THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

Before Commissioners: Dwight D. Keen, Chair Shari Feist Albrecht

Susan K. Duffy

In the matter of the failure of Bill and/or Penny M. McPherson dba McPherson Drilling Co.)	Docket No: 19-CONS-3035-CPEN
("Operator") to comply with K.A.R. 82-3-120.)	CONSERVATION DIVISION
) _)	License No: 5495

ORDER DESIGNATING PREHEARING OFFICER AND SETTING PREHEARING CONFERENCE

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds the following:

- 1. On August 2, 2018, the Commission issued a *Penalty Order* against Bill and Penny M. McPherson (Operator) for one violation of K.A.R. 82-3-120(a) because three unplugged wells, for which Operator is responsible, remained on Operator's expired license.¹
- 2. Operator did not request a hearing.² Commission records indicate Operator did not timely renew its license, transfer the wells, or plug the wells as directed under the Penalty Order.³
- 3. On September 12, 2019, Commission Staff filed a Motion to Approve Settlement Agreement, stating that parties have reached a settlement in this matter, purportedly to avoid potential litigation costs and to foster administrative efficiency.⁴ Among other things, the terms of the Settlement Agreement would have all fines in this docket waived if Operator plugs the three wells by November 30, 2019.⁵

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¹ See Penalty Order, ¶ 6, 10, Exhibit A (Aug. 2, 2018).

² See Motion to Approve Settlement, at attached Settlement Agreement, ¶ 7 (Sept. 12, 2019).

³ See id.; Penalty Order at Ordering Clause C; see also K.A.R. 82-1-230(h).

⁴ See Motion to Approve Settlement, at attached Settlement Agreement, ¶ 13.

⁵ *Id*. at ¶ 18.

- 4. The Commission wishes to further inquire regarding this matter. Accordingly, the Commission finds a Prehearing Officer should be designated in this proceeding to address any matters listed in K.S.A. 77-517(b), and a Prehearing Conference should be scheduled, in anticipation of a potential evidentiary hearing on Staff's Motion to Approve Settlement Agreement.
- 5. Although a Prehearing Officer is designated, parties are still required to file pleadings with the Commission, and filings shall be made with the Commission's Docket Room before 5:00 p.m. on the date scheduled for service. Any electronic service received after the deadline set forth in the procedural schedule, or any filing made after 5:00 p.m. on the date scheduled for service, shall be accompanied by a Motion to File Out-of-Time.

THEREFORE, THE COMMISSION ORDERS:

- A. The Prehearing Officer in this proceeding shall be Jonathan R. Myers, Assistant General Counsel, Kansas Corporation Commission, 266 N. Main Street, Suite 220, Wichita, Kansas, 67202-1513, telephone number (316) 337-6245, email address j.myers@kcc.ks.gov. The Commission may designate other Staff members to serve in this capacity. The Commission directs electronic service of all filings in the docket to include service on the Prehearing Officer and mailed service of all filings to be directed to the Prehearing Officer's attention.
- B. A Prehearing Conference is scheduled for **Wednesday, October 9, 2019 at 10:00 a.m.** by telephone. The conference call information is: telephone number (866) 620-7326, Conference Code PIN: 3902542751.
- C. At the Prehearing Conference, parties shall be prepared to discuss deadlines for filing testimony and briefs, discovery procedures, scheduling of a hearing with the Commission, and any other issues that will promote the orderly and prompt resolution of this proceeding.
- D. At the Prehearing Conference, without further notice, this proceeding may be converted into a conference hearing or a summary proceeding for disposition of this matter as provided by the

Kansas Administrative Procedure Act (KAPA). Any party that fails to attend or participate in the Prehearing Conference, hearing, or other stage of this proceeding may be held in default under the KAPA.⁶

- E. A corporation shall appear before the Commission by a Kansas licensed attorney.⁷
- F. The attorney designated to appear on behalf of the agency in this proceeding is Carly Masenthin, Litigation Counsel, telephone number (785) 271-3110, c.masenthin@kcc.ks.gov.
- G. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 09/24/2019		Lynn M. Reg		
		Lynn M. Retz		
		Executive Director		
Mailed Date: _	09/24/2019			
				
JRM				

⁶ K.S.A. 77-506; K.S.A. 77-516(c)(7)-(8).

⁷ K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

CERTIFICATE OF SERVICE

19-CONS-3035-CPEN

the undersigned, certify that a true copy of the attached Order has been served to the following by means of	ρf
09/24/2019	
rst class mail and electronic service on	

BILL MCPHERSON
BILL AND/OR PENNY M. MCPHERSON
D/B/A MCPHERSON DRILLING CO.
15256 112TH ROAD
WINFIELD, KS 67156-7654

DONALD KLOCK
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/S/ DeeAnn Shupe

DeeAnn Shupe