

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

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

In the matter of the failure of Merit Energy ) Docket No.: 23-CONS-3273-CPEN  
Company, LLC (Operator) to comply with )  
K.A.R. 82-3-603 at its WMSU lease in ) CONSERVATION DIVISION  
Morton County, Kansas. )  
\_\_\_\_\_ ) License No.: 32446

**PENALTY ORDER**

The Commission finds Operator has violated K.A.R. 82-3-603 regarding the captioned lease, assesses a \$1,000 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 pursuant to 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. 82-3-101(a)(69) defines “spill” as any escape of saltwater, oil, or refuse by overflow, seepage, or other means from the vicinity of oil, gas, injection, service, or gas storage wells, or from tanks, pipelines, dikes, or pits, if the wells, tanks, pipelines, dikes, or pits are involved in or related to the exploration or drilling for oil or gas; the lease storage, treatment,

or gathering of oil or gas; or the drilling, operating, abandonment, or post-abandonment of wells. For purposes of the regulation, “vicinity” means the area within six feet of the wellhead.

4. K.A.R. 82-3-603(a) provides that each operator shall act with reasonable diligence to prevent spills and safely confine saltwater, oil, and refuse in tanks, pipelines, pits, or dikes.

5. K.A.R. 82-3-603(e)(1) provides that each operator shall clean up any spill that requires notification under this regulation in accordance with the cleanup method approved by the appropriate district office. The cleanup techniques deemed appropriate and acceptable to the appropriate district office shall be physical removal, dilution, treatment, and bioremediation. Except as otherwise required by law or regulation, each operator shall complete the cleanup of the spill within 10 days after discovery or knowledge, or by the deadline prescribed in writing by the district office.

6. K.A.R. 82-3-603(f) provides that the failure to contain and clean up the spill in accordance with this regulation shall be punishable by a \$1,000 penalty for the first violation, a \$2,500 penalty for the second violation, and a \$5,000 penalty and operator license review for the third violation.

## **II. FINDINGS OF FACT**

7. Operator is licensed to conduct oil and gas activities in Kansas and is responsible for the WMSU lease (Subject Lease), located in Section 28, Township 34 South, Range 41 West, Morton County, Kansas.

8. On May 27, 2022, Operator reported a spill at the Subject Lease to District #1 Staff.<sup>1</sup> On September 21, 2022, Commission Staff sent a Notice of Violation (NOV) letter to Operator giving an October 21, 2022, deadline to contact District #1 Staff or cure the violations.<sup>2</sup> Operator then contacted Staff and requested an extension of the October deadline. Operator

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<sup>1</sup> Exhibit A.

<sup>2</sup> Exhibit B.

proposed methods to remediate the spill; however, none of the proposed methods were deemed to be acceptable by District Staff.

9. On February 13, 2023, Staff conducted a follow-up inspection and documented that no changes had been made to the area since its previous inspection.<sup>3</sup> Staff sent a second NOV letter to Operator giving a March 15, 2023 deadline to cure the violations found at the well.<sup>4</sup> On March 20, 2023, Staff conducted a follow-up inspection and documented that no changes or remediation had been done since Staff's previous inspection.<sup>5</sup>

10. To date, Operator has failed to cleanup and remediate the spill at the Subject Lease.

### **III. CONCLUSIONS OF LAW**

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

12. The above findings of fact are sufficient evidence to support the conclusion that Operator committed one violation of K.A.R. 82-3-603(e)(1) because Operator did not complete the cleanup of the spill at the Subject Lease within 10 days after discovery or knowledge, or by the deadline prescribed in writing by the district office. Under K.A.R. 82-3-603(f), a first violation of this regulation carries a \$1,000 penalty. Accordingly, the Commission concludes Operator should be assessed a \$1,000 penalty for this violation.

#### **THEREFORE, THE COMMISSION ORDERS:**

- A. Operator shall pay a \$1,000 penalty for one violation of K.A.R. 82-3-603(e)(1).
- B. Operator shall fully remediate the spill within 30 days. If Operator fails to comply, then Operator shall pay an additional \$5,000 penalty, and Commission Staff is directed to remediate the spill and assess the costs to Operator.
- C. 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

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<sup>3</sup> Exhibit C.

<sup>4</sup> Exhibit D.

<sup>5</sup> Exhibit E.

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.

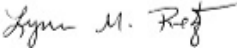
D. Failure to timely request a hearing will result in a waiver of Operator's right to a hearing. If no party timely requests a hearing, then this Order shall become final. If Operator is not in compliance with this Order and the Order is final, then Operator's license shall be suspended without further notice and shall remain suspended until Operator complies. The notice and opportunity for a hearing on this Order shall constitute the notice required by K.S.A. 77-512 regarding license suspension. 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).

E. 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.

**BY THE COMMISSION IT IS SO ORDERED.**

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 05/02/2023

  
\_\_\_\_\_  
Lynn M. Retz  
Executive Director

Mailed Date: 05/02/2023

KAM





# SPILL REPORT

Modified by: nfeldkam  
Date: 3/27/2023 9:38:08 AM

Spill ID **29428** State ID **49752**

Type of Report **INITIAL** (KCC staff) who investigated: **HEITH WALSH** **SALVADOR ALVARA** hrs

Who received the call: **Collin Cox** Date reported: **5/27/2022** Time: **1000** Date received in Central Office:  DIST. **1**

Date referred:  Time:  Date resolved:  Dist. incident#

## Reporting Party

Name: **Gary Ralstin** Agency Affiliation: **Operator**

Phone: **6203600508** Surface owner notified:  Operator Reported **Y** NRC notified:

## Spiller Information

Lease Name: **WMSU Injection Line** Off Lease  Quarter **SEC TWP RNG DIR FTNS N/S FTEWE/W**

Well No.:  API#:  SGA:  **NWSWNW 28 34 41 W 1921S 2601E**

Individual associated with company who operates the lease where the spill occurred:  Lat. **37.05969** Long. **101.78176** Datum **NAD83** GPS Date **05/31/2022**

License **32446** **Merit Energy Company, LLC** General Loc:

County **MORTON**

## Spill Details

Spill Date: **5/27/2022** Time: **0300** Discovery Date: **5/27/2022** Time: **0730**

Control Method:

Material	Amount Spilled	Recovered	Volume
Saltwater	1600	1230	Barrels

### Incident Description:

Type of Spill **Oil Lease** Valve on the flow lined failed. Fluid ran east down Webb A #3 lease road 660'x15' then on location 168'x129'. Fluid also ran north on half section line 10'x550'. Fluid also ran east on Webb A #1 lease road 10'x210' then on location 60'x75'.

Media Affected **Soil**

Waterway Affected

Agency who conducted the field investigation: **KCC** 1st Inspection Date **05/31/2022** 2nd Inspection **06/06/2022** Final Inspection

Cleanup Method(s):

Cleanup Description:  Compliance Officer  Supervisor

5/31/22: Picked up free fluid and started scraping up affected soil. 6/6/22: Scraped up approximated 12"-18" of the affected soil. 6/14/22: No changes since previous inspection. 9/20/22: No changes since previous inspection. Send NOV. 2/13/23: No changes since previous inspection. Send NOV. 3/20/23: No changes since previous inspection. Send to legal.

Was SPILL a result of either a Storm or Lightening?  Storm  Lightening  SPILL clean-up complete but additional remediation required

Comments:



**NOTICE OF VIOLATION**

September 21, 2022

MERIT ENERY COMPANY, LLC  
13727 NOEL ROAD, SUITE 1200  
DALLAS, TX 75240-7362  
OPERATOR LICENSE #32446

**Re: WMSU INJECTION LINE LEAK  
SECTION 28-T34S-R41W  
MORTON COUNTY, KS**

Dear Operator:

During a lease inspection conducted on September 20, 2022 in regards to a spill that was reported on May 27, 2022, on the above-referenced lease, a KCC representative documented the following probable regulatory violations:

1. K.A.R. 82-3-603 Failure to clean up a spill or escape in a timely manner.

Please contact me at the number listed above to discuss how to cure the above-listed violations. If I have not heard from you by **October 21, 2022**, or the violations have not otherwise been cured by that date, this matter will be referred to our legal department, with a recommendation that the Commission take formal enforcement action, including assessment of monetary penalties, for the violations. **In the event the Commission issues a penalty order for the above-listed violations, the recommended monetary penalties would total \$1000.00.** I urge you to give me a call immediately regarding this serious matter.

Sincerely,



Eric MacLaren, Compliance Officer

Cc: District Supervisor  
Legal Department

KCC OIL/GAS REGULATORY OFFICES

Date: 09/20/22

District: 1

Case #: \_\_\_\_\_

- New Situation
- Response to Request
- Follow-Up

- Lease Inspection
- Complaint
- Field Report

Operator License No: 32446

API Well Number: \_\_\_\_\_

Op Name: Merit Energy Company, LLC

Spot: \_\_\_\_\_ Sec 28 Twp 34 S Rng 41  E /  W

Address 1: 13727 Noel Road, Suite 1200

1921 Feet from  N /  S Line of Section

Address 2: \_\_\_\_\_

2601 Feet from  E /  W Line of Section

City: Dallas

GPS: Lat: 37.05969 Long: 101.78176 Date: 9/20/22

State: TX Zip Code: 75240 -7362

Lease Name: WMSU injection line Well #: \_\_\_\_\_

Operator Phone #: (972) 628-1558

County: Morton

Reason for Investigation:

Check spill clean up

Problem:

Spill reported on 5/27/2022, but still not remediated.

Persons Contacted:

None

Findings:

3:30pm  
Some excavation has been done, but spill is not fully remediated.

Action/Recommendations:

Follow Up Required  Yes  No

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

Send NOV Letter for failure to clean up spill.

Verification Sources:

Photos Taken: \_\_\_\_\_

- RBDMS
- T-I Database
- Other: On Site Inspection
- KGS
- District Files
- TA Program
- Courthouse

By: Salvador Alvarado

Retain 1 Copy District Office  
Send 1 Copy to Conservation Division

Form: \_\_\_\_\_

# KCC OIL/GAS REGULATORY OFFICES

Date: 02/13/23

District: 1

Case #: \_\_\_\_\_

- New Situation
- Response to Request
- Follow-Up

- Lease Inspection
- Complaint
- Field Report

Operator License No: 32446

API Well Number: \_\_\_\_\_

Op Name: Merit Energy Company, LLC

Spot: \_\_\_\_\_ Sec 28 Twp 34 S Rng 41  E /  W

Address 1: 13727 Noel Road, Suite 1200

1921 Feet from  N /  S Line of Section

Address 2: \_\_\_\_\_

2601 Feet from  E /  W Line of Section

City: Dallas

GPS: Lat: 37.05969 Long: 101.78176 Date: 2/13/23

State: TX Zip Code: 75240 -7362

Lease Name: WMSU injection line Well #: \_\_\_\_\_

Operator Phone #: (972) 628-1558

County: Morton

**Reason for Investigation:**

Check spill clean up

**Problem:**

Spill not cleaned up

**Persons Contacted:**

None

**Findings:**

2-13-23: No changes have been done to area since previous inspection.  
9-20-22  
Spill has not been cleaned up. Some remediation have been done but not completely.

**Action/Recommendations:**

Follow Up Required  Yes  No

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

Send NOV Letter  
Send to District office.

**Verification Sources:**

Photos Taken: \_\_\_\_\_

- RBDMS
- T-I Database
- Other: On Site Inspection
- KGS
- District Files
- TA Program
- Courthouse

By: Salvador Alvarado

Retain 1 Copy District Office  
Send 1 Copy to Conservation Division

Form: \_\_\_\_\_

Conservation Division  
District Office No. 1  
210 E. Frontview, Suite A  
Dodge City, KS 67801



Phone: 620-682-7933  
<http://kcc.ks.gov/>

Susan K. Duffy, Chair  
Dwight D. Keen, Commissioner  
Andrew J. French, Commissioner

Laura Kelly, Governor

**NOTICE OF VIOLATION**

February 14, 2023

MERIT ENERGY COMPANY, LLC  
13727 NOEL ROAD, SUITE 1200  
DALLAS, TX 75240-7362  
OPERATOR LICENSE #32446

**Re: WMSU INJECTION LINE LEAK  
SECTION 28-T34S-R41W  
MORTON COUNTY, KS**

Dear Operator:

District #1 Staff conducted a lease inspection at the referenced site on February 13, 2023. This inspection was a follow-up to see what progress had been made regarding the spill that was reported on June 7, 2022. Even though there has been communication regarding the spill, the spill remains unresolved and an apparent violation of K.A.R. 82-3-603 due to the failure to clean up the spill or escape in a timely manner.

We appreciate the different cleanup techniques that have been proposed as ways to clean up the spill. However, after further review of the spill and our regulations, Staff concluded that physical removal is the only cleanup technique deemed appropriate and acceptable in this instance.

Additionally, the impacted soils removed from the location of the spill are required to be transferred to a facility capable of taking the impacted soils pursuant to K.A.R. 82-3-608(c) because it is reasonably likely that the impacted soils will cause pollution without being transferred to such a facility.

Please contact me at the number listed above to discuss how to cure the above-listed violations. Failure to cure the violation by **March 15, 2023**, will result in this manner being referred to our legal department, with a recommendation that the Commission take formal enforcement action, for the violations.

Sincerely,

Eric MacLaren, Compliance Officer  
cc: District Supervisor  
Legal Department



# KCC OIL/GAS REGULATORY OFFICES

Date: 03/20/23

District: 1

Case #: \_\_\_\_\_

- New Situation
- Response to Request
- Follow-Up

- Lease Inspection
- Complaint
- Field Report

Operator License No: 32446

API Well Number: \_\_\_\_\_

Op Name: Merit Energy Company, LLC

Spot: NW-SW-NW-SE Sec 28 Twp 34 S Rng 41  E /  W

Address 1: 13727 Noel Road, Suite 1200

1921 Feet from  N /  S Line of Section

Address 2: \_\_\_\_\_

2601 Feet from  E /  W Line of Section

City: Dallas

GPS: Lat: 37.05969 Long: 101.78176 Date: 3/20/23

State: TX Zip Code: 75240 -7362

Lease Name: WMSU injection line Well #: \_\_\_\_\_

Operator Phone #: (972) 628-1558

County: Morton

**Reason for Investigation:**

Check spill clean up

**Problem:**

Spill not cleaned up

**Persons Contacted:**

None

**Findings:**

3-20-23: No changes or remediation have been done since previous inspection.  
2-13-23: No changes have been done to area since previous inspection.  
9-20-22  
Spill has not been cleaned up. Some remediation have been done but not completely.

**Action/Recommendations:**

Follow Up Required  Yes  No

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

Send NOV Letter  
Send to District office.

**Verification Sources:**

Photos Taken: \_\_\_\_\_

- RBDMS
- T-I Database
- Other: On Site Inspection
- KGS
- District Files
- TA Program
- Courthouse

By: Salvador Alvarado

Retain 1 Copy District Office  
Send 1 Copy to Conservation Division

Form: \_\_\_\_\_



Merit Energy  
WMSU Injection Line  
SE 7-32S-39 W  
Morton Co.  
3-20-23





Merit Energy  
WMSU Injection Line  
SE 7-32S-39 W  
Morton Co.  
3-20-23





Merit Energy  
WMSU Injection Line  
SE 7-32S-39 W  
Morton Co.  
3-20-23

**CERTIFICATE OF SERVICE**

23-CONS-3273-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 05/02/2023.

ROBYN HAYES, ADMINISTRATIVE SPECIALIST  
KANSAS CORPORATION COMMISSION  
DISTRICT OFFICE NO. 1  
210 E. FRONTVIEW SUITE A  
DODGE CITY, KS 67801  
r.hayes@kcc.ks.gov

KAT LYLES, ASSISTANT GENERAL COUNSEL AND REG.  
MANAGER  
MERIT ENERGY COMPANY, LLC  
13727 NOEL ROAD, SUITE 1200  
DALLAS, TX 75240  
kat.lyles@meritenergy.com

FRED MACLAREN  
KANSAS CORPORATION COMMISSION  
DISTRICT OFFICE NO. 1  
210 E. FRONTVIEW SUITE A  
DODGE CITY, KS 67801  
e.maclaren@kcc.ks.gov

KELCEY MARSH, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
CENTRAL OFFICE  
266 N. MAIN ST, STE 220  
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k.marsh@kcc.ks.gov

KRAIG STOLL, EP&R SUPERVISOR  
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k.stoll@kcc.ks.gov

KENNY SULLIVAN, DISTRICT #1 SUPERVISOR  
KANSAS CORPORATION COMMISSION  
DISTRICT OFFICE NO. 1  
210 E. FRONTVIEW SUITE A  
DODGE CITY, KS 67801  
k.sullivan@kcc.ks.gov

/S/ KCC Docket Room  
KCC Docket Room