

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

**Before Commissioners:** Shari Feist Albrecht  
Jay Scott Emler  
Pat Apple

In the matter of an agreed compliance	)	Docket No.: 15-CONS-173-CMSC
schedule for Joe Brake to plug the wells on	)	
the Korte Lease in Butler County, Kansas.	)	CONSERVATION DIVISION
	)	
	)	License No.: 31074 (suspended)

**PENALTY ORDER**

**Upon its own motion, the Commission finds and concludes Joe Brake dba Brake Inc.**

(“the Operator”) has violated a Commission Order for the following reasons:

## 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.

## **II. FINDINGS OF FACT**

3. On August 28, 2014, the Commission adopted into its Order a settlement agreement executed by Staff on August 19, 2014, and by Joe Brake on August 14, 2014. Paragraph 5 of the settlement agreement provides that Joe Brake will plug one well by August 29, 2014, and the second well by September 30, 2014.

4. The Korte #1 well was plugged on August 28, 2014.

5. Some work was performed on the Korte #5, but the plugging of the well was never completed, in violation of the September 30, 2014, deadline. The well needs a top plug.

6. The settlement agreement provides that the failure to comply shall result in license suspension. License suspension could have been made effective any time after the September 30, 2014, deadline passed. However, due to the untimely death of a contractor working for Joe Brake, District #2 Staff gave Joe Brake additional time to plug the Korte #5. This never occurred, and Commission Staff suspended Joe Brake's license on December 12, 2014, as directed by the settlement agreement and the Order incorporating it.

7. The Korte #5 well still has not been plugged. Joe Brake currently has approximately one dozen additional inactive wells on his license.

8. On April 3, 2015, District #3 Staff inspected the Utt #2 well located in Chautauqua County. This well, operated by Joe Brake, was pumping at the time of inspection. Photographs were taken with the pumping unit in the up stroke and down stroke positions.

9. Commission Staff has recommended that Joe Brake's failure to comply with the settlement agreement and his operating an oil well while suspended should be punishable by a \$10,000 penalty. Joe Brake's operations should be shut-in and sealed.

### 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 has violated the Commission's Order with regard to the Korte #5, both by failing to comply with the settlement agreement and by operating on a suspended license.

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

A. The operator is assessed a penalty of \$10,000.

B. Staff is directed to shut-in and seal all oil and gas operations by the operator until such time as compliance is obtained.

C. The operator is directed to plug the Korte #5 within 30 days. If the operator fails to do so, Staff is directed to plug the well and assess the plugging costs to the operator.

D. 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, Ste. 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 the Operator's right to a hearing.

E. If no party requests a hearing, 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 266 N. Main, Ste. 220, Wichita, Kansas 67202. The payment must include a reference to the docket number of this proceeding.

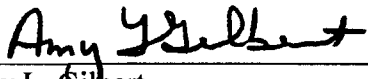
F. If you request a hearing, a corporation or similar entity shall not be permitted to enter an appearance except by its attorney. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record.

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.**

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: APR 23 2015

  
\_\_\_\_\_  
Amy L. Gilbert  
Secretary

Mailed Date: April 23, 2015

LRP

**CERTIFICATE OF SERVICE**

I certify that on 4/23/15, 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:

Joe Brake dba Brake Inc.  
Rt 1 Box 84  
Latham, Kansas 67072

Jeff Klock  
KCC District #2  
3450 N. Rock Road, Bldg. 600, Suite 601  
Wichita, KS 67226

Steve Korf  
KCC District #3  
1500 W. 7th Avenue  
Chanute, KS 66720

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