12 Staff keeps RBDMS updated to reflect the authorized injection pressure and rate for each
13 injection well. You can also review the paper file, which contains the official injection
14 permit documents. I have done both, and it is clear that Operator is only permitted to
15 inject at that pressure.

16 Q. K.A.R. 82-3-400(a) and K.A.R. 82-3-409(b) do not list a specific penalty amount. Why
17 did Staff recommend a \$500 penalty?

18 A. In this situation, Operator indicated on its injection report that it injected outside the
19 terms of its permit. K.A.R. 82-3-400(b) actually lists a \$1,000 penalty for unpermitted
20 injection, with even higher penalties for each subsequent violation.

21 In Staff's experience, though, sometimes when an operator reports injecting outside
22 the terms of its permit, it actually just misreported. Either way, a regulatory violation
23 occurred, but misreporting is a less serious violation. So we gave Operator the benefit of
24 the doubt, and recommended a penalty of less than \$1,000.

25 At the same time, K.A.R. 82-3-409(c) lists a \$100 penalty for failure to file an
26 injection report. It is more serious to file a false report than it is to not file a report at all,
27 because Staff can easily confirm it does not have an injection report, but it is very
28 difficult for Staff to confirm that data on the injection report is false. The penalty needed
29 to reflect that, and \$500 seems appropriate.

30 Q. In your opinion, should the Penalty Order in this docket be affirmed?

- 1 A. Yes. Operator violated either K.A.R. 82-3-400(a) or K.A.R. 82-3-409(b), as the Penalty
2 Order stated. After the Penalty Order was issued, along with its request for hearing,
3 Operator filed an amended injection report at less than the permitted rate, indicating that
4 Operator believes it violated K.A.R. 82-3-409(b), not K.A.R. 82-3-400(a). Either way, it
5 does not change my opinion that the \$500 penalty is appropriate.
- 6 Q. Does this conclude your testimony as of this date, December 11, 2015?
- 7 A. Yes.

KANSAS CORPORATION COMMISSION
OIL & GAS CONSERVATION DIVISION

Form U3C
July 2014
Form must be Typed
Form must be completed
on a per well basis

**ANNUAL REPORT OF PRESSURE MONITORING,
FLUID INJECTION AND ENHANCED RECOVERY**

Complete all blanks - add pages if needed. Copy to be retained for five (5) years after filing date.

OPERATOR: License # 8866
Name: Mc Fadden Oil Co.
Address 1: Box 394
Address 2: _____
City: Iola State: Ks Zip: 66749 + _____
Contact Person: Jack Mc Fadden
Phone: (620) 496-7946
Lease Name: Winslow
Well Number: J 10

Permit Number: (E) (D) - E-14856 D21390
API No.: 15- 001-20040-00-00
Reporting Period: 01/01/14 to 12/31/14
January 1, 20 14 to December 31, 20 14
NE 1/4 Sec. 34 Twp. 24 S. R. 20 ☒ E ☐ W
(area) 4230 feet from ☐ N / ☒ S Line of Section
1790 feet from ☒ E / ☐ W Line of Section
Legal Description of Lease or Unit: NE 1/4
County: ALLEN

If new operator, list previous operator: _____

I. Injection Fluid:

Type: ☐ Fresh Water ☐ Treated Brine ☒ Untreated Brine ☐ Water/Brine

Source: ☒ Produced Water ☐ Other (Attach List)

Quality: Total Dissolved Solids: _____ mg/l Specific Gravity: _____ Additives: _____ KANSAS CORPORATION COMMISSION

(Attach water analysis, if available)

JAN 22 2015

CONSERVATION DIVISION
WICHITA, KS

II. Well Data:

Type Completion: ☐ Tubing & packer, packer setting depth: _____ feet; ☒ Packerless (tubing, but no packer); ☐ Tubingless

Maximum Authorized Injection Pressure: 800 psi Injection Zone: _____

Maximum Authorized Injection Rate: 150 barrels per day

Total Number of Enhanced Recovery Injection Wells Covered by This Permit: _____ (Include TA's)

III. Month	Total Volume Injected		# Days of Injection	Maximum Injection Pressure	Average Pressure Tubing/Casing Annulus
	BBL	MCF			
January	<u>150</u>	_____	<u>31</u>	<u>400</u>	_____
February	<u>150</u>	_____	<u>28</u>	<u>400</u>	_____
March	<u>150</u>	_____	<u>31</u>	<u>400</u>	_____
April	<u>150</u>	_____	<u>30</u>	<u>400</u>	_____
May	<u>160</u>	_____	<u>31</u>	<u>400</u>	_____
June	<u>150</u>	_____	<u>30</u>	<u>400</u>	_____
July	<u>160</u>	_____	<u>31</u>	<u>400</u>	_____
August	<u>160</u>	_____	<u>31</u>	<u>400</u>	_____
September	<u>140</u>	_____	<u>30</u>	<u>400</u>	_____
October	<u>160</u>	_____	<u>31</u>	<u>400</u>	_____
November	<u>140</u>	_____	<u>30</u>	<u>400</u>	_____
December	<u>150</u>	_____	<u>31</u>	<u>400</u>	_____
TOTAL	<u>1820</u>	<u>0</u>			

Print and Mail to: KCC - Conservation Division, 266 N Main St, Ste 220, Wichita, Kansas 67202-1513

Exhibit A

**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. McFadden ("Operator") to comply with K.A.R. 82-3-400 injection authority and/or K.A.R. 82-3-409 reporting requirements regarding injection that took place during the 2014 calendar year.)	Docket No. 16-CONS-056-CPEN
)	
)	CONSERVATION DIVISION
)	
)	License No. 8866
)	

CERTIFICATE OF SERVICE

I, Paula Murray, certify that on 12/11/15, 2015, I did cause a true and correct copy of the Pre-Filed Testimony of Rene Stucky to be served by United States mail, first class, postage prepaid to the following:

Jack W. McFadden
dba McFadden Oil Co.
P.O. Box 394
Iola, Kansas 66749


Paula Murray
Legal Assistant
Kansas Corporation Commission