

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



2016-06-09 14:16:49

Kansas Corporation Commission

/s/ Amy L. Green

Phone: 316-337-6200

Fax: 316-337-6211

<http://kcc.ks.gov/>

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

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT 16-CONS-4055-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 \$1,000. 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.

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

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

In the matter of the failure of Brian L. Birk)	Docket No.: 16-CONS-4055-CPEN
dba Birk Petroleum (“Operator”) to comply)	
with K.A.R. 82-3-400 regarding injection that)	CONSERVATION DIVISION
took place during the 2015 calendar year.)	
	License No.: 31280

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. K.S.A. 74-623 provides that the Commission has the exclusive jurisdiction and authority to regulate oil and gas activities. K.S.A. 55-152 provides that 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. The Commission has licensing authority pursuant to K.S.A. 55-155.

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. Under K.S.A. 55-164(a), a Penalty Order may include a monetary penalty of up to \$10,000, and each day of a continuing violation constitutes a separate violation, which shall constitute an actual and substantial economic deterrent to the violation for which the penalty is assessed.

3. K.A.R. 82-3-400 provides that the penalty for unauthorized injection shall be \$1,000 for first-time violators, \$5,000 for second-time violators, and \$10,000 and operator license review for third-time violators.

II. FINDINGS OF FACT

4. Operator is responsible for the care and control of the well(s) listed in Exhibit A. Exhibit A, which is attached and incorporated into this Order, shall serve as part of the concise and explicit statement of facts required by K.S.A. 77-526.

5. As described in Exhibit A, in Operator's annual injection report(s), Operator reported rates of injection or pressurization that exceeded its permit(s). Such over-injection or over-pressurization constitutes unauthorized injection in violation of K.A.R. 82-3-400.

III. CONCLUSIONS OF LAW

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

7. The above findings of fact are sufficient evidence to support the conclusion that Operator committed one violation(s) of K.A.R. 82-3-400.

THEREFORE, THE COMMISSION ORDERS:

A. Operator shall pay a \$1,000 penalty.

B. 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.

C. 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.


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

E. 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.

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated: JUN 09 2016



Amy L. Green
Secretary

Mailed Date: June 9, 2016

JRM

PENALTY ORDER RECOMMENDATION

*****ROUTINE REPORTED OVER-PRESSURIZATION VIOLATION*****

Note: this sheet will be attached to the Order that is mailed to the operator.

Date of Recommendation:	June 2, 2016
District/Department:	Underground Injection Control
Person Recommending Penalty:	Sanita Dean (Rene Stucky, Supervisor)
Operator Name:	Birk, Brian L.
Operator License Number:	31280
Well/Lease Name & Well Number:	Watts #SWD
API Number:	15207275160000
Well/Lease Location, and County:	26-23S-14E, WOODSON County
UIC Permit Number:	D30515.0
Regulation Number:	K.A.R. 82-3-400
Description of Violation:	Unauthorized injection during 2015.
Nature of Unauthorized Injection:	In its Annual Injection Report, Operator reported over-pressurization at the subject well.
Maximum Pressure Reported in 2015, Per Operator's Annual Injection Report (pounds per square inch):	150
Maximum Pressure Allowed, Per UIC Permit (pounds per square inch):	100
Requested Monetary Penalty:	\$1,000
Requested Operator Activity:	Pay monetary penalty.

CERTIFICATE OF SERVICE

I certify that on 6/9/16, 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:

Brian L. Birk dba Birk Petroleum
874 12th Road SW
Burlington, KS 66839

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