

CORPORATION COMMISSION
CONSERVATION DIVISION
266 N. MAIN ST., STE. 220
WICHITA, KS 67202-1513



PHONE: 316-337-6200
FAX: 316-337-6211
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

NOTICE OF PENALTY ASSESSMENT
19-CONS-3176-CPEN

November 20, 2018

Robert P. Bukaty
Viva International, Inc.
13200 Metcalf Avenue, Suite 200
Overland Park, KS 66213-2821

This is a notice of a penalty assessment for violation(s) 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:

You have been assessed a \$200 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 and mailed to the Conservation Division of the Kansas Corporation Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202. The payment must include a reference to the docket number of this proceeding. Payment by credit card may be made by calling the Conservation Division at 316-337-6200.

IF YOU CONTEST THE PENALTY:

You have the right to request a hearing. A written request for hearing must be made within 30 days after service of the Penalty Order setting forth the specific grounds upon which relief is sought. Respondent must submit the request to the Commission, at 266 N. Main St., Suite 220, Wichita, Kansas 67202. The Commission shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act within 30 days after receipt of such request. K.S.A. 55-164; K.S.A. 77-542; K.A.R. 82-1-215.

IF YOU FAIL TO ACT:

Failure to pay the fine amount, or in the alternative, provide a written request for a hearing, within thirty (30) days of service of the Penalty Order, will result in the attached Penalty Order becoming a Final Order and 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. K.S.A. 55-164; K.S.A. 77-537.

Respectfully,

Lauren N. Wright
Litigation Counsel
316-337-6200

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

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

In the matter of the failure of Viva)	Docket No.: 19-CONS-3176-CPEN
International, Inc. (“Operator”) to comply)	
with K.A.R. 82-3-111 at the Canon #6 and)	CONSERVATION DIVISION
Canon #7 in Butler County, Kansas.)	
<hr/>		License No.: 5556

PENALTY ORDER

The above captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined the files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

I. JURISDICTION

1. The Commission has the exclusive jurisdiction and authority to regulate oil and gas activities in Kansas.¹ 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.”² Every operator conducting oil and gas activity in Kansas must be licensed by the Commission.³

2. The Commission has the authority to issue a Penalty Order for violation of any provision of K.S.A. 55-101 *et seq.*, rule, regulation, or order of the Commission.⁴ The Commission shall take appropriate action which may include, but not be limited to, imposing a monetary penalty “not to exceed \$10,000, which shall constitute an actual and substantial

¹ K.S.A. 74-623.

² K.S.A. 55-152.

³ K.S.A. 55-155.

⁴ K.S.A. 55-162; K.S.A. 55-164.

economic deterrent to the violation for which the penalty is assessed.”⁵ “In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.”⁶

3. Within 90 days after operations cease on any well drilled for the purpose of exploration, discovery, service, or production of oil, gas, or other minerals, the operator of that well shall: (1) plug the well, (2) return the well to service, or (3) file an application with the Conservation Division requesting temporary abandonment (“TA”) authority, on a form prescribed by the Conservation Division.⁷ No well shall be temporarily abandoned unless first approved by the Conservation Division.⁸ 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.⁹ The failure to file a notice of temporary abandonment shall be punishable by a \$100 penalty,¹⁰ and the failure to obtain approval of temporary abandonment status shall subject the Operator to additional administrative action.¹¹

4. K.A.R. 82-3-111(e) provides an exemption for certain wells that are (1) fully equipped for production of oil or gas or for injection; (2) capable of immediately resuming production of oil or gas or of injection; (3) subject to a valid continuing oil and gas lease; when (4) the cessation period for the well is less than 365 days; and (5) the well is otherwise in full compliance with all of the Commission’s regulations.

II. FINDINGS OF FACT

5. The Operator conducts oil and gas activities in Kansas under active license number 5556.

⁵ K.S.A. 55-164.

⁶ *Id.*

⁷ *See* K.A.R. 82-3-111(a).

⁸ K.A.R. 82-3-111(b).

⁹ *Id.*

¹⁰ *Id.*

¹¹ K.S.A. 55-164; K.A.R. 82-3-111(b).

6. The Operator is responsible for the care and control of the following wells, all located in Section 15, Township 28 South, Range 7 East, Butler County, Kansas.

- a. Canon #6, API #15-015-19537-00-00, and
- b. Canon #7, API #15-015-20872-00-00.

7. On September 21, 2018, Commission records indicated that the subject wells had been inactive and unplugged for longer than the 90 days allowed by K.A.R. 82-3-111 and that the wells were not exempt pursuant to K.A.R. 82-3-111(e). The wells had also not been approved for temporary abandonment status. Thus, District Staff sent a letter to the Operator, requiring the Operator to bring the subject well into compliance with K.A.R. 82-3-111 by October 19, 2018.¹²

8. Because the deadline in the letter passed and the violation had not been resolved, on October 29, 2018, District Staff inspected the subject well, verifying that the well continued to be inactive and unplugged.¹³

III. CONCLUSIONS OF LAW

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

10. The Commission finds and concludes the Operator committed two 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.¹⁴

THEREFORE, THE COMMISSION ORDERS:

- A. The Operator shall pay a \$200 penalty.

¹² Exhibit A.

¹³ Exhibit B.

¹⁴ K.S.A. 55-164; K.A.R. 82-3-111(b).

B. The Operator shall plug the subject wells, or return the wells to service, or obtain TA status for the wells if eligible. Obtaining TA status shall include application for, and Commission approval of, an exception to the 10-year limit on TA status if applicable.

C. If no party requests a hearing, and the Operator is not in compliance with this Order within 30 days from the date of service of this Order, then the Operator's license shall be suspended without further notice. The notice and opportunity for a hearing on this Order shall constitute the notice required by K.S.A. 77-512 regarding license suspension. The Commission may impose further sanctions, including additional monetary penalties and any other remedies available to the Commission by law, without further notice.

D. 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. The payment must include a reference to the docket number of this proceeding. Credit card payments may be made by calling the Conservation Division at 316-337-6200.

E. Any party 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, setting forth the specific grounds upon which relief is sought, to the Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202, within 30 days from the date of service of this Order. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Operator's right to a hearing.

F. A corporation shall appear before the Commission by a Kansas licensed attorney.¹⁵

¹⁵ K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

G. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 11/20/2018 _____



Lynn M. Retz
Secretary to the Commission

Mailed Date: 11/21/2018 _____

LW



Shari Feist Albrecht, Chair
Jay Scott Emler, Commissioner
Dwight D. Keen, Commissioner

Corporation Commission

Jeff Colyer, M.D., Governor

NOTICE OF VIOLATION

VIVA INTERNATIONAL, INC.
13200 METCALF AVE. SUITE 200
OVERLAND PARK KS 66213-2821

September 21, 2018
KCC Lic.-5556

RE: **TEMPORARY ABANDONMENT**
API Well No. 15-015-19537-00-00
CANON 6
15-28S-7E, N2N2NW
BUTLER County, Kansas

Operator:

On September 21, 2018, a file review documented a probable violation of the following regulation at the referenced well:

- K.A.R. 82-3-111. Within 90 days after operations cease on a well, the operator must return the well to service, plug the well, or obtain approval for temporary abandonment status.

**Failure to remedy this violation
by OCTOBER 19, 2018
shall be punishable by a \$100 penalty.**

You may contact me if you have any questions.

Sincerely,

DUANE KRUEGER
KCC District # 2



Shari Feist Albrecht, Chair
Jay Scott Emler, Commissioner
Dwight D. Keen, Commissioner

Corporation Commission

Jeff Colyer, M.D., Governor

NOTICE OF VIOLATION

VIVA INTERNATIONAL, INC.
13200 METCALF AVE. SUITE 200
OVERLAND PARK KS 66213-2821

September 21, 2018
KCC Lic.-5556

RE: **TEMPORARY ABANDONMENT**
API Well No. 15-015-20872-00-00
CANON 7
15-28S-7E, SWNWSWNW
BUTLER County, Kansas

Operator:

On September 21, 2018, a file review documented a probable violation of the following regulation at the referenced well:

- K.A.R. 82-3-111. Within 90 days after operations cease on a well, the operator must return the well to service, plug the well, or obtain approval for temporary abandonment status.

**Failure to remedy this violation
by OCTOBER 19, 2018
shall be punishable by a \$100 penalty.**

You may contact me if you have any questions.

Sincerely,

DUANE KRUEGER
KCC District # 2

KCC OIL/GAS REGULATORY OFFICES

Date: 10/29/18

District: 02 ☐

Case #: _____

- ☐ New Situation
☐ Response to Request
☐ Follow-Up

- ☐ Lease Inspection
☐ Complaint
☒ Field Report

Operator License No: 5556

Op Name: VIVA INTERNATIONAL

Address 1: 13200 METCALF AVE

Address 2: SUITE 200

City: OVERLAND PARK

State: KS Zip Code: 66213 -2821

Operator Phone #: (913) 681-1690

API Well Number: _____

Spot: NW Sec 15 Twp 28 S Rng 7 ☒ E / ☐ W

Feet from ☐ N / ☒ S Line of Section

Feet from ☒ E / ☐ W Line of Section

GPS: Lat: _____ Long: _____ Date: _____

Lease Name: CANNON Well #: 6 & 7

County: Butler

Reason for Investigation:

PAST DEADLINE / 10-19-2018

Problem:

WELLS NOT IN OPERATION

Persons Contacted:

NONE

Findings:

NO CHANGE TO CANON #6 OR CANON # 7. THERE IS NO ELECTRIC MOTOR, OR BELTS ON PUMPING UNIT.

Action/Recommendations:

Follow Up Required ☐ Yes ☐ No ☒

Date: _____

OPERATOR IS IN VIOLATION K.A.R.82-3-111, RECOMMEND \$200.00 FINE FOR NOT BRINGING WELLS INTO COMPLIANCE.

Verification Sources:

Photos Taken: YES

- ☐ RBDMS ☐ KGS ☐ TA Program
☐ T-I Database ☐ District Files ☐ Courthouse
☒ Other: FIELD INSPECTION

By: DUANE KRUEGER

Retain 1 Copy District Office
Send 1 Copy to Conservation Division

Form: 10/31/2018

Exhibit B
Page 1 of 2

JK



Cannon #6, API#15-015-19537-00-00

Inactive well, operated by Viva International, Inc. Lic. #5556

Well is located in the NW/4 of 15-28S-7E. Butler County. Photo taken by Duane Krueger-ECRS on Oct. 29th 2018.

CERTIFICATE OF SERVICE

19-CONS-3176-CPEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of
first class mail and electronic service on 11/20/2018.

ROBERT P BUKATY
VIVA INTERNATIONAL, INC.
13200 METCALF AVE STE 200
OVERLAND PARK, KS 66213-2821
vivainternational@sbcglobal.net

DANIEL FOX, COMPLIANCE OFFICER, KCC DISTRICT 2
KANSAS CORPORATION COMMISSION
DISTRICT OFFICE NO. 2
3450 N. ROCK RD BLDG 600 STE 601
WICHITA, KS 67226
Fax: 316-630-4005
d.fox@kcc.ks.gov

LAUREN WRIGHT, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
Conservation Division
266 N. Main St. Ste. 220
WICHITA, KS 67202-1513
Fax: 316-337-6211
l.wright@kcc.ks.gov

/S/ DeeAnn Shupe

DeeAnn Shupe