

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Annie Kuether

In the matter of the failure of Berexco LLC) Docket No.: 25-CONS-3157-CPEN
(Operator) to comply with K.A.R. 82-3-407 at)
the Dennis Unit #4-2 and Dennis Unit #5-2 in) CONSERVATION DIVISION
Haskell County, Kansas.)
_____) License No.: 34318

PENALTY ORDER

The Commission finds Operator has violated K.A.R. 82-3-407 regarding the captioned wells, assesses a \$2,000 penalty, directs Operator to come into compliance, and further rules as more fully described below.

I. JURISDICTION

1. K.S.A. 74-623 provides the Commission exclusive jurisdiction and authority to regulate oil and gas activities in Kansas. K.S.A. 55-152 provides the Commission with jurisdiction to regulate the construction, operation, and abandonment of any well, and also the protection of the usable water of this state from any actual or potential pollution from any well. The Commission has licensing authority under K.S.A. 55-155.

2. K.S.A. 55-162 and K.S.A. 55-164 provide the Commission authority to issue penalty orders for violations of Chapter 55 of the Kansas Statutes Annotated, or of any rule, regulation, or order of the Commission. Under K.S.A. 55-164, a penalty order may include a monetary penalty of up to \$10,000, the penalty must constitute a substantial and actual economic deterrent to the violation, and each day of a continuing violation constitutes a separate violation.

3. K.A.R. 82-3-407(a) provides each injection well shall be completed, equipped, operated, and maintained in a manner that will prevent pollution of fresh and usable water,

prevent damage to sources of oil or gas, and confine fluids to the intervals approved for injection. An injection well shall be considered to have mechanical integrity if there are no significant leaks in the tubing, casing, or packer, and no fluid movement into fresh or usable water. An injection well's mechanical integrity shall be established at least once every five years.

4. K.A.R. 82-3-407(c) provides that the operator of any well failing to demonstrate mechanical integrity shall have no more than 90 days from the date of initial failure to repair and retest the well to demonstrate mechanical integrity, plug the well, or isolate any leaks to demonstrate the well will not pose a threat to fresh or usable water or endanger correlative rights.

5. K.A.R. 82-3-407(d) provides that mechanical failures or other conditions indicating that a well may not be directing injected fluid into the permitted or authorized zone shall be cause to shut in a well, and the operator shall orally notify the Conservation Division of any failures or conditions within 24 hours of knowledge. The operator shall submit written notice of a well failure within five days, with a plan for testing and repairing the well.

6. K.A.R. 82-3-407(g) provides that no injection well shall be operated before passing a mechanical integrity test (MIT). Failure to test a well to show mechanical integrity shall be punishable by a \$1,000 penalty, and the well shall be shut-in until the test is passed.

II. FINDINGS OF FACT

7. Operator is licensed to conduct oil and gas activities in Kansas, and is responsible for the following wells (Subject Wells), Underground Injection Control Permit #E-31845, located in Section 2, Township 29 South, Range 33 West, Haskell County, Kansas:

- a. Dennis Unit #4-2, API #15-081-20798-00-01; and
- b. Dennis Unit #5-2, API #15-081-20815-00-01.

8. On March 29, 2024, Commission Staff sent letters to Operator, requiring Operator to contact Commission Staff and to bring the Subject Wells into compliance with K.A.R. 82-3-407 by June 27, 2024.¹ At the request of Operator, Staff extended the deadline to October 11, 2024. The compliance deadline provided by Commission Staff has elapsed.

9. To date, the Commission has no evidence the Subject Wells have been subjected to a current and successful MIT as required by K.A.R. 82-3-407. Staff witnessed no such tests and Operator did not inform Staff that such tests had been conducted.

III. CONCLUSIONS OF LAW

10. The Commission has jurisdiction over Operator and this matter under K.S.A. 74-623 and K.S.A. 55-152.

11. Operator has committed two violations of K.A.R. 82-3-407 because a current and successful MIT has not been performed on each of the Subject Wells.

THEREFORE, THE COMMISSION ORDERS:

- A. Operator shall pay a \$2,000 penalty.
- B. Operator shall perform successful MITs on the Subject Wells or plug them.
- C. Operator shall shut-in and disconnect each Subject Well until it has been successfully tested or plugged.
- D. Operator 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, to the Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202, within 30 days from the date of service of this Order. A request for hearing must comply with K.A.R. 82-1-219.

E. Failure to timely request a hearing will result in a waiver of Operator's right to a hearing. If no party timely requests a hearing, then this Order shall become final. If Operator is

¹ Exhibit A.

not in compliance with this Order and the Order is final, then Operator's license shall be suspended without further notice and shall remain suspended until Operator complies. The notice and opportunity for a hearing on this Order shall constitute the notice required by K.S.A. 77-512 regarding license suspension. A party may petition for reconsideration of a final order pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).

F. Credit card payments may be made by calling the Conservation Division at 316-337-6200. 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. Payments must reference the docket number of this proceeding.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner(recusing); Kuether, Commissioner

Dated: 10/31/2024



Lynn M. Retz
Executive Director

Mailed Date: 10/31/2024

TSK

FAILED MECHANICAL INTEGRITY TEST (MIT)
DEADLINE FOR COMPLIANCE

LICENSE 34318
BEREXCO LLC
2020 N. BRAMBLEWOOD
WICHITA, KS 67206-1094

Re: API No. 15-081-20798-00-01
Permit No. E31845.3
DENNIS UNIT 4-2
2-29S-33W
Haskell County, KS

Operator:

On 03/29/2024, the referenced well failed a mechanical integrity test. Under K.A.R. 82-3-407(c), you have 90 days to:

- 1) repair and retest the well to show mechanical integrity,
- 2) plug the well, or
- 3) isolate all leaks to demonstrate the well does not pose a threat to fresh or usable water or endanger correlative rights.

The well must be shut-in and disconnected until it complies with K.A.R. 82-3-407(c).

Failure to comply with K.A.R. 82-3-407(c)
by 06/27/2024
shall be punishable by a \$1, 000 penalty.

Please contact this office as soon as possible to let us know your plans for this well.

Sincerely,

Eric MacLaren
KCC District #1

FAILED MECHANICAL INTEGRITY TEST (MIT)
DEADLINE FOR COMPLIANCE

LICENSE 34318
BEREXCO LLC
2020 N. BRAMBLEWOOD
WICHITA, KS 67206-1094

Re: API No. 15-081-20815-00-01
Permit No. E31845.4
DENNIS UNIT 5-2
2-29S-33W
Haskell County, KS

Operator:

On 03/29/2024, the referenced well failed a mechanical integrity test. Under K.A.R. 82-3-407(c), you have 90 days to:

- 1) repair and retest the well to show mechanical integrity,
- 2) plug the well, or
- 3) isolate all leaks to demonstrate the well does not pose a threat to fresh or usable water or endanger correlative rights.

The well must be shut-in and disconnected until it complies with K.A.R. 82-3-407(c).

Failure to comply with K.A.R. 82-3-407(c)
by 06/27/2024
shall be punishable by a \$1, 000 penalty.

Please contact this office as soon as possible to let us know your plans for this well.

Sincerely,

Eric MacLaren
KCC District #1

CERTIFICATE OF SERVICE

25-CONS-3157-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 10/31/2024.

TODD BRYANT, GEOLOGIST SPECIALIST
KANSAS CORPORATION COMMISSION
266 N. Main St., Ste. 220
WICHITA, KS 67202-1513
todd.bryant@ks.gov

TRISTAN KIMBRELL, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
CENTRAL OFFICE
266 N. MAIN ST, STE 220
WICHITA, KS 67202-1513
tristan.kimbrell@ks.gov

FRED MACLAREN
KANSAS CORPORATION COMMISSION
DISTRICT OFFICE NO. 1
210 E. FRONTVIEW SUITE A
DODGE CITY, KS 67801
frederic.maclaren@ks.gov

KENNY SULLIVAN, DISTRICT #1 SUPERVISOR
KANSAS CORPORATION COMMISSION
DISTRICT OFFICE NO. 1
210 E. FRONTVIEW SUITE A
DODGE CITY, KS 67801
kenny.sullivan@ks.gov

PAULA WHITE
BEREXCO LLC
2020 N. BRAMBLEWOOD
WICHITA, KS 67206-1094
paulaw@berexco.com

/S/ KCC Docket Room
KCC Docket Room