

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

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

In the matter of the failure of Energyquest II,) Docket No. 16-CONS-4068-CPEN
LLC ("Operator") to comply with K.A.R. 82-)
3-400 regarding injection that took place) CONSERVATION DIVISION
during the 2015 calendar year.)
_____) License No.: 35216

**ORDER DENYING MOTION TO DISMISS AND RESCIND PENALTY ORDER,
AND DENYING MOTION TO SUSPEND PROCEDURAL SCHEDULE**

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

I. JURISDICTION

1. 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 June 9, 2016, Commission issued the Penalty Order in this matter. The Penalty Order was appealed, and the matter has been set for hearing.

4. On September 8, 2016, the Operator filed a Motion to Dismiss and Rescind Penalty Order, arguing that the Commission does not have jurisdiction to find the violations and assess penalties.

5. On September 9, 2016, Staff filed a response opposing the Motion to Dismiss and Rescind Penalty Order.

6. On September 15, 2016, Operator filed a Reply in Support of Motion to Dismiss and Rescind Penalty Order.

III. DISCUSSION AND CONCLUSIONS OF LAW

7. The violations subject to these proceedings arise from the Operator having reported that it injected at higher rates or pressures than allowed by the wells' injection permits.

8. The Operator argues that because it has received permits to inject into the subject wells, the penalty in K.A.R. 82-3-400 is inapplicable. Staff responds that injecting at rates or volumes above the permitted rates and volumes is not allowed, and therefore it is forbidden by K.A.R. 82-3-400 and punishable as if no permit existed. Staff is correct. If an operator obtains a permit at low volumes and pressures, it does not follow that the operator can inject at any volume and pressure that it desires. Injecting above the permitted parameters constitutes an unpermitted activity that is punishable under K.A.R. 82-3-400.

9. The Operator also argues that the original U3C forms that were filed contained incorrect information because the forms were prepared by an individual unfamiliar with the permits and who had no knowledge or misunderstood the wells were operated on vacuum. Corrected U3C forms have been filed.

10. Whether the original forms did in fact contain incorrect information that was entered by mistake and if so whether that is cause for the Commission to mitigate the penalty are questions of fact to be determined at an evidentiary hearing.

11. The Commission concludes that the Penalty Order should not be dismissed, and that this matter should proceed to an evidentiary hearing as scheduled.

12. Contemporaneously with its Motion to Dismiss and Rescind Penalty Order, Operator filed a Motion to Suspend Procedural Schedule.

13. The Commission has herein denied Operator's Motion to Dismiss and Rescind Penalty Order leaving sufficient time to follow the procedural schedule currently in place. This is not a complex matter needing a long preparation time.

14. Operator's Motion to Suspend Procedural Schedule should be denied.

THEREFORE, THE COMMISSION ORDERS:

A. The Motion to Dismiss and Rescind Penalty Order, and the Motion to Suspend Procedural Order are denied.

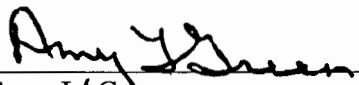
B. Any party affected by this Order may file with the Commission a petition for reconsideration pursuant to K.S.A. 77-529(a). The petition shall be filed within 15 days after 3 service of this Order. If service of this Order is by mail, three days are added to the deadline. The petition shall be addressed to the Commission and sent to 266 N. Main, Ste. 220, Wichita, Kansas 67202. Pursuant to K.S.A. 55-606 and K.S.A. 77-529(a), reconsideration is prerequisite for judicial review of this Order. Any party taking an action permitted by this summary proceeding before the deadline for a petition for reconsideration does so at their own risk.

C. 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.

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Date: SEP 20 2016



Amy L. Green
Secretary to the Commission

Date Mailed: September 20, 2016

JM

CERTIFICATE OF SERVICE

I certify that on September 20, 2016, 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:

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And delivered electronically to:

Jonathan R. Myers
Rene Stucky
KCC Central Office

/s/ Cynthia K. Maine
Cynthia K. Maine
Administrative Assistant
Kansas Corporation Commission