

**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 Michael D.)	Docket No. 18-CONS-3077-CPEN
Weilert dba Michael D. Weilert Oil Company)	
("Operator") to comply with K.A.R. 82-3-600,)	CONSERVATION DIVISION
K.A.R. 82-3-603, and K.A.R. 82-3-604 at the)	
<u>Gay E Reidel C #2 well in Ellis County, Kansas.</u>)	License No.: 5798

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 and concludes as follows:

1. On August 22, 2017, the Commission issued a Penalty Order against Operator assessing \$1500 in fines and ordering the Operator to file an Application for Surface Pit, Closure of Surface Pit and a Waste Transfer Form.¹
2. On September 25, 2017, the Operator timely filed its request for a hearing in this matter.
3. On February 23, 2018, Conservation Staff filed a Motion to Approve Settlement Agreement, which attached the Settlement Agreement (SA) duly executed by both parties.² The SA indicates that the Operator agrees and has paid a fine of \$500 for one violation of K.A.R. 82-3-603(a) and one violation of K.A.R. 82-3-603(d) and that no additional paperwork needs to be submitted.³

¹ Penalty Order at 5-6 (Aug. 22, 2017).

² Motion to Approve Settlement Agreement at 1 (Feb. 23, 2018).

³ SA at 3.

4. Kansas law favors compromising and settling disputes when the agreement is entered intelligently, and in good faith.⁴ The Commission finds that the SA provides a fair and efficient resolution of the matter.

5. Pursuant to the SA, The Operator is hereby on notice that failure to comply with the SA may result in Operator's license being suspended.

THEREFORE, THE COMMISSION ORDERS:

A. The Motion to Approve Settlement Agreement is granted and the Settlement Agreement is approved.

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 service of this Order, plus three days if mailed, and must state the specific grounds upon which relief is requested.⁵ The petition shall be addressed to the Commission and sent to 266 N. Main, Ste. 220, Wichita, Kansas 67202.

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

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 04/26/2018



Lynn M. Retz
Secretary to the Commission

Mailed Date: 04/27/2018

DLK/sc

⁴ *Bright v. LSI Corp.*, 254 Kan. 853, 858 (1994).

⁵ K.S.A. 55-162; K.S.A. 55-606; K.S.A. 77-529(a)(1); *see* K.S.A. 66-118b.

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

Before Commissioners: Shari Feist Albrecht, Chair
Jay Scot Emler
Pat Apple

In the matter of the failure of Michael D. Weilert) Docket No.: 18-CONS-3077-CPEN
dba Michael D. Weilert Oil Company)
("Operator") to comply with K.A.R. 82-3-600,) CONSERVATION DIVISION
K.A.R. 82-3-603, and K.A.R. 82-3-604 at the)
Gay E. Reidel C #2 well in Ellis County, Kansas.) License No.: 5798

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into by and between the Staff of the Corporation Commission of the State of Kansas ("Staff" and "Commission," respectively) and Michael D. Weilert ("Operator"). Its effective date will be the date the Commission enters an order approving or amending the terms of the Agreement.

I. JURISDICTION

1. Pursuant to K.S.A. 74-623, the Commission shall have the exclusive jurisdiction and authority to regulate oil and gas activities.

2. Pursuant to K.S.A. 55-150 *et seq.*, the Commission has authority to regulate the construction, operation, and abandonment of any well and the protection of the useable water of this state from any actual or potential pollution from any well.

3. Pursuant to K.S.A. 55-155, operators and contractors, as defined in K.S.A. 55-150, shall be licensed by the Commission.

4. Pursuant to K.S.A. 55-162, if the Commission finds that such person violated any provisions of K.S.A. 55-150 *et seq.*, the Commission shall take any appropriate action necessary to prevent pollution and protect water supply.

5. Pursuant to K.S.A. 55-164, in addition to any other penalty provided by law, the Commission, upon finding that an operator or contractor has violated the provisions of K.S.A. 55-150 *et seq.*, or any rule and regulation or order of the Commission, may impose a penalty not to exceed \$10,000, which shall constitute an actual and substantial economic deterrent to the violation for which the penalty is assessed. In the case of continuing violation, every day such violation continues shall be deemed a separate violation.

6. K.A.R. 82-3-600 provides that pits shall not be used to contain fluids resulting from oil and gas activities until approved by the Commission. Use of a pit without a permit shall be punishable by a \$500 penalty.

7. K.A.R. 82-3-603(b)(2) provides that the operator shall notify the appropriate district office of any escape of saltwater, oil, or refuse that meets the definition of spill, and K.A.R. 82-3-604(d) provides that failure to do so shall be punishable by a \$250 penalty.

8. K.A.R. 82-3-603a(a) provides that each operator shall make good faith efforts to notify the landowner or the landowner's representative of any spill or escape that is required to be reported to the conservation division, and K.A.R. 82-3-603a(e) provides that failure to do so shall be punishable by a \$250 penalty.

9. K.A.R. 82-3-604(b) provides that each operator of an emergency pit or diked area shall remove any fluid from the pit or diked area within 48 hours after discovery or knowledge, or as authorized by the appropriate district office, and K.A.R. 82-3-604(d) provides that failure to do so shall be punishable by a \$250 penalty.

II. BACKGROUND

10. On August 22, 2017, Operator was penalized \$1,500 for violations of K.A.R. 82-3-600, 603, 603a(a), 604(b), and 604(d). Operator was directed to file an Application for Surface Pit (CDP-1) Form, a Closure of Surface Pit (CDP-4) Form, and a Waste Transfer (CDP-5) Form.

11. Operator has paid \$500 of the assessed penalty and submitted the CDP-5 Form.

12. Staff and Operator informally discussed the possibility of a settlement. During the informal discussions, Staff and Operator were able to reach mutually agreeable terms in anticipated settlement of the issues. It was agreed that Staff would subsequently reduce the terms to writing and forward the draft to Operator for approval and signature.

II. TERMS OF THE SETTLEMENT AGREEMENT

13. 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 stipulations as set forth below.

14. Operator shall be found to have only committed one violation of K.A.R. 82-3-603(d) and one violation of K.A.R. 82-3-603(a). Operator shall only be assessed \$500 in penalties, which has already been paid. Operator shall not be required to submit a CDP-1 or CDP-4 Form.

15. Operator understands and agrees that failure to comply with the provisions of any of the above paragraphs, and the assessment of any penalties or costs under this Agreement, will result in the Commission suspending Operator's license without further notice until compliance is obtained and all outstanding penalties and costs are paid. Operator further understands and agrees that if Operator is found conducting oil and gas operations following suspension of

Operator's license, and Operator's license is still suspended, then the Commission shall order all of Operator's oil and gas operations sealed and shall assess an additional \$5,000 penalty.

16. Operator acknowledges that upon any suspension of Operator's license, this matter may be submitted for judicial enforcement or enforcement through the Kansas Attorney General's Office.

17. Staff agrees to recommend to the Commission that this Agreement be approved. Staff further 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.

III. RESERVATIONS

18. This Settlement Agreement fully resolves issues specifically addressed between the parties. The terms of this Agreement constitute a fair and reasonable resolution of the issues addressed herein.

19. The terms and provisions of this Agreement have resulted from negotiations between the signatories 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 and, if so terminated, none of the signatories hereto shall be bound by, prejudiced, or in any way affected by any of the terms or provisions hereof, unless otherwise provided herein.

20. Unless (and only to the extent) otherwise specified in this Agreement, the signatories to this Agreement 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, if the Commission decides not to 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.

21. Unless (and only to the extent) otherwise specified in this Agreement, this Agreement does not prejudice or waive any party's legal rights, positions, claims, assertions or arguments in any proceedings in this docket, or any other proceeding before the Commission or in any court.

22. If the Commission approves this Agreement in its entirety and incorporates the same into a final order in this docket, the parties agree to be bound by its terms and the Commission's order incorporating its terms as to all issues addressed herein, and will not appeal the Commission's order.


23. This Settlement Agreement shall be binding on all parties upon signing.

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

Commission Staff
266 N. Main, Ste. 220
Wichita, Kansas 67202

Michael D. Weilert
866 230th Avenue
Hays, KS 67601

By: 

By: 

Printed Name: JON MYERS

Printed Name: Michael D. Weilert

Title: LITIGATION COUNSEL

Title: Operator

Date: 2/23/18

Date: 2-16-18

CERTIFICATE OF SERVICE

18-CONS-3077-CPEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of
electronic service on 04/26/2018.

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/S/ DeeAnn Shupe

DeeAnn Shupe