

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



20190226145110
Kansas Corporation Commission

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

Dwight D. Keen, Chair
Shari Feist Albrecht, Commissioner
Jay Scott Emler, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
19-CONS-3272-CPEN

February 26, 2019

Mark McCann
Quito, Inc.
1613 W. 6th Street
Bartlesville, OK 74003-3712

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 \$100 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: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Jay Scott Emler

In the matter of the failure of Quito, Inc.)	Docket No.: 19-CONS-3272-CPEN
("Operator") to comply with K.A.R. 82-3-111)	
at the Doty #3 in Chautauqua County, Kansas.)	CONSERVATION DIVISION
)	
_____)	License No.: 33594

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

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.

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. Within 90 days after operations cease on any well drilled for the purpose of exploration, discovery, service, or production of oil, gas, or other minerals, the operator of that well shall: (1) plug the well, (2) return the well to service, or (3) file an application with the Conservation Division requesting temporary abandonment (“TA”) authority, on a form prescribed by the Conservation Division.⁷ No well shall be temporarily abandoned unless first approved by the Conservation Division.⁸ A well shall not be eligible for TA status if the well has been shut in for 10 years or more without an application for an exception pursuant to K.A.R. 82-3-100 and approval by the Commission.⁹ The failure to file a notice of temporary abandonment shall be punishable by a \$100 penalty,¹⁰ and the failure to obtain approval of temporary abandonment status shall subject the Operator to additional administrative action.¹¹

4. K.A.R. 82-3-111(e) provides an exemption for certain wells that are (1) fully equipped for production of oil or gas or for injection; (2) capable of immediately resuming production of oil or gas or of injection; (3) subject to a valid continuing oil and gas lease; when (4) the cessation period for the well is less than 365 days; and (5) the well is otherwise in full compliance with all of the Commission’s regulations.

II. FINDINGS OF FACT

5. The Operator conducts oil and gas activities in Kansas under active license number 33594.

⁵ K.S.A. 55-164.

⁶ *Id.*

⁷ *See* K.A.R. 82-3-111(a).

⁸ K.A.R. 82-3-111(b).

⁹ *Id.*

¹⁰ *Id.*

¹¹ K.S.A. 55-164; K.A.R. 82-3-111(b).

6. The Operator is responsible for the care and control of the Doty #3 (“the subject well”), API #15-019-23901-00-00, located in Section 33, Township 33 South, Range 11 East, Chautauqua County, Kansas.

7. On January 10, 2019, Commission records indicated that the subject well had been inactive and unplugged for longer than the 90 days allowed by K.A.R. 82-3-111 and that the well was not exempt pursuant to K.A.R. 82-3-111(e). The well had also not been approved for temporary abandonment status. Thus, District Staff sent a letter to the Operator, requiring the Operator to bring the subject well into compliance with K.A.R. 82-3-111 by February 7, 2019.¹²

8. Because the deadline in the letter passed and the violation had not been resolved, on February 07, 2019, District Staff inspected the subject well, verifying that the well continued to be inactive and unplugged.¹³

III. CONCLUSIONS OF LAW

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

10. The Commission finds and concludes the Operator committed one violation of K.A.R. 82-3-111 because the subject well has been inactive in excess of the time allowed by regulation without being plugged, returned to service, or approved for TA status.¹⁴

THEREFORE, THE COMMISSION ORDERS:

- A. The Operator shall pay a \$100 penalty.
- B. The Operator shall plug the subject well, or return the well to service, or obtain TA status for the well if eligible. Obtaining TA status shall include application for, and Commission approval of, an exception to the 10-year limit on TA status if applicable.

¹² Exhibit A.

¹³ Exhibit B.

¹⁴ K.S.A. 55-164; K.A.R. 82-3-111(b).

C. 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.

D. 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, 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.

E. 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.

F. A corporation shall appear before the Commission by a Kansas licensed attorney.¹⁵

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

¹⁵ K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair (Recused); Albrecht, Commissioner; Emler, Commissioner

Dated: 02/26/2019



Lynn M. Retz
Secretary to the Commission

Mailed Date: 02/27/2019

LW

STATE OF KANSAS

CORPORATION COMMISSION
CONSERVATION DIVISION
DISTRICT OFFICE No. 3
137 E. 21ST STREET
CHANUTE, KS 66720



PHONE: 620-902-6450
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

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

January 10, 2019

Mark W. McCann
Quito, Inc.
1613 W. 6th Street
Bartlesville, OK 74003-3712

Re: Temporary Abandonment
API 15-019-23901-00-00
DOTY 3
SE/4 Sec.33-33S-11E
Chautauqua County, Kansas

Dear Mark W. McCann:

Your application for Temporary Abandonment (TA) for the above-listed well is denied for the following reasons(s):

Needs current Fluid level

Pursuant to K.A.R. 82-3-111, the well must be plugged, or returned to service, or obtain temporary abandonment status by February 07, 2019.

This deadline does NOT override any compliance deadline given to you in any Commission Order.

You may contact me if you have any questions.

Sincerely,
Duane Sims
KCC DISTRICT 3

KCC OIL/GAS REGULATORY OFFICES

Inspection Date: 02/07/2019 District: 3 Incident Number: 6394

☒ New Situation ☒ Lease Inspection
☐ Response to Request ☐ Complaint
☐ Follow-up ☒ Field Report

Operator License No: 33594 API: 15-019-23901-00-00 Q3: SW Q2: SW Q1: SE
Operator Name: Quito, Inc. SEC 33 TWP 33 RGE 11 RGEDIR: E
Address: 1613 W. 6TH ST. FSL: 351
City: Bartlesville FEL: 2198
State: OK Zip Code: 74003 Lease: Doty Well No.: 3
Phone contact: 918-331-6433 County: CQ

Reason for Investigation:

To check status of well.

Problem:

CP-111 was denied on this well on January 10, 2019.

Persons contacted:

District #3 Staff, Coleen Servant 918-331-6433

Findings:

On February 7, 2019 I was at the Doty #3 well location to check status of well. The well was still abandoned. I denied a CP-111 for this well on January 10, 2019 because a current fluid level was not provided. On January 17, 2019 I met with a representative (Darrell Hughes) for Quito, Inc. on lease to check the fluid level of the Doty #3. The fluid level was 215'. This fluid level is too high to approve the CP-111. Table One for this area is 300'. I talked to Coleen Servant on this day and explained to her that a CIT would have to be performed and pass before the deadline of February 7, 2019 because of the high fluid level so a CP-111 could be approved. As of February 7, 2019 a satisfactory CIT has not been conducted on the well so a CP-111 could be approved. This well has not been put back into production, nor has the well been plugged.

Actions / Recommendation

Follow-up Required ☐

Deadline Date:

Turn my finding in to John Almond (District #3 Compliance Officer) for review and turn in for final recommendations.

Photo's Taken:

1

☒ RBDMS ☒ KGS ☐ TA DB Report Prepared By: Duane A. Sims
☐ T1 DBF ☒ District Files ☐ Courthouse Position: E.C.R.S.

KCC DISTRICT III OFFICE FIELD REPORT PHOTO ID FORM



Operator: Quito, Inc.

Lease: Doty

County: Chautauqua

Subject: Abandoned well (Doty #3)

FSL: 351

FEL: 2198

API#: 15-019-23901-00-00

Date: February 7, 2019

Staff: Duane A. Sims

KLN: 33594

Legal: 33-33-11E

PIC ID#: IMG 0922

PIC Orientation: Facing South

Latitude: 37.127958

Longitude: -96.207154

Time: 5:00PM

Additional Information: This a picture of the Doty #3. I was on site of this well on February 7, 2019 at 5:00pm and the well is still inactive. The CP-111 was denied on January 10, 2019. It was denied because it needed a current fluid level on the well. I met a representative (Darrel Hughes) for Quito, Inc. on site on January 17, 2019 and witnessed a fluid level. The fluid level was 215' from surface. This fluid level is too high and well needs a satisfactory Casing Integrity Test conducted before a CP-111 can be approved. Table I for this area is 300'. This well could also be put back into production or plugged to bring it into compliance.

CERTIFICATE OF SERVICE

19-CONS-3272-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 02/26/2019.

JOHN ALMOND
KANSAS CORPORATION COMMISSION
DISTRICT OFFICE NO. 3
137 E. 21ST STREET
CHANUTE, KS 66720
Fax: 785-271-3354
j.almond@kcc.ks.gov

MARK W. MCCANN

Quito, Inc.
1613 W 6th Street
Bartlesville, OK 74003

LAUREN WRIGHT, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
266 N. Main St., Ste. 220
WICHITA, KS 67202-1513
Fax: 316-337-6211
l.wright@kcc.ks.gov

/S/ DeeAnn Shupe

DeeAnn Shupe