



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  
Jay Scott Emler, Commissioner

Laura Kelly, Governor

**NOTICE OF PENALTY ASSESSMENT**  
19-CONS-3353-CPEN

April 25, 2019

Brad Pratt  
BPG Capital, LLC  
3810 Washington Drive  
Frisco, TX 75034-6342

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 BPG Capital, LLC (“Operator”) to report activity that occurred during the 2018 calendar year in compliance with K.A.R. 82-3-409. | ) | Docket No.: 19-CONS-3353-CPEN |
|                                                                                                                                                                  | ) |                               |
|                                                                                                                                                                  | ) | CONSERVATION DIVISION         |
|                                                                                                                                                                  | ) |                               |
|                                                                                                                                                                  | ) | License No.: 35005            |

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**PENALTY ORDER**

The above captioned matter comes before the State Corporation Commission of the State of Kansas. 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.<sup>1</sup> 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.”<sup>2</sup> Every operator conducting oil and gas activity in Kansas must be licensed by the Commission.<sup>3</sup>

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.<sup>4</sup> 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

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<sup>1</sup> K.S.A. 74-623.

<sup>2</sup> K.S.A. 55-152.

<sup>3</sup> K.S.A. 55-155.

<sup>4</sup> K.S.A. 55-162; K.S.A. 55-164.

economic deterrent to the violation for which the penalty is assessed.”<sup>5</sup> “In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.”<sup>6</sup>

3. Each operator of an injection well shall submit a report to the Conservation Division, on a form required by the Commission, showing for the previous calendar year the following information:

- a. The monthly average wellhead pressure;
- b. The maximum wellhead pressure;
- c. The amount and kind of fluid injected into each well; and
- d. Any other performance information that may be required by the Conservation Division.<sup>7</sup>

4. The report shall be submitted on or before March 1 of the following year, and failure to timely file an annual injection report shall be punishable by a \$100 penalty.<sup>8</sup>

## **II. FINDINGS OF FACT**

5. The Operator is responsible for the care and control of the well(s) listed in Exhibit A (“the subject wells”), which are authorized injection wells.<sup>9</sup>

6. On March 19, 2019, Commission Staff sent a Notice of Violation (NOV) letter to the Operator, stating that the Commission was not in receipt of the annual fluid injection report(s) for activity during the 2018 calendar year at the subject well(s). The NOV letter gave an April 2, 2019 deadline for the Operator to submit the report(s) and avoid a penalty.<sup>10</sup>

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<sup>5</sup> K.S.A. 55-164.

<sup>6</sup> *Id.*

<sup>7</sup> K.A.R. 82-3-409.

<sup>8</sup> K.A.R. 82-3-409(c).

<sup>9</sup> Exhibit A.

<sup>10</sup> Exhibit B.

7. To date, the Operator has failed to file the annual fluid injection report(s) for the subject well(s), reporting activity during the 2018 calendar year.

### **III. CONCLUSIONS OF LAW**

8. 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.

9. The Commission finds and concludes the Operator committed one violation(s) of K.A.R. 82-3-409 because the Operator failed to file the necessary annual fluid injection report(s) at the subject well(s).

#### **THEREFORE, THE COMMISSION ORDERS:**

A. The Operator shall pay a \$100 penalty.

B. The Operator shall file the required annual fluid injection report(s).

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. For credit card payments, include the type of card (Visa, MasterCard, Discover, or American Express), account number, and expiration date. 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.<sup>11</sup>

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.

**BY THE COMMISSION IT IS SO ORDERED.**

Keen, Chair; Albrecht, Commissioner; Jay Scott Emler, Commissioner

Dated: 04/25/2019



Lynn M. Retz  
Secretary to the Commission

Mailed Date: 04/25/2019

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

# Exhibit A

**BPG Capital, LLC**

**License: 35005**

| Subject Wells      |                    |                                        |            |            |
|--------------------|--------------------|----------------------------------------|------------|------------|
| API Well #         | Lease Name/ Well # | Well Locations                         | County     | UIC Permit |
| 15-125-02417-00-01 | WILSON 5           | 23-34S-15E, N2NESW,<br>2310FSL 3300FEL | MONTGOMERY | E23510.1   |

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

Laura Kelly, Governor

March 19, 2019

Brad Pratt  
BPG Capital, LLC  
3810 WASHINGTON DR  
FRISCO TX 75034-6342

License No. 35005

**NOTICE OF VIOLATION**

**Re: Annual Fluid Injection Report Form(s) - ("U3C Form")**

Operator:

Commission records indicate that for the well(s) on the attached list,

**We have not received the necessary U3C Form(s), reporting activity during the 2018 calendar year.**

It is a violation of K.A.R. 82-3-409 for an operator to fail to submit a U3C Form in a timely manner. Forms reporting activity during the 2018 calendar year were due March 1, 2019.

**Failure to submit a complete, accurate U3C Form  
for the well(s) on the attached list  
by April 02, 2019  
shall be punishable by a \$100 per-well administrative penalty.**

The information requested above must be submitted on KOLAR. If a U3C Form is returned to you as incomplete, you will not have additional time - the deadline above governs.

Forms must be filed regardless of whether injection occurred. If you became responsible for the well after December 31, 2018, you must still file a U3C Form.

Please contact me at (316) 337-6236 if you have any questions.

Sincerely,

Cheri Boyer, KCC Staff  
Kansas Corporation Commission

**List of Wells: Missing U3C Form**

| Permit   | API Well #         | Lease Name / Well # | Well Location                       | County     |
|----------|--------------------|---------------------|-------------------------------------|------------|
| E23510.1 | 15-125-02417-00-01 | WILSON 5            | 23-34S-15E, N2NESW, 2310FSL 3300FEL | MONTGOMERY |



## **CERTIFICATE OF SERVICE**

19-CONS-3353-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 04/25/2019.

CHERYL BOYER  
KANSAS CORPORATION COMMISSION  
266 N. Main St., Ste. 220  
WICHITA, KS 67202-1513  
Fax: 785-271-3354  
c.boyer@kcc.ks.gov

BRAD PRATT  
BPG CAPITAL, LLC  
3810 WASHINGTON DR  
FRISCO, TX 75034-6342

RENE STUCKY  
KANSAS CORPORATION COMMISSION  
266 N. Main St., Ste. 220  
WICHITA, KS 67202-1513  
Fax: 785-271-3354  
r.stucky@kcc.ks.gov

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  
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DeeAnn Shupe