

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Shari Feist Albrecht, Chair
Jay Scott Emler
Pat Apple

In the Matter of the Failure of VEEM Jade)	Docket No: 18-CONS-3221-CPEN
Oil & Gas LLC (“Operator”) to comply with)	
K.A.R. 82-3-111 at Daves #D21, Smith A)	CONSERVATION DIVISION
#2, Smith B #10 and Smith B #12 in Elk)	
County, Kansas.)	License No: 32874

ORDER DENYING MOTION FOR EXPEDITED ORDER
LIFTING LICENSE SUSPENSION

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 makes the following findings and conclusions:

Background

1. On November 21, 2017, the Commission issued a *Penalty Order* against VEEM Jade Oil & Gas LLC (Operator), finding that the Operator is responsible for the care and control of the Daves #D21, Smith A #2, Smith B #10, and Smith B #12 wells, all located in Elk County, Kansas.¹ The Commission found the Operator “committed four violation(s) of K.A.R. 82-3-111,” ordered the Operator to “pay a \$400 penalty,” and further ordered the Operator to “plug the subject wells, return the subject wells to service, or obtain TA status for the subject wells if eligible.”² The Commission stated that “[o]btaining TA status shall include application for, and Commission approval of, an exception to the 10-year limit on TA status if applicable.”³ The Commission also ordered that “[i]f no party requests a hearing, and Operator is not in compliance with this Order within 30 days, then

¹ *Penalty Order*, ¶ 7 (Nov. 21, 2017).

² *Id.* at ¶ 13 and Ordering Clauses A & B.

³ *Id.* at Ordering Clause B.

Operator's license shall be suspended without further notice."⁴ The Operator did not request a hearing on the *Penalty Order*.

2. On January 8, 2018, the Operator filed a Motion for [an] Expedited Order Lifting [the] License Suspension (Motion). The Operator stated that, in response to the *Penalty Order*, it "paid the \$400 penalty and did not contest the Order."⁵ The Operator asserted it complied with the requirements of the *Penalty Order* "by filing an Application [on January 2, 2018,] for an exemption of two of the subject wells, and for a determination of responsibility for the other two wells" in Docket No. 18-CONS-3260-CEXC.⁶ The Operator conceded that its Application missed the deadline stated in the *Penalty Order* for obtaining compliance, but argued that the Application cured the Operator's violation and thus, the untimeliness of its action "is excusable neglect."⁷

3. The Operator noted a January 3, 2018, letter from the Commission Conservation Staff (Staff), informing the Operator that Staff had received the Operator's aforementioned Application, but did not believe the Application brought the Operator into compliance with the *Penalty Order*, and that the Operator's license would remain suspended.⁸ The Operator claimed that the continued suspension of its license "is unjust and counterproductive," as well as "disproportionately punitive."⁹ The Operator asked the Commission to "issue an expedited Order declaring that the automatic suspension of Operator's license is lifted, and for such other relief as the Commission deems necessary and appropriate."¹⁰

4. On January 11, 2018, Staff filed its Response to Operator's Motion for [an] Expedited Order Lifting [the] License Suspension (Response). Staff stated that: (1) the Operator's time to request a hearing on the *Penalty Order* expired on December 27, 2017; (2) the Operator did

⁴ *Id.* at Ordering Clause C.

⁵ Motion, ¶ 2.

⁶ Motion, ¶ 2.

⁷ Motion, ¶ 3.

⁸ Motion, ¶ 5. *See* Staff's letter attached to the Motion.

⁹ Motion, ¶ 6.

¹⁰ Motion, p. 3.

not request a hearing; and (3) the Operator “has not plugged the subject wells, returned the subject wells to service, or obtained temporary abandonment status for the wells.”¹¹ Thus, “[p]ursuant to the Commission’s Penalty Order, Operator’s license was suspended.”¹²

5. Staff noted the Operator’s January 2, 2018, Application “seeking an exception to the 10-year limit on TA status for the Daves #D21 and Smith A #2 wells,” but asserted that the Operator lacked evidence that it provided proper notice of its Application or that it conducted “current, successful casing integrity tests, necessary for Staff to recommend approval of the Application.”¹³ Staff further stated that the Operator has not filed for an exception to the 10-year time limit on TA status for the Smith B #10 and Smith B #12 wells, but instead, the Operator sought “a finding that Operator is not responsible for the wells.”¹⁴

Findings and Conclusions

6. The Commission agrees with Staff that the *Penalty Order* required the Operator to “plug the subject wells, return the subject wells to service, or obtain TA status for the subject wells if eligible,” and that “obtaining TA status” required “Commission approval of an exception to the 10-year time limit on TA status if applicable.”¹⁵

7. The Commission finds the Operator has provided no evidence that it has plugged, returned to service, or obtained TA status for the four (4) subject wells at issue in the *Penalty Order*, and thus, the Operator is still out of compliance with the *Penalty Order*.

8. The Commission agrees with Staff that the Operator’s January 2, 2018, Application “launched an impermissible collateral attack on the Commission’s uncontested finding in this

¹¹ Response, ¶ 5.

¹² Response, ¶ 5.

¹³ Response, ¶ 6.

¹⁴ Response, ¶ 7.

¹⁵ See Response, ¶ 10; *Penalty Order*, Ordering Clause B.

docket” that the Operator is responsible for the care and control of all four (4) subject wells at issue.¹⁶

9. Because the Operator did not request a hearing on the *Penalty Order*, nor obtain compliance with the *Penalty Order*’s directives within 30 days of the issuance of that Order, the Commission finds the Operator’s license shall remain suspended until it complies with the *Penalty Order*.¹⁷ Therefore, the Operator’s Motion should be denied.

THEREFORE, THE COMMISSION ORDERS:

A. The Operator’s Motion for Expedited Order Lifting License Suspension is denied.

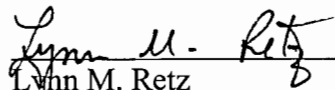
B. The parties have fifteen (15) days from the date of electronic service of this Order to petition for reconsideration.¹⁸

C. 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.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: **JAN 25 2018** _____


Lynn M. Retz
Secretary to the Commission

MJD

EMAILED

JAN 25 2018

¹⁶ See Response, ¶ 11; *Penalty Order*, ¶ 7.

¹⁷ See *Penalty Order*, Ordering Clause C.

¹⁸ K.S.A. 55-162; K.S.A. 55-606; K.S.A. 77-529(a)(1); see K.S.A. 66-118b.

CERTIFICATE OF SERVICE

I certify that on JAN 25 2018, I caused a complete and accurate copy of this Order to be served via electronic mail, addressed to the following:

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EMAILED

JAN 25 2018