

CORPORATION COMMISSION
CONSERVATION DIVISION
266 N. MAIN ST., STE. 220
WICHITA, KS 67202-1513



PHONE: 316-337-6200
FAX: 316-337-6211
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

NOTICE OF PENALTY ASSESSMENT
19-CONS-3138-CPEN

October 4, 2018

William E. Hammerschmidt
H & H Oil Company, a General Partnership
900 S. Section Line
Plainville, KS 67663-3408

This is a notice of a penalty assessment for violation(s) of Kansas Oil and Gas Conservation Statutes, Rules, and Regulations. For a full description of the penalty and process please refer to the Penalty Order that is attached to this notice.

IF YOU ACCEPT THE PENALTY:

You have been assessed a \$1,250 penalty. You have 30 days from the service date of this Penalty Order to pay the fine amount. Check or money order must be made payable to the Kansas Corporation Commission and mailed to the Conservation Division of the Kansas Corporation Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202. The payment must include a reference to the docket number of this proceeding. Payment by credit card may be made by calling the Conservation Division at 316-337-6200.

IF YOU CONTEST THE PENALTY:

You have the right to request a hearing. A written request for hearing must be made within 30 days after service of the Penalty Order setting forth the specific grounds upon which relief is sought. Respondent must submit the request to the Commission, at 266 N. Main St., Suite 220, Wichita, Kansas 67202. The Commission shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act within 30 days after receipt of such request. K.S.A. 55-164; K.S.A. 77-542; K.A.R. 82-1-215.

IF YOU FAIL TO ACT:

Failure to pay the fine amount, or in the alternative, provide a written request for a hearing, within thirty (30) days of service of the Penalty Order, will result in the attached Penalty Order becoming a Final Order and may result in additional sanctions, including additional monetary penalties, the suspension of your oil and gas operating license, and the shutting-in of all operations until compliance is obtained. K.S.A. 55-164; K.S.A. 77-537.

Respectfully,

Lauren N. Wright
Litigation Counsel
316-337-6200

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the matter of the failure of H & H Oil)	Docket No.: 19-CONS-3138-CPEN
Company, a General Partnership)	
("Operator") to comply with K.A.R.)	CONSERVATION DIVISION
82-3-604 and K.A.R. 82-3-606 at the Hunt)	
<u>Lease in Graham County, Kansas.</u>)	License No.: 8132

PENALTY ORDER

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

I. JURISDICTION

1. The Commission has the exclusive jurisdiction and authority to regulate oil and gas activities in Kansas.¹ 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."² Every operator conducting oil and gas activity in Kansas must be licensed by the Commission.³

2. The Commission has the authority to issue a Penalty Order for violation of any provision of K.S.A. 55-101 et seq., rule, regulation, or order of the Commission.⁴ The Commission shall take appropriate action which may include, but not be limited to, imposing a monetary penalty "not to exceed \$10,000, which shall constitute an actual and substantial economic deterrent to the

¹ K.S.A. 74-623.

² K.S.A. 55-152.

³ K.S.A. 55-155.

⁴ K.S.A. 55-162; K.S.A. 55-164.

violation for which the penalty is assessed.”⁵ “In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.”⁶

3. K.A.R. 82-3-604(a) provides that the operator shall notify the appropriate district office within 24 hours of discovery or knowledge of any oil field-related discharge of five or more barrels of saltwater, oil, or refuse into an emergency pit or diked area. The point of discovery or knowledge means that point when the operator knew or reasonably should have known of the spill.⁷

4. K.A.R. 82-3-604(d) provides that failure to timely notify the district office of an oil field-related discharge into an emergency pit or diked area shall be punishable by a \$250 penalty for the first violation, a \$500 penalty for the second violation, and a \$1,000 penalty and an operator license review for the third violation.⁸

5. K.A.R. 82-3-606(a) provides that dumping or releasing chemical substances and other nonexempt waste associated with any drilling or production operation into pits shall be strictly prohibited.

6. K.A.R. 82-3-606(b) provides that any operator found to be responsible for the dumping or release of chemical substances or nonexempt waste shall be assessed a \$1,000 penalty for the first violation, a \$5,000 penalty for the second violation, and a \$10,000 penalty for the third violation.

II. FINDINGS OF FACT

7. The Operator conducts oil and gas activities in Kansas under active license number 8132.

⁵ K.S.A. 55-164.

⁶ *Id.*

⁷ K.A.R. 82-3-604(c).

⁸ K.A.R. 82-3-604(d)(1) ;(d)(2);(d)(3).

8. The Operator is responsible for the care and control of the Hunt Lease (subject lease), located in Section 23, Township 9 South, Range 21 West, Graham County, Kansas. The Operator is responsible for the permitted emergency pit located on the subject lease.⁹

9. On August 27, 2018, District Staff received a phone call from an adjacent landowner wanting to file a complaint against the Operator for dumping fluid into a pit located behind the tank battery on the subject lease.¹⁰

10. On August 28, 2018, District Staff conducted a lease inspection and discovered a rubber hose hooked up to the back of a stock tank with a fluid trail to the emergency pit, which contained crude oil.¹¹ District Staff also noted excessive buildup of basic sediment and waste below the drain valves on both stock tanks, indicating the Operator drained both tanks into the pit.¹²

11. District Staff contacted the Operator instructing him to get a water truck to the subject lease immediately to empty and remove all fluids from the pit behind the tank battery because it was covered with oil. Later that morning Keller Tank Service called District Staff notifying them that 55 barrels of fluid were recovered from the pit located behind tank battery on the subject lease.¹³

12. On August 31, 2018, District Staff sent a Notice of Violation letter to the Operator, stating Staff would be submitting a penalty recommendation to legal.¹⁴ The letter also required the Operator provide a completed Report of Incident form and conduct a final clean up removing any

⁹ Exhibit A.

¹⁰ Exhibit B.

¹¹ Exhibit C.

¹² *Id.*

¹³ *Id.*

¹⁴ Exhibit D.

remaining fluid from the pit and surrounding area.¹⁵ The Operator has filed the Report of Incident form and conducted the final clean up as required by District Staff.

III. CONCLUSIONS OF LAW

13. The Commission finds and concludes that it has jurisdiction over the Operator in this matter under K.S.A. 55-152 and K.S.A. 74-623.

14. The Commission finds and concludes that the Operator committed one violation of K.A.R. 82-3-604(a) because the Operator failed to timely notify the district office of an oil field-related discharge into an emergency pit.

15. The Commission finds and concludes that the Operator committed one violation of K.A.R. 82-3-606(a) because the Operator is responsible for dumping or releasing chemical substances and other nonexempt waste associated with a drilling or production operation into a pit located on the subject lease.

THEREFORE, THE COMMISSION ORDERS:

A. The Operator shall pay a \$1,250 penalty.

B. If no party requests a hearing, and the Operator is not in compliance with this Order within 30 days from the date of service of this Order, then the Operator's license shall be suspended without further notice. The notice and opportunity for a hearing on this Order shall constitute the notice required by K.S.A. 77-512 regarding license suspension. The Commission may impose further sanctions, including additional monetary penalties and any other remedies available to the Commission by law, without further notice.

C. 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,

¹⁵ *Id.*

Wichita, Kansas 67202. The payment must include a reference to the docket number of this proceeding. Credit card payments may be made by calling the Conservation Division at 316-337-6200.

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 St., Suite 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. A corporation shall appear before the Commission by a Kansas licensed attorney.¹⁶

F. The Commission retains jurisdiction over the subject matter and the 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; Keen, Commissioner.

Dated: 10/04/2018



Lynn M. Retz
Secretary to the Commission

Mailed Date: 10/05/2018

LW

¹⁶ K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

KANSAS CORPORATION COMMISSION

**CONSERVATION DIVISION
130 S Main Rm 2078
State Office Building
Wichita, KS 67202-3802**

APPROVAL OF APPLICATION FOR SURFACE POND PERMIT

Permit No. P10492

In compliance with the provisions of K.A.R. 82-3-600 et seq., the Kansas Corporation Commission hereby approves the application for an Emergency Pit located:

0600 feet from the North Section line

2970 feet from the East Section line

Section 23-TWP 09S -RNG 21W

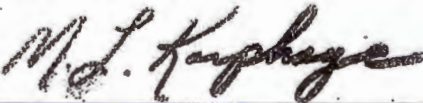
Hunt Lease

Graham County

**Applicant: H & H Oil Company
Address: 900 S. Section Line
Plainville, KS 67663**

KCC License: 08132

Granted this 28th day of December, 2001.



**M.L. Korphage
Director, Conservation Division**

cc: District # 4

KCC

DEC 31 2001

HAYS, KS

**Form CDP-2
2/87**

KANSAS CORPORATION COMMISSION
CONSERVATION DIVISION
130 S. MARKET - ROOM 2078
WICHITA, KS 67202
APPLICATION FOR SURFACE POND

FORM MUST BE TYPED

SUBMIT IN DUPLICATE

OPERATOR NAME - H & H OIL COMPANY		LICENSE NO. 8132
OPERATOR ADDRESS - 900 S. SECTION LINE, PLAINVILLE, KS 67663		
CONTACT PERSON WILLIAM E. HAMMERSCHMIDT		PHONE NUMBER (785) 434-2403
LEASE NAME: HUNT	PIT IS: <input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Existing if existing, date constructed: 1980	PIT LOCATION NE/4 NW/4 & N/2 NW/4 NW/4 Sec 23 Twp 09 Rng 21 W 600 Ft. from (N) S (circle one) line of Sec 2910 330 Ft. from (E) W (circle one) line of Sec
TYPE OF POND: <input type="checkbox"/> BURN PIT <input checked="" type="checkbox"/> EMERGENCY PIT <input type="checkbox"/> TREATMENT PIT <input type="checkbox"/> WORKOVER PIT <input type="checkbox"/> DRILLING PIT (IF WP Supply APINo. Or Year Drilled)	PIT CAPACITY: 80 bbls)	GRAHAM COUNTY
Is the pit located in a Sensitive Ground Water Area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Chloride concentration: 21.816 mg/l (For Emergency and Treatment Pits only)
Is Pit bottom below ground level? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Artificial Liner? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	How is pit lined if a plastic liner is not used? Clay Soil
Pit dimensions (all but working Pits): <u>20</u> Length (ft) <u>10</u> Width (ft) Depth from ground level to deepest point <u>2</u> (ft)		
If the pit is lined give a brief description of the liner material, thickness and installation procedure.	Describe procedures for periodic maintenance and determining liner liner integrity, including any special monitoring.	
Distance to nearest water well within one- mile of pit. <u>NA</u> ft. Depth of water well <u>NA</u> ft.	Depth to shallowest fresh water <u>NA</u> feet. Source of information: <u>measured</u> <u>well owner</u> <u>electric log</u> <u>KDWR</u>	
EMERGENCY, TREATMENT & BURN PITS ONLY: Producing Formation: <u>ARBUCKLE</u> Number of producing wells on lease: <u>ONE</u> Barrels of fluid produced daily: <u>3000</u>	DRILLING AND WORKOVER PITS ONLY: Type of material utilized in drilling/workover: _____ Number of working pits to be utilized: _____ Abandonment procedure: _____	
Does the slope from the tank battery allow all spilled fluids to flow into the pond? <input type="checkbox"/> Yes <input type="checkbox"/> No	Drilled pits must be closed within 365 days of spud date.	
I hereby certify that the above statements are true and correct to the best of my knowledge and belief.		
<u>12-15-2001</u> Date	<u>William E. Hammerschmidt</u> Signature of Applicant or Agent	
KCC OFFICE USE ONLY		
Date Rec'd <u>12/10/01</u> Permit No. <u>P10492</u> Permit Date <u>12/10/01</u> Lease Inspection <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		

RECEIVED
DEC 17 2001
KCC WICHITA

Complaint Worksheet

Date: 08/27/2018 Agent Taking Complaint: Richard Williams

Case #: 2018-4-0007 Docket #: _____

Complainant: Max Balthazor Phone: 785-737-2040

Address: 3826 J Road Palco, Kansas 67657

Problem: Fluid being dumped into pit behind tanks.

Legal location: Sec. 23-09-21w County: Graham

Lease name: Hunt Company: H & H # 8132

Turn in to Compliance Officer for processing and agent assignment before beginning investigation. It is critical that control numbers be assigned.

Agent assigned: Richard Williams Date: 08/27/2018

Note: Assigned agent is expected to research, document, summarize findings in Inspection Report and see that compliance letters are prepared. The Compliance Officer is to be kept updated on progress of investigation. All work is to be completed in a timely manner.

	YES	NO	Not Applicable	
Check KCC records:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Date: <u>8-29-2018</u>
Historical Prod. records:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Date: _____
Talk to operator:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Date: <u>8-28-2018</u>
Check county records:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Date: _____
Inspection report:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Date: <u>8-30-2018</u>
Compliance letter to Operator:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Date: <u>8-31-2018</u>

Notes:

Case Contact and Time line

Include Names, Dates, and a Summary of Contact or Actions

Mr. Max Balthazor called regarding Operator dumping fluids into pit behind tank battery, Hunt lease.

Attach Copies of all Pertinent Data and Reports

Date investigated: _____

Agent Signature

Date closed: _____

Exhibit B
Page 2 of 2

INSPECTION REPORT

Case# 2018-4-0007

<input checked="checked" type="checkbox"/>	Complaint
<input type="checkbox"/>	New Situation
<input type="checkbox"/>	Response to request
<input type="checkbox"/>	Follow-up

Date of Inspection: 08/28/2018

Operator: H & H Oil Company

License: 8132

Address: 904 S. Section Line

Location: SE-NE-NE-NW/4 Sec. 23-09-21w

City/St: Plainville, Kansas 67663

Lease: HUNT

Phone: 785-434-2403

County: ROOKS

Reason for investigation: Complaint from adjoining landowner

Problem: Draining stock tanks into pit behind tank battery.

Findings:


- Lease inspection performed on August 28, 2018 found pit behind the Hunt lease tank battery containing crude oil and water. The stock tank next to the gunbarrel has a 2" rubber hose connected to the 2" drain valve on the back of tank and drains into the pit.
- Also noted excessive build up of BS&W on top of dirt below 2" drain valves located on back of both stock tanks, indicating draining both tanks into the pit. The walls of the pit also heavily covered with BS& W.
- GPS of the NE corner of pit 39.26212, -099.63417 or 4772' FSL & 2830' FEL

Photos: Yes

Action /recommendations:

- At 8:12 a.m. I called Mr. William Hammerschmidt owner of H&H Oil Company and told him to get a water truck out on the Hunt lease immediately and empty the pit behind the tank battery. His response was it was rain water and I told him it was covered with oil and all fluids needed to be removed immediately and to have the water truck driver or him call me back with the amounts of fluid he picked up from the pit. Mr. Hammerschmidt said he would.
- At 9:19 a.m. Mr. Darrel Keller w/ Keller tank service called me back and said his driver recovered 55 barrels of fluid from the pit behind the Hunt tank battery.
- On August 29, 2018 further research found a pit permit P-10492 dated 12-21-2001 footages of 600' FNL & 2970' FEL.
- After discussion in office with Professional Geologist Chris Neeley and District Supervisor Case Morris it was decided to revoke the pit permit due to the excessive abuse of intentional dumping of fluids into the pit.
- A NOV will be sent to the operator for further action and a remediation clean up procedure with a deadline.

Richard Williams ECRS
(agent)


(signature)

cc: file

**H AND H OIL COMPANY
HUNT LEASE**

**LICENSE NO. 8132
23-9S-21W GRAHAM CO.**





08/28/2018 07:46



08/28/2018 07:46







08/28/2018 07:47



08/28/2018 07:53



08/28/2018 10:39

STATE OF KANSAS

CORPORATION COMMISSION
CONSERVATION DIVISION
DISTRICT OFFICE No. 4
2301 E. 13TH STREET
HAYS, KS 67601-2651



PHONE: 785-261-6250
FAX: 785-625-0564
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

NOTICE OF VIOLATION

August 31, 2018

H&H Oil Company #8132
Attention: William Hammerschmidt
904 S. Section line
Plainville, Kansas 67663
(785)434-2403

Re: Hunt Lease
SE-NE-NE-NW/4
Sec. 23-09-21w
Graham County, Kansas

Following a lease inspection conducted August 28, 2018, on the above captioned lease, it has been determined that you are currently in violation of the General Rules and Regulations of the Kansas Corporation Commission regarding the conservation of crude oil and natural gas. Specifically, you are in violation of K.A.R. 82-3-604. **Each operator shall notify the appropriate district office within 24 hours of discovery or knowledge of any oil field-related discharge of five or more barrels of saltwater, oil, or refuse into an emergency pit or diked area.** We are referring this violation to our Legal Staff with a penalty recommendation.

Each operator must remove fluid from the pit or diked area within 48 hours after the discovery of the discharge or as authorized by the appropriate district office. Removal of the fluid must be completed by September 20, 2018. Failure to bring the lease into compliance by that date will result in this matter being referred to our Legal Staff with a recommendation for an additional penalty and other possible action.

Enclosed is a Report of Incident form to be completed by the operator and returned to the District office by September 10, 2018. *This form is for informational purposes only and not to be construed as to supersede regulatory requirements for reporting.* Your cooperation in this matter is appreciated. Should you have any questions, you may reach me by writing the KCC District Office #4, 2301 East 13th, Hays, Kansas 67601 or by calling (785) 261-6250.

Sincerely,

Richard Williams
Compliance officer

cc: file
enclosure

CERTIFICATE OF SERVICE

19-CONS-3138-CPEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail and electronic service on 10/04/2018.

WILLIAM HAMMERSCHMIDT
H & H OIL COMPANY, A GENERAL PARTNERSHIP
900 S SECTION LINE
PLAINVILLE, KS 67663-3408

JONELLE RAINS
KANSAS CORPORATION COMMISSION
Conservation Division
266 N. Main St. Ste. 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
j.rains@kcc.ks.gov

RICHARD WILLIAMS
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DISTRICT OFFICE NO. 4
2301 E. 13TH STREET
HAYS, KS 67601-2654
Fax: 785-271-3354
r.williams@kcc.ks.gov

LAUREN WRIGHT, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
Conservation Division
266 N. Main St. Ste. 220
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Fax: 316-337-6211
l.wright@kcc.ks.gov

/S/ DeeAnn Shupe

DeeAnn Shupe