

Conservation Division
266 N. Main St., Ste. 220
Wichita, KS 67202-1513



Phone: 316-337-6200
Fax: 346-337-6211
<http://kcc.ks.gov/>

Dwight D. Keen, Chair
Shari Feist Albrecht, Commissioner
Susan K. Duffy, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
20-CONS-3160-CPEN

December 17, 2019

Michael L. Smith
PO Box 268
Cherryvale, KS 67335-0268

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 \$500 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,

Michael Glamann
Litigation Counsel
316-337-6200

⁴ K.S.A. 55-162; K.S.A. 55-164.

economic deterrent to the 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. No operator shall drill, complete, service, plug, or operate any oil or gas well without first obtaining or renewing an operator license.⁷ Each operator in physical control of any such well shall maintain a current license even if the well is shut in or idle.⁸

4. Each licensee shall annually submit a completed license renewal form on or before the expiration date of the current license.⁹

5. Failure to obtain or renew an operator license before operating shall be punishable by a \$500 penalty.¹⁰

II. FINDINGS OF FACT

6. Operator is responsible for the care and control of the well(s) listed in Exhibit A (“the subject well(s)”). Operator’s license expired on October 30, 2019.

7. On November 05, 2019, Commission Staff sent a Notice of Violation letter to Operator, requiring Operator to renew the license, or transfer the subject well(s) to another operator, or plug the well(s), by November 19, 2019.

8. To date, Operator has not complied with K.A.R. 82-3-120 by the deadline set out in Staff’s Notice of Violation letter.

III. CONCLUSIONS OF LAW

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

⁵ K.S.A. 55-164.

⁶ *Id.*

⁷ K.A.R. 82-3-120(a)(1).

⁸ *Id.*

⁹ K.A.R. 82-3-120(a)(2).

¹⁰ K.A.R. 82-3-120(k).

10. The Commission concludes Operator committed one violation of K.A.R. 82-3-120(a) because an unplugged well or unplugged wells, for which Operator is responsible, remain on Operator's expired license.

THEREFORE, THE COMMISSION ORDERS:

- A. Operator shall pay a \$500 penalty.
- B. Operator shall immediately shut-in all unplugged wells on its license and cease oil and gas operations until Operator is in compliance with this Order.
- C. Operator has 30 days from the date of this Order to:
 - a. Renew its license or obtain a new license and transfer the well(s) to that license; or
 - b. Transfer the well(s) to another operator by filing the appropriate form(s) with the Commission; or
 - c. Plug the well(s).
- D. If no party requests a hearing, and Operator is not in compliance with this Order within 30 days from the date of service of this Order, then Operator's license shall be suspended without further notice and Staff may seal the wells until Operator is in compliance. 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.
- E. If any unplugged well(s) remain on Operator's expired license after 60 days from the date of this Order, then:
 - a. Operator shall pay an additional \$5,000 penalty;

- b. Staff shall revoke any injection authorizations applicable to the operator; and
- c. Staff is directed to place the well(s) on the appropriate state plugging list, to plug according to priority and as funds allow, and to assess the plugging costs to Operator. This shall not preclude Staff from investigating additional potentially responsible parties.

F. Checks and money orders shall be payable to the Kansas Corporation Commission. For credit card payments, include the type of card (Visa, MasterCard, Discover, or American Express), account number, and expiration date. Payments shall be mailed to 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.

G. 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, 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. When requesting a hearing, please include a brief statement as to the reasons for the request in order to assist with administrative efficiencies.

H. A corporation shall appear before the Commission by a Kansas licensed attorney.¹¹

I. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary.

¹¹ K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 12/17/2019



Lynn M. Retz
Executive Director

Mailed Date: 12/17/2019

JMG

NOTICE OF VIOLATION

November 5, 2019

Smith, Michael L.
24037 CHASE RD
CHERRYVALE, KS 67335-8539

Re: Unplugged Well(s) on Expired License #35520

Operator:

Unplugged well(s) are on your expired license, **which violates K.A.R. 82-3-120**. Attached is a list of the unplugged well(s). Please do one of the following:

- Renew your license, or obtain a new license and transfer the well(s) to that license,
- Transfer the well(s) to another operator by filing T-1 forms with the Commission, or
- File Well Plugging Application (CP-1) form(s) and plug the well(s).

Your deadline is November 19, 2019.

If you do not correct this violation, I will recommend a Commission Order with a \$500 penalty. The Order would also require you to plug the well(s) within 60 days. Failure to comply with the Order would automatically result in the Commission levying additional penalties against you, directing Staff to plug the wells, and assessing plugging costs to you.

You must immediately shut-in all wells and cease oil and gas operations until compliance is achieved.

For help renewing or obtaining a license, contact Nancy Borst at 316-337-6194.

For help transferring wells, contact Deanna Garrison at 316-337-6209.

For help with CP-1 forms, contact Rick Hestermann at 316-337-6193.

If you have further questions, you may contact me by calling our main number at the top of this letter.

Sincerely,

Nancy Borst
Administrative Specialist

Exhibit A

**Smith, Michael L.
License: 35520**

<u>Unplugged Wells on Operator's License</u>				
API Well #	Lease Name / Well #		Well Location	County
15-099-23456-00-00	SMITH, MICHAEL L.	1-18	18-31S-18E, SWSW	LABETTE

CERTIFICATE OF SERVICE

20-CONS-3160-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 12/17/2019.

NANCY BORST
KANSAS CORPORATION COMMISSION
CENTRAL OFFICE
266 N. MAIN ST, STE 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
n.borst@kcc.ks.gov

MICHAEL GLAMANN, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
CENTRAL OFFICE
266 N. MAIN ST, STE 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
m.glamann@kcc.ks.gov

MICHAEL L. SMITH
24037 CHASE RD
CHERRYVALE, KS 67335-8539

/S/ DeeAnn Shupe

DeeAnn Shupe