

**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 Benjamin M. Giles)	Docket No.: 17-CONS-3684-CPEN
("Operator") to comply with K.A.R. 82-3-104)	
and K.A.R. 82-3-111 at the Flying J Geer #2)	CONSERVATION DIVISION
OWWO well in Butler County, Kansas.)	License No.: 5446

In the Matter of the Failure of Benjamin M. Giles)	Docket No. 18-CONS-3057-CPEN
("Operator") to comply with K.A.R. 82-3-111 at)	
the Paulsen #1 in Butler County, Kansas.)	

In the Matter of the Failure of Benjamin M. Giles)	Docket No. 18-CONS-3160-CPEN
("Operator") to comply with K.A.R. 82-3-604 at)	
the Ralston Lease Tank Battery in Butler County,)	
Kansas.)	

In the Matter of the Failure of Benjamin M. Giles)	Docket No.: 18-CONS-3167-CPEN
("Operator") to comply with K.A.R. 82-3-104)	
and K.A.R. 82-3-111 at the Wright #1 OWWO)	
well in Butler County, Kansas.)	

In the Matter of the Failure of Benjamin M. Giles)	Docket No.: 18-CONS-3188-CPEN
("Operator") to comply with K.A.R. 82-3-602 at)	
the Wright #1 OWWO well in Butler County,)	
Kansas.)	

In the Matter of the Failure of Benjamin M. Giles)	Docket No.: 18-CONS-3189-CPEN
("Operator") to comply with K.A.R. 82-3-608)	
at the Wright #1 OWWO well in Butler, County,)	
Kansas.)	

ORDER

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 the following:

1. On June 27, 2017, the Commission issued a Penalty Order against Benjamin M. Giles (Operator) alleging the Operator violated K.A.R. 82-3-104 and K.A.R. 82-3-111 at the Flying J Geer #2 OWWO, API #15-015-01490-00-01 (Flying J Geer #2), in Butler County, Kansas and assessed the Operator a \$2,600 penalty for the violations.¹

2. On August 1, 2017, the Commission issued a Penalty Order against the Operator alleging violation of K.A.R. 82-3-111 at the Paulsen #1, API #15-015-01020-00-02 (Paulsen #1), in Butler County, Kansas and assessed the Operator a \$100 penalty for the violation.²

3. On September 28, 2017, the Commission issued a Penalty Order against the Operator alleging violation of K.A.R. 82-3-604(a) and (b) at the Ralston Lease Tank Battery in Butler County, Kansas and assessed the Operator a \$500 penalty for the violations.³

4. On October 12, 2017, the Commission issued a Penalty Order against the Operator alleging the Operator violated K.A.R. 82-3-104 and K.A.R. 82-3-111 at the Wright #1 OWWO, API #15-015-01211-00-02 (Wright #1), in Butler County, Kansas and assessed the Operator a \$10,100 penalty for these violations.⁴

¹ Penalty Order at 2, 5-6, *Matter of the Failure of Benjamin M. Giles ("Operator") to Comply with K.A.R. 82-3-104 and K.A.R. 82-3-111 at the Flying J Geer #2 OWWO well in Butler County, Kansas*, Docket No. 17-CONS-3684-CPEN (June 27, 2017) [*hereinafter* 17-3684 Docket].

² Penalty Order at 2-3, *Matter of the failure of Benjamin M. Giles ("Operator") to comply with K.A.R. 82-3-111 at the Paulsen #1 in Butler County, Kansas*, Docket No. 18-CONS-3057-CPEN (Aug. 1, 2017) [*hereinafter* 18-3057 Docket].

³ Penalty Order at 2-3, *Matter of the failure of Benjamin M. Giles ("Operator") to comply with K.A.R. 82-3-604 at the Ralston Lease Tank Battery in Butler County, Kansas*, Docket No. 18-CONS-3160-CPEN (Sept. 28, 2017) [*hereinafter* 18-3160 Docket].

⁴ Penalty Order at 2, 6-7, *Matter of the failure of Benjamin M. Giles ("Operator") to comply with K.A.R. 82-3-104 and K.A.R. 82-3-111 at the Wright #1 OWWO well in Butler County, Kansas*, Docket No. 18-CONS-3167-CPEN (Oct. 12, 2017) [*hereinafter* 18-3167 Docket].

5. On October 26, 2017, the Commission issued a Penalty Order against the Operator alleging violation of K.A.R. 82-3-602 at the Wright #1 and assessed the Operator a \$100 penalty for such violation.⁵

6. On October 26, 2017, the Commission issued a Penalty Order against the Operator alleging violation of K.A.R. 82-3-608 at the Wright #1 and assessed the Operator a \$250 penalty for such violation.⁶

7. The Operator filed a timely request for hearing in all dockets.

8. On February 19, 2018, Commission Conservation Division Staff (Staff) moved the Commission, unopposed by the Operator, to consolidate the aforementioned dockets.

9. On March 8, 2018, the Commission granted Staff's motion and consolidated the dockets.

10. On May 17, 2018, the Commission convened the evidentiary hearing.

11. On June 4, 2018, the transcript of the evidentiary hearing was submitted.

12. Pursuant to K.S.A. 77-526(g), the Commission shall render a final order within thirty days of the conclusion of the hearing. However, that the period can be "waived or extended with the written consent of all parties or for good cause shown."⁷

13. The Commission has traditionally considered the hearing to conclude upon the submission of the transcript. Accordingly, a final order in this matter would be due July 4, 2018.

⁵ Penalty Order at 2-3, *Matter of the failure of Benjamin M. Giles ("Operator") to comply with K.A.R. 82 3-602 at the Wright #1 OWWO well in Butler County, Kansas*, Docket No. 18-CONS-3188-CPEN (Oct. 26, 2017) [hereinafter 18-3188 Docket].

⁶ Penalty Order at 2-3, *Matter of the failure of Benjamin M. Giles ("Operator") to comply with K.A.R. 82 3-608 at the Wright #1 OWWO well in Butler County, Kansas*, Docket No. 18-CONS-3189-CPEN (Oct. 26, 2017) [hereinafter 18-3189 Docket].

⁷ K.S.A. 77-526(g).

July 4 is a legal holiday. Therefore, a final order would not be due until July 5, 2018.⁸ The Commission finds that the full thirty days allotted is necessary to adequately consider the matter.

14. On January 11, 2018, the Commission approved the 2018 Commission business meeting calendar.⁹ The Commission did not schedule any meetings for the week of July 2, 2018.

15. The Prehearing Officer reached out to the Parties to secure written consent to extend the deadline. The Operator did not object and consented to extending the time period. The Commission finds and concludes that because the Commission will not convene and the Operator has consented, good cause exists to extend the deadline.

THEREFORE, THE COMMISSION ORDERS:

A. The deadline to issue a final order shall be extended until July 10, 2018.

B. This Order constitutes non-final agency action.¹⁰ Any request for review of this action shall be in accordance with K.S.A. 77-608 and K.S.A. 77-613. Lynn M. Retz, Secretary to the Commission, is the proper party to receive service of a petition for judicial review on behalf of the Commission.¹¹

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, Chairman; Emler, Commissioner; Keen, Commissioner

Dated: 06/28/2018

Mailed Date: 06/29/2018

DLK/sc



Lynn M. Retz
Secretary to the Commission

⁸ K.S.A. 77-503(c).

⁹ Kansas Corporation Commission, Commission Meeting January 11, 2018, http://kcc.ks.gov/commissionmeetings/minutes_20180111.pdf (accessed June 26, 2018).

¹⁰ K.S.A. 77-607(b)(2).

¹¹ K.S.A. 77-613(e).

CERTIFICATE OF SERVICE

17-CONS-3684--CPEN; 18-CONS-3057-CPEN; 18-CONS-3160-CPEN; 18-CONS-3188-CPEN

18-CONS-3189-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 06/28/2018.

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/S/ DeeAnn Shupe

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