

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



2017-08-22 15:23:56
Kansas Corporation Commission
/s/ Lynn M. Retz

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

Pat Apple, Chairman
Shari Feist Albrecht, Commissioner
Jay Scott Emler, Commissioner

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

18-CONS-3077-CPEN

This is a notice of a penalty assessment for violation 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:

The Penalty Order may include the assessment of a monetary penalty. You have 30 days from the service date of this Penalty Order to pay \$1,500. Check or money order must be made payable to the Kansas Corporation Commission. Payment is to be mailed to the Conservation Division of the Kansas Corporation Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202, and must include a reference to the docket number of this proceeding. Credit card payment may be made by calling the Conservation Division at 316-337-6200.

The Penalty Order may require you to perform certain actions by deadlines stated therein. Compliance must be obtained by the applicable deadlines to avoid further compliance actions. If you have any questions about how compliance can be obtained, you may contact the legal department or the appropriate department or district office.

IF YOU CONTEST THE PENALTY:

You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Respondent must submit an original and seven copies of the request to the Commission, at 266 N. Main St., Suite 220, Wichita, Kansas 67202, within 30 days, plus three days to account for the mail, from the mailed date on the last page of the Penalty Order. K.A.R. 82-1-215.

IF YOU FAIL TO ACT:

Failure to either comply with the penalty order or request a hearing will result in the attached Penalty Order becoming a Final Order. Failure to comply or request a hearing by the deadlines in the Penalty Order 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.

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

PENALTY ORDER

I. JURISDICTION

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, and each day of a continuing violation constitutes a separate violation.

3. K.A.R. 82-3-101(a)(52) provides that “pit” means any constructed, excavated, or naturally occurring depression upon the surface of the earth.

4. K.A.R. 82-3-101(a)(69) defines “spill” as any escape of saltwater, oil, or refuse by overflow, seepage, or other means from the vicinity of oil, gas, injection, service, or gas storage wells, or from tanks, pipelines, dikes, or pits, if the wells, tanks, pipelines, dikes, or pits are involved in or related to any of the following:

- a. the exploration or drilling for oil or gas;
- b. the lease storage, treatment, or gathering of oil or gas; or
- c. the drilling, operating, abandonment, or postabandonment of wells. For purposes of this regulation, “vicinity” means the area within six feet of the wellhead.

5. K.A.R. 82-3-600(a) 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.

6. 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” in K.A.R. 82-3-101. This notification shall be made no later than the next business day following the date of discovery or knowledge of the spill. The point of discovery or knowledge means that point when the operator knew or reasonably should have known of the spill.

7. K.A.R. 82-3-603(d) provides that failure to comply with subsection (b) 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. K.A.R. 82-3-604(a) provides that each operation 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.

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.

10. K.A.R. 82-3-604(c) provides that for the purposes of this regulation, the point of “discovery or knowledge” shall mean the point when the operator know or reasonably should have known of the discharge.

11. K.A.R. 82-3-604(d) provides in pertinent part that failure to timely notify the district office in accordance with subsection (a) shall be punishable by a \$250 penalty for the first violation, a \$500 penalty for the second violation, and a \$1,000 penalty and operator license review for the third violation.

12. 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. This notification shall be made no later than five business days following the discovery or knowledge of the spill or escape.

13. K.A.R. 82-3-603a(e) provides that failure to comply with subsection (a) shall be punishable by a \$250 penalty for the first violation, a \$500 penalty for the second violation, and a \$1,000 penalty for each subsequent violation.

II. FINDINGS OF FACT

14. Operator conducts oil and gas activities in Kansas under license number 5798, and is responsible for the care and control of the Gay E Reidel C #2 , API #15-051-15828-00-02, (“the subject well”) located in Section 6, Township 14 South, Range 19 West, Ellis County.

15. On July 12, 2017, District #4 Staff received a complaint that crude oil and saltwater had escaped the diked area around the subject well and tank. Staff inspected the diked

area the same day. Staff found in excess of five barrels of fluid, with a layer of oil on top, within the diked area. Dark staining at the top edge of the dike, oil staining on nearby grass, and salt crystallization outside the eastern side of the dike indicated fluid had escaped the diked area. Staff took photographs during the inspection, which are attached as Exhibit A. Staff contacted Operator by telephone and instructed Operator to remove all fluid inside the diked area.

16. On July 13, 2017, Staff sent a Notice of Violation letter to Operator, stating that Operator's failure to notify the appropriate District Office of the spill constituted a violation of K.A.R. 82-3-603, and stating that Staff would recommend a penalty for the violation. The letter also gave Operator a July 20, 2017, deadline to submit an Unreported Incident Form, and a July 23, 2017, deadline to remediate the spill.

17. On July 18, 2017, Staff conducted a follow-up inspection and found fluids remained inside the diked area, and that an emergency pit had been dug inside the diked area. On July 21, 2017, Staff sent a Notice of Violation letter to Operator, indicating that use of the pit constituted a violation of K.A.R. 82-3-600.

18. On July 20, 2017, Operator submitted a Report of Incident form from Operator, in which Operator stated no spill had occurred and 55 barrels of fluid had been recovered, consisting only of rainwater.¹ Staff's sample of the fluid inside the dike, obtained July 14, 2017, tested at 15,500 parts per million of chlorides. Under K.A.R. 82-3-101(a)(34), "fresh water" means water containing not more than 500 parts per million of chlorides.

19. On July 24, 2017, District #4 Staff conducted another follow-up inspection and found that Operator had scraped the affected soil outside of the dike area, used it to rebuild the dike around the salt water tank, and had filled in the unpermitted pit. Staff finds the cleanup acceptable.

¹ Operator's Report of Incident, received July 20, 2017.

III. CONCLUSIONS OF LAW

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

21. The above findings of fact are sufficient evidence to support the conclusion that Operator committed one violation of K.A.R. 82-3-600 because Operator used a pit at the subject well site without a permit.

22. The above findings of fact are sufficient evidence to support the conclusion that Operator committed one violation of K.A.R. 82-3-603(d) because Operator did not notify the appropriate District office of a spill at the subject well site in a timely manner.

23. The above findings of fact are sufficient evidence to support the conclusion that Operator committed one violation of K.A.R. 82-3-603a(a) because Operator did not notify the landowner of a spill in a timely manner.

24. The above findings of fact are sufficient evidence to support the conclusion that Operator committed one violation of K.A.R. 82-3-604(b) because Operator failed to remove fluid from a diked area within 48 hours after discovery or knowledge, or as authorized by the appropriate district office.

25. The above findings of fact are sufficient evidence to support the conclusion that Operator committed one violation of K.A.R. 82-3-604(d) because Operator did not notify the appropriate District office of an oil field-related discharge into a diked area in a timely manner.

THEREFORE, THE COMMISSION ORDERS:

- A. Operator shall pay a \$500 penalty for its violation of K.A.R. 82-3-600.
- B. Operator shall pay a \$250 penalty for its violation of K.A.R. 82-3-603.
- C. Operator shall pay a \$250 penalty for its violation of K.A.R. 82-3-603a(a).

- D. Operator shall pay a \$250 penalty for its violation of K.A.R. 82-3-604(b).
- E. Operator shall pay a \$250 penalty for its violation of K.A.R. 82-3-604(d).
- F. Operator shall file an Application for Surface Pit (CDP-1) and a Closure of Surface Pit (CDP-4) Form for the emergency pit at the subject well site.
- G. Operator shall file a Waste Transfer (CDP-5) Form for the fluids removed from the emergency pit and diked area.
- H. If no party requests a hearing, and Operator is not in compliance with this Order within 30 days, then 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.
- I. 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.
- J. 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 Operator's right to a hearing.

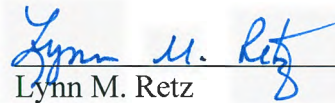
K. If a party requests a hearing, a corporation or similar entity shall not be permitted to enter an appearance except by its attorney. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record.

L. 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.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: AUG 22 2017


Lynn M. Retz
Secretary to the Commission

Mailed Date: August 22, 2017

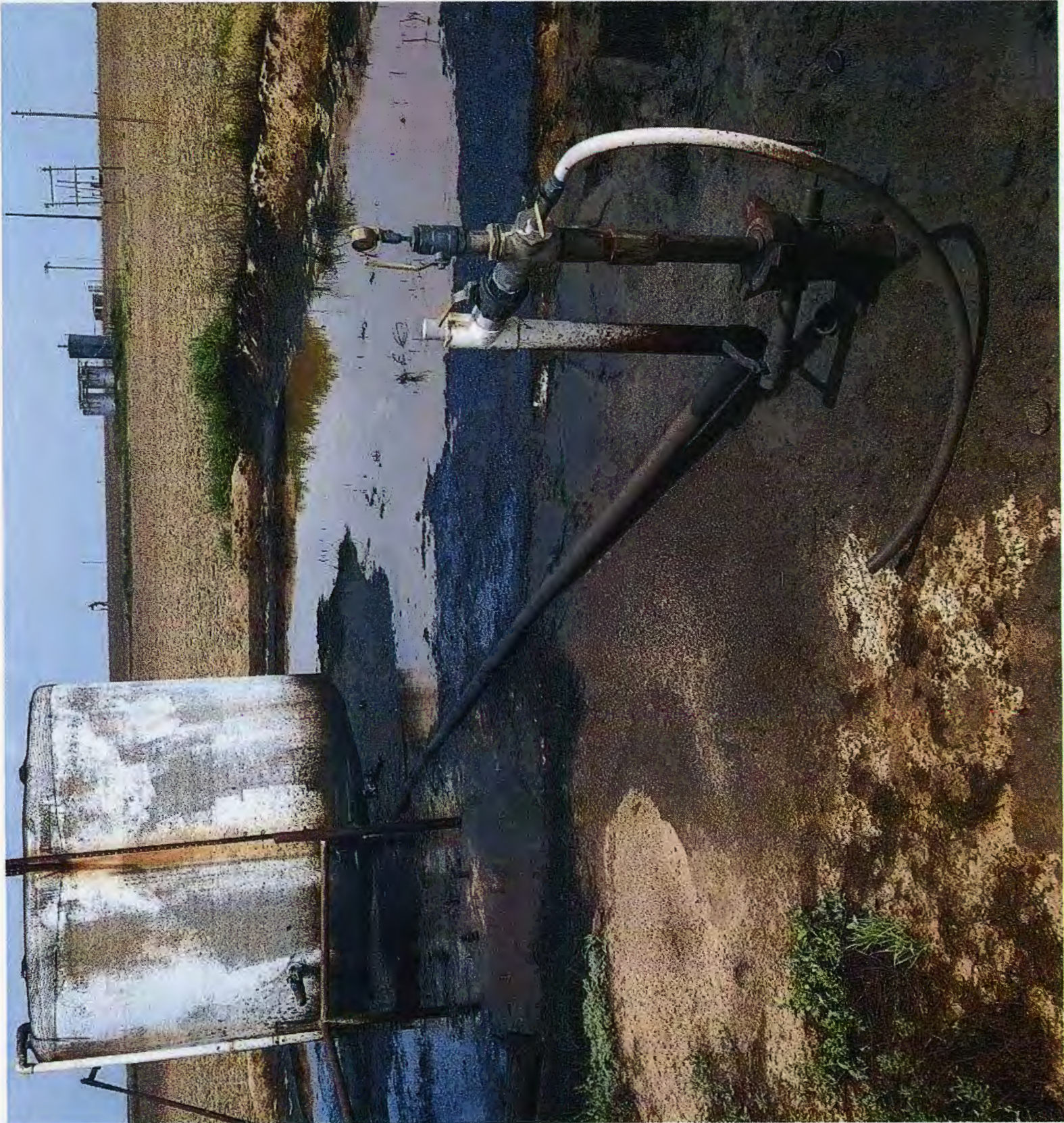
JDW





Exhibit A
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REPORT OF INCIDENT
(TO BE COMPLETED BY OPERATOR)

Operator Name: Michael D Weiler ^{C.O.} License # 5798
Address: 866 230th Ave Hays, KS Tel no 785 650-5450
Date or Approximate Date of Incident: 7-12-17 Approx 4 PM
Contact Person: Michael D Weiler Title: Operator
Name and Address of Owner: 866 230th Ave Hays, KS
Parent Company: Shaw

SPECIFIC INFORMATION REGARDING INCIDENT:

Lease Name (if the incident is associated with Lease): Gayle Kiedel C2 SWD
Legal Location of Incident: 6-14-19 County: Ellis
Type and Amount of Material(s) Spilled: Rain Water 55 BBLs
Amount of Material or fluids Recovered: 55 BBLs
Cause of Incident: Rain
Did spill material enter any waterway: No
Name of waterway involved: None
How was incident contained and cleaned up: BLACK HAWK TANK SERVICE (TODD WERTH)
Immediately went out. After, Rick Williams called me
Extent of damages caused by the incident: AND SAID IT WAS RAIN WATER AND
HE SUCKED IT OUT
Proposed method for further cleanup: HE SAID THERE WAS NO OIL IN THE WATER

Was the incident reported by your company to the Kansas Corporation Commission? No

Was the landowner notified of the spill? <u>There was no spill</u> <u>ONLY Rain Water in pit</u>	KCC
If reported, name of person receiving report	JUL 20 2017
Date and time reported <u>No Report</u>	HAYS, KS

Phone number of person receiving report

If not, why wasn't the incident reported: ASKED MY PUMPER ABOUT IT
AND HE ALSO SAID IT WAS RAIN WATER

Date: 7-17-17 Signature: Michael D Weiler

(person filing report)

CERTIFICATE OF SERVICE

I certify that on 8/22/17, 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:

Curtis Weilert
Michael D. Weilert dba Michael D. Weilert Oil Company
866 230th Avenue
Hays, KS 67601-9605

and delivered by e-mail to:

Richard Williams
KCC District #4

/s/ Paula J. Murray
Paula J. Murray
Legal Assistant
Kansas Corporation Commission