

Conservation Division
Finney State Office Building
130 S. Market, Rm. 2078
Wichita, KS 67202-3802



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

Mark Sievers, Chairman
Thomas E. Wright, Commissioner
Shari Feist Albrecht, Commissioner

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT 14-CONS-004-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 the fine amount. 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 130 S. Market St., Room 2078, 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 at 316-337-6200, 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's Executive Director at 130 S. Market, Room 2078, 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, in the alternative, request a hearing within 30 days as set forth above, will result your being in noncompliance with a Commission Order, which 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: Mark Sievers, Chairman
 Thomas E. Wright
 Shari Feist Albrecht

In the matter of the failure of ELM III)	Docket No.: 14-CONS-004-CPEN
Operating Company LLC ("Operator") to)	
comply with K.A.R. 82-3-111 at the Hitch #4-)	CONSERVATION DIVISION
2, the Hitch Unit #7-1, the Hitch Unit #6-1,)	
and the Schmitt A #4 wells in Seward County,)	License No.: 34545
Kansas.		

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. 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, with licensing authority pursuant to K.S.A. 55-155. K.S.A. 74-623 provides that the Commission has the exclusive jurisdiction and authority to regulate oil and gas activities.
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. A Penalty Order may include a monetary penalty of up to \$10,000; 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. A well shall not be eligible for TA status if the well has been shut-in for 10 years or more without an application for an exception pursuant to K.A.R. 82-3-100 and approval by the Commission. The failure to file an application for TA status shall be punishable by a \$100 penalty. K.A.R. 82-3-111 provides an exemption for certain wells for 365 days if they are fully-equipped and capable of production.

II. FINDINGS OF FACT

4. Operator conducts oil and gas activities in Kansas under license number 34545.

5. Operator is responsible for the care and control of the following wells, all located in Seward County, Kansas (“the subject wells”):

- a. Hitch #4-2, API #15-175-21280-00-00, located in Section 10, Township 33, Range 34 West;
- b. Hitch Unit #7-1, API #15-175-20657-00-00, located in Section 15, Township 33, Range 34 West;
- c. Hitch Unit #6-1, API #15-175-20693-00-00, located in Section 11, Township 33, Range 34 West; and
- d. Schmitt A #4, API #15-175-21665-00-00, located in Section 27, Township 33, Range 34 West.

6. District Staff inspected the subject wells and collected evidence indicating the subject wells have been inactive and unplugged for longer than the 90 days allowed by K.A.R. 82-3-111. The subject wells did not appear to be exempt pursuant to K.A.R. 82-3-111(e). The operator either did not file TA applications or did not bring the subject wells into compliance after TA applications were denied.

7. District Staff sent Notice of Violation letters to the Operator, requiring the Operator to bring the subject wells into compliance with K.A.R. 82-3-111 by a deadline.

8. District Staff inspected the subject wells after the deadline in each Notice of Violation letter passed, verifying that the subject wells continued to be inactive and unplugged.

9. District Staff collected evidence and submitted it to the Legal Department with a recommendation that the Commission issue this Order. The recommendation sheets submitted by the District Staff are attached to this Order as Exhibit A, incorporated into this Order, and shall serve as the concise and explicit statement of facts required by K.S.A. 77-526.

III. CONCLUSIONS OF LAW

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

11. The above findings of fact are sufficient evidence to support the conclusion that the Operator committed four 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.

THEREFORE, THE COMMISSION ORDERS:

A. Operator is hereby assessed a \$400 penalty. Payment shall be due within 30 days of service of this Penalty Order.

B. Operator shall plug the subject wells, return the wells to service, or obtain TA status for the subject wells if eligible. Obtaining TA status shall include application and Commission approval of an exception to the 10-year limit on TA status if applicable. Compliance shall be obtained within 30 days of service of this Penalty Order.

C. Pursuant to K.S.A. 55-164, K.S.A. 77-537, and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Commission's Executive Director, at 130 S. Market, Room 2078, Wichita, Kansas 67202, within 30 days from the date of service of this Penalty Order. If service is by mail, three days will be added to the Mailed Date listed at the end of this Penalty Order. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of the Operator's right to a hearing.

D. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. A corporation or similar entity shall not be permitted to enter an appearance except by its attorney.

E. If you do not request a hearing, the payment of the monetary penalty is due within 30 days from the date of service of this Order. 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 130 S. Market, Wichita, Kansas 67202. The payment shall include a reference to the docket number of this proceeding.

F. The failure to comply with this Order within 30 days shall be punishable by license suspension without the need for an additional Order to be issued by the Commission. The notice and opportunity for a hearing on this order shall constitute the notice required by K.S.A. 77-512 regarding license suspension. In addition, the Commission may impose further sanctions, including additional monetary penalties and any other remedies available to the Commission by law, without further notice.

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.

Sievers, Chmn.; Wright, Com.; Albrecht, Com.

Dated: JUL 10 2013

Jackie Montfoort Paige

Jackie Montfoort Paige
Acting Executive Director

Mailed Date: 7-11-2013

LRP

I CERTIFY THE ORIGINAL
COPY IS ON FILE WITH
The State Corporation Commission

JUL 10 2013

PENALTY ORDER RECOMMENDATION

*****ROUTINE TEMPORARY ABANDONMENT VIOLATION*****

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

Date of Recommendation:	July 1, 2013
District/Department:	District #1
Person Recommending Penalty:	Richard Lacey, Acting Supervisor
Operator Name:	Elm III Operating Company LLC
Operator License Number:	34545
Well/Lease Name & Well Number:	Hitch Unit #4-2
Well/Lease Location, and County:	NE SE SE SE Sec. 10-33S-34W, Seward County.
Well API Number:	15-175-21280-00-00
UIC Docket Number:	N/A
Regulation Number:	82-3-111
Description of Violation:	Failure to plug, produce, or obtain TA status (including after a TA application is filed and denied).
Date of NOV letter.	May 2, 2013
Deadline in NOV letter.	May 16, 2013
Date of follow-up lease inspection.	June 18, 2013
Requested Monetary Penalty:	\$100
Requested Operator Activity:	Plug, produce, or obtain TA status if eligible (including the 10-year TA application if required).
Supervisor Initials	<i>RL</i>

RECEIVED
KANSAS CORPORATION COMMISSION

JUL 01 2013

CONSERVATION DIVISION
WICHITA, KS

Exhibit A

PENALTY ORDER RECOMMENDATION

*****ROUTINE TEMPORARY ABANDONMENT VIOLATION*****

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

Date of Recommendation:	July 1, 2013
District/Department:	District #1
Person Recommending Penalty:	Richard Lacey, Acting Supervisor
Operator Name:	Elm III Operating Company LLC
Operator License Number:	34545
Well/Lease Name & Well Number:	Hitch Unit #7-1
Well/Lease Location, and County:	SE NE Sec. 15-33S-34W, Seward County.
Well API Number:	15-175-20657-00-00
UIC Docket Number:	N/A
Regulation Number:	82-3-111
Description of Violation:	Failure to plug, produce, or obtain TA status (including after a TA application is filed and denied).
Date of NOV letter.	May 2, 2013
Deadline in NOV letter.	May 16, 2013
Date of follow-up lease inspection.	June 18, 2013
Requested Monetary Penalty:	\$100
Requested Operator Activity:	Plug, produce, or obtain TA status if eligible (including the 10-year TA application if required).
Supervisor Initials	RWL

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PENALTY ORDER RECOMMENDATION

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

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District/Department:	District #1
Person Recommending Penalty:	Richard Lacey, Acting Supervisor
Operator Name:	Elm III Operating Company LLC
Operator License Number:	34545
Well/Lease Name & Well Number:	Hitch Unit #6-1
Well/Lease Location, and County:	SW SW Sec. 11-33S-34W, Seward County.
Well API Number:	15-175-20693-00-00
UIC Docket Number:	N/A
Regulation Number:	82-3-111
Description of Violation:	Failure to plug, produce, or obtain TA status (including after a TA application is filed and denied).
Date of NOV letter.	May 2, 2013
Deadline in NOV letter.	May 16, 2013
Date of follow-up lease inspection.	June 18, 2013
Requested Monetary Penalty:	\$100
Requested Operator Activity:	Plug, produce, or obtain TA status if eligible (including the 10-year TA application if required).
Supervisor Initials	RAW

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WICHITA, KS

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PENALTY ORDER RECOMMENDATION

*****ROUTINE TEMPORARY ABANDONMENT VIOLATION*****

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

Date of Recommendation:	July 1, 2013
District/Department:	District #1
Person Recommending Penalty:	Richard Lacey, Acting Supervisor
Operator Name:	Elm III Operating Company LLC
Operator License Number:	34545
Well/Lease Name & Well Number:	Schmitt "A" #4
Well/Lease Location, and County:	NW SE Sec. 27-33S-34W, Seward County.
Well API Number:	15-175-21665-00-00
UIC Docket Number:	N/A
Regulation Number:	82-3-111
Description of Violation:	Failure to plug, produce, or obtain TA status (including after a TA application is filed and denied).
Date of NOV letter.	May 2, 2013
Deadline in NOV letter.	May 16, 2013
Date of follow-up lease inspection.	June 18, 2013
Requested Monetary Penalty:	\$100
Requested Operator Activity:	Plug, produce, or obtain TA status if eligible (including the 10-year TA application if required).
Supervisor Initials	<i>AWL</i>

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KANSAS CORPORATION COMMISSION

JUL 01 2013

CONSERVATION DIVISION
WICHITA, KS

Exhibit A

CERTIFICATE OF SERVICE

I certify that on 7-11-2013, 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:

Rob Abernathy
ELM III Operating Company LLC
1249 E. 33rd Road
Edmond, Oklahoma 73013

Dennis Herlocker
115 E. 9th Avenue
Winfield, Kansas 67156

Richard Lacey
KCC District #1
210 E. Frontview, Suite A
Dodge City, Kansas 67801

/s/ Lane R. Palmateer
Lane R. Palmateer
Litigation Counsel
Kansas Corporation Commission