

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

Before Commissioners: Susan K. Duffy, Chair
Dwight D. Keen
Andrew J. French

In the matter of the failure of Tailwater, Inc.) Docket No: 20-CONS-3234-CPEN
("Operator") to comply with K.A.R. 82-3-407)
at the Finkenbinder #6-IW in Anderson) CONSERVATION DIVISION
County, Kansas.)
_____) License No: 32461

ORDER APPROVING SETTLEMENT AGREEMENT

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 March 5, 2020, the Commission issued a Penalty Order against Tailwater, Inc. (Operator) for one violation of K.A.R. 82-3-407 because a current and successful mechanical integrity test had not been performed on the Finkenbinder #6-IW well.¹ The Penalty Order directed Operator to pay a \$1,000 penalty and to either perform a successful MIT on the well or to plug it.²
2. On April 6, 2020, Operator requested a hearing.³
3. On September 30, 2020, Commission Staff filed a Motion to Approve Settlement Agreement, attaching the Settlement Agreement and stating that "Staff believes the Agreement constitutes a reasonable resolution of all issues in this docket."⁴ By signing the proposed Settlement Agreement, Staff and Operator concurred that the Settlement Agreement constitutes "a fair and reasonable resolution of the issues addressed."⁵

¹ See Penalty Order, ¶¶ 8, 13 (Mar. 5, 2020).

² See *id.* at Ordering Clauses A and B.

³ See Request for Hearing (Apr. 6, 2020).

⁴ Motion to Approve Settlement Agreement, ¶ 5 (Sep. 30, 2020).

⁵ *Id.* at attached Settlement Agreement, ¶ 11.

4. In relevant part, the Settlement Agreement notes that Operator has plugged the Finkenbinder #6-IW and provides a payment plan for the \$1,000 penalty assessed.⁶

5. The law encourages settlement.⁷ The Commission finds the Settlement Agreement attached to Staff's Motion to Approve Settlement Agreement constitutes a fair and reasonable resolution of this proceeding. The Settlement Agreement is attached to and made part of this Order.

THEREFORE, THE COMMISSION ORDERS:

A. Staff's motion to approve the attached Settlement Agreement is granted; the Settlement Agreement is approved.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).⁸

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 10/08/2020

Lynn M. Retz
Lynn M. Retz
Executive Director

Mailed Date: 10/08/2020

JRM

⁶ See *id.* at attached Settlement Agreement, ¶ 7.

⁷ *Bright v. LSI Corp.*, 254 Kan. 853, 858 (1994).

⁸ K.S.A. 55-162; K.S.A. 55-606; K.S.A. 55-707; K.S.A. 77-503(c); K.S.A. 77-531(b).

SEP 29 2020

CONSERVATION DIVISION
WICHITA, KS

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

| | | |
|---|---|-------------------------------|
| In the matter of the failure of Tailwater, Inc. |) | Docket No.: 20-CONS-3234-CPEN |
| ("Operator") to comply with K.A.R. 82-3-407 |) | |
| at the Finkenbinder #6-IW in Anderson |) | CONSERVATION DIVISION |
| County, Kansas. |) | |
| _____ |) | License No.: 32461 |

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into by and between the Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) and Operator (collectively referred to herein as the Parties). The effective date of this Agreement will be the date the Commission enters an order approving or amending the terms of the Agreement.

I. BACKGROUND

1. On March 5, 2020, the Commission issued a Penalty Order against Operator for one violation of K.A.R. 82-3-407 because Operator failed to conduct a current and successful MIT on the Finkenbinder #6-IW (Subject Well), API #15-003-24743. The Penalty Order assessed a \$1,000 penalty, and directed Operator to conduct a successful MIT on the Subject Well or plug the well.

2. On April 6, 2020, Operator timely filed a request for hearing, wherein its representative noted Operator was notified to bring the Subject Well into compliance by February 6, 2020, but that weather conditions contributed to the delay.

3. On May 20, 2020, the Subject Well was plugged.

4. On August 27, 2020, a Prehearing Officer Order Setting Evidentiary Hearing was issued and a Hearing was scheduled for Wednesday, September 30, 2020, at 2:00 p.m. Subsequent to the hearing being set, the Parties discussed resolution of the underlying issues in this docket, and reached a settlement in this matter. As part of the settlement, Staff agreed to reduce the terms

to writing and submit the same for Commission approval. The terms of the settlement are set forth below.

II. TERMS OF THE SETTLEMENT AGREEMENT

5. The Parties agree that the Commission has jurisdiction and authority over this matter. The Parties also agree that adoption of this Agreement is in the public interest and that the Commission should approve the terms as set forth below.

6. Operator stipulates that it committed one violation of K.A.R. 82-3-407.

7. Based on the fact that Operator has plugged the Subject Well, as described above, the Parties agree to seek Commission approval to schedule a payment plan for the \$1,000 monetary penalty imposed in the docket. Operator shall make payments according to the following payment schedule to pay the entire monetary penalty:

- a. \$200 shall be due by October 31, 2020.
- b. An additional \$200 shall be due by November 30, 2020.
- c. An additional \$600 shall be due by January 5, 2021.

8. Failure to meet any deadline shall result in the full remaining balance becoming immediately due.

9. Staff agrees that upon approval by the Commission, and barring default proceedings pursuant to K.S.A. 77-520, this Agreement shall constitute a final resolution of this matter.

10. Failure to timely pay shall result in the immediate suspension of Operator's license. Operator agrees and understands that if its license is suspended for the failure to meet the deadlines above, the license shall remain suspended until a total of \$1,000 in monetary penalties has been paid in this docket.

III. RESERVATIONS

11. This Settlement Agreement fully resolves the issues specifically addressed between the Parties in this docket. The terms of this Agreement constitute a fair and reasonable resolution of the issues addressed herein.

12. The terms and provisions of this Agreement have resulted from negotiations between the Parties and are interdependent. In the event the Commission does not approve the terms of the Agreement in total, any Party has the option to terminate this Agreement.

13. Unless otherwise specified in this Agreement, the Parties shall not be prejudiced, bound by, or affected in any way by the terms of this Agreement: (1) in any future Commission or court proceeding; (2) in any proceeding currently pending before the Commission under a separate docket; and/or (3) in this proceeding, even if the Commission decides to not approve this Agreement in total or in any way conditions its approval of the same. This paragraph is not meant to limit future enforcement of this Agreement, should either Party fail to fulfill all terms and provisions.

14. Further this Agreement does not waive any party's legal rights, positions, claims, assertions or arguments in this docket, or any other proceeding before the Commission or in any court.

15. If the Commission approves this Agreement in its entirety and incorporates the same into a final order in this docket, the Parties agree not to appeal the Commission's order.

16. This Agreement shall be binding on all Parties upon signing.

ATTACHMENT A

IN WITNESS WHERETO, the Parties hereby execute and approve this Settlement Agreement by subscribing their signatures below.

Commission Staff

By: _____

Printed Name: _____

Title: _____

Date: _____

Kelcey Marsh

Kelcey Marsh

Litigation Counsel

9/29/2020

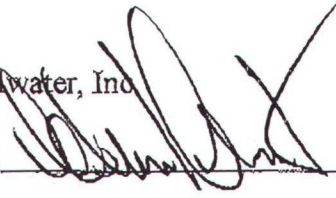
Tailwater, Inc.

By: _____

Printed Name: _____

Title: _____

Date: _____



CHRISTIAN L. MARTIN

CEO

9/29/20

CERTIFICATE OF SERVICE

20-CONS-3234-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of

electronic service on 10/08/2020.

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/S/ DeeAnn Shupe

DeeAnn Shupe