

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



20191010105001
Kansas Corporation Commission

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

Dwight D. Keen, Chair
Shari Feist Albrecht, Commissioner
Susan K. Duffy, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
20-CONS-3103-CPEN

October 10, 2019

Richard Payne
Foundation Energy Management, LLC
5057 Keller Springs Rd., Ste. 650
Addison, TX 75001-6583

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 \$200 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,

Michael Glamann
Litigation Counsel
316-337-6200

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

Before Commissioners: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Susan K. Duffy

| | | |
|--|---|-------------------------------|
| In the matter of the failure of Foundation |) | Docket No.: 20-CONS-3103-CPEN |
| Energy Management, LLC (“Operator”) to |) | |
| comply with K.A.R. 82-3-111 at the Miles |) | CONSERVATION DIVISION |
| #1-2 and Kriete #1-2 in Kearny County, |) | |
| Kansas. |) | License No.: 33725 |

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 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

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.

⁵ K.S.A. 55-164.

⁶ *Id.*

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. Operator conducts oil and gas activities in Kansas under active license number 33725.

6. Operator is responsible for the care and control of the following wells (“the subject wells”).

- a. Miles #1-2, API #15-093-20428-00-00, Section 11, Township 24 South, Range 38 West, Kearny County, Kansas; and
- b. Kriete #1-2, API #15-093-20620-00-00, Section 35, Township 24 South, Range 35 West, Kearny County, Kansas.

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).

7. On May 07, 2019, Commission records indicated that the subject wells had been inactive and unplugged for longer than the 90 days allowed by K.A.R. 82-3-111 and that the wells were not exempt pursuant to K.A.R. 82-3-111(e). The wells had also not been approved for temporary abandonment status. Operator had applied for temporary abandonment status, but the application was denied due to the subject well being shut in for more than 10 years. Thus, District Staff sent a letter to Operator, requiring Operator to bring the subject wells into compliance with K.A.R. 82-3-111 by June 4, 2019.¹²

8. Because the deadline in the letter passed and the violation had not been resolved, on August 15, 2019, District Staff inspected the subject wells, verifying that the wells continued to be inactive and unplugged.¹³

III. CONCLUSIONS OF LAW

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

10. The Commission concludes Operator committed two violations of K.A.R. 82-3-111 because the subject wells have 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. Operator shall pay a \$200 penalty.

B. Operator shall plug the subject wells, or return the wells to service, or obtain TA status for the wells 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.

C. If no party requests a hearing, and Operator is not in compliance with this Order within 30 days from the date of service of this Order, then Operator's license shall be suspended without further notice. The notice and opportunity for a hearing on this Order shall constitute the

¹² Exhibit A.

¹³ Exhibit B.

¹⁴ K.S.A. 55-164; K.A.R. 82-3-111(b).

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.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 10/10/2019



Lynn M. Retz
Executive Director

Mailed Date: 10/10/2019

REV/jmg

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

Conservation Division
District Office No. 1
210 E. Frontview, Suite A
Dodge City, KS 67801



Phone: 620-682-7933
<http://kcc.ks.gov/>

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

Laura Kelly, Governor

May 07, 2019

BONITA HARRIS
Foundation Energy Management, LLC
16000 NORTH DALLAS PKWY, STE 875
DALLAS, TX 75248-6607

Re: Temporary Abandonment
API 15-093-20428-00-00
MILES 1-2
SE/4 Sec.11-24S-38W
Kearny County, Kansas

Dear BONITA HARRIS :

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

Shut-in Over 10 years

Pursuant to K.A.R. 82-3-111, the well must be plugged or returned to service by June 04, 2019.

If you wish to instead file an application for an exception to the 10-year limitation of K.A.R. 82-3-111, demonstrating why it is necessary to TA the well for more than 10 years, then you must file the application for an exception by June 04, 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,
Michael Maier
KCC DISTRICT 1

Conservation Division
District Office No. 1
210 E. Frontview, Suite A
Dodge City, KS 67801



Phone: 620-682-7933
<http://kcc.ks.gov/>

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

Laura Kelly, Governor

May 07, 2019

BONITA HARRIS
Foundation Energy Management, LLC
16000 NORTH DALLAS PKWY, STE 875
DALLAS, TX 75248-6607

Re: Temporary Abandonment
API 15-093-20620-00-00
KRIETE 1-2
SW/4 Sec.35-24S-35W
Kearny County, Kansas

Dear BONITA HARRIS:

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

Shut-in Over 10 years

Pursuant to K.A.R. 82-3-111, the well must be plugged or returned to service by June 04, 2019.

If you wish to instead file an application for an exception to the 10-year limitation of K.A.R. 82-3-111, demonstrating why it is necessary to TA the well for more than 10 years, then you must file the application for an exception by June 04, 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,
Michael Maier
KCC DISTRICT 1

KCC OIL/GAS REGULATORY OFFICES

Date: 08/15/19

District: 01

Case #: _____

- ☒ New Situation
☐ Response to Request
☐ Follow-Up

- ☐ Lease Inspection
☐ Complaint
☒ Field Report

Operator License No: 33725

API Well Number: 15-093-20428-00-00

Op Name: Foundation Energy Management LLC

Spot: NW NE SE Sec 11 Twp 24 S Rng 38 ☐ E / ☒ W

Address 1: 5057 Keller Springs RD

2580 Feet from ☐ N / ☒ S Line of Section

Address 2: Ste 650

1198 Feet from ☒ E / ☐ W Line of Section

City: Addison

GPS: Lat: 37.98037 Long: 101.45448 Date: 8/15/19

State: Texas Zip Code: 75001 -

Lease Name: Miles Well #: 1-2

Operator Phone #: 972 707 2500

County: Kearny

Reason for Investigation:

Check gas well status

Problem:

No response to the 10 year rule denied TA NOV dated 5-7-19. Deadline to produce, plug or file for an extension was 6-4-19.

Persons Contacted:

None

Findings:

8-15-19 Pumping unit w/ gas engine shut down. Sales line valve closed.
 Two 210 bbl covered FG water tanks on the north side of the well.
 Meter run 25' sw. No active chart. Both inlet and outlet valves closed by the pipeline.
 Well is still inactive.

Action/Recommendations:

Follow Up Required ☐ Yes ☐ No ☒

Date: _____

Send to legal.

Verification Sources:

Photos Taken: yes 3

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> RBDMS | <input checked="" type="checkbox"/> KGS | <input checked="" type="checkbox"/> TA Program |
| <input type="checkbox"/> T-I Database | <input type="checkbox"/> District Files | <input type="checkbox"/> Courthouse |
| <input type="checkbox"/> Other: _____ | | |

By: Ken Jehlik
ECRS

Retain 1 Copy District Office
 Send 1 Copy to Conservation Division

JA

Form: 02/22/2008
 Exhibit B
 Page 1 of 8

Foundation Miles 12 8-15-1914
SE Sec 11-24-38 Kerry Co
Shut in over 10 years
Facing NW

UNITED STATES / UNISES, KANSAS / (201) 321-1540, EXT. 225
COUNTY / KANSAS

Case No. 13-20 Page 10
Date 12-24 Time 58
Temp 10 Humidity 10
Wind 10 Rain 10
Snow 10 Ice 10
Fog 10 Clouds 10
Sun 10 Moon 10
Stars 10 Comets 10
Aurora 10 Other 10

Denver, Colorado



Foundation M1651-Z 8/15/19 KJ
SE Sec 11-24-38d Quarry Co
Closed meter run valve

KCC OIL/GAS REGULATORY OFFICES

Date: 08/15/19

District: 01

Case #: _____

☒ New Situation

☐ Response to Request

☐ Follow-Up

☒ Lease Inspection

☐ Complaint

☒ Field Report

Operator License No: 33725

Op Name: Foundation Energy Management LLC

Address 1: 5057 Keller Springs RD

Address 2: Ste 650

City: Addison

State: Texas Zip Code: 75001 -

Operator Phone #: 972 707 2500

API Well Number: 15-093-20620-00-00

Spot: NE NE SW Sec 35 Twp 24 S Rng 35 ☐ E / ☒ W

2619 Feet from ☐ N / ☒ S Line of Section

2803 Feet from ☒ E / ☐ W Line of Section

GPS: Lat: 37.92305 Long: 101.13100 Date: 8/15/19

Lease Name: Kriete Well #: 1-2

County: Kearny

Reason for Investigation:

Check gas well status

Problem:

No response to NOV letter dated 5-7-19 regarding a denied TA application due to the well being shut in over 10 years. Original deadline to plug, return to production or file an extension was 6-4-19. Another extension was granted until 7-31-19 by Mike Maier.

Persons Contacted:

None

Findings:

Tbg head with 2 3/8 tbg & bull plugged valve. Sales line valve closed. No lift equipment. Meter run is 15' NE. Valves closed. No recorder in meter house. 210 bbl netted FG water tank 1/2 mile west. Well is still inactive.

Action/Recommendations:

Follow Up Required ☐ Yes ☐ No ☒

Date: _____

Send to legal

Verification Sources:

Photos Taken: yes 3

☒ RBDMS

☐ T-I Database

☐ Other: _____

☐ KGS

☐ District Files

☒ TA Program

☐ Courthouse

By: Ken Jehlik

ECRS

Retain 1 Copy District Office
Send 1 Copy to Conservation Division

SA

Form: 02/22/2008

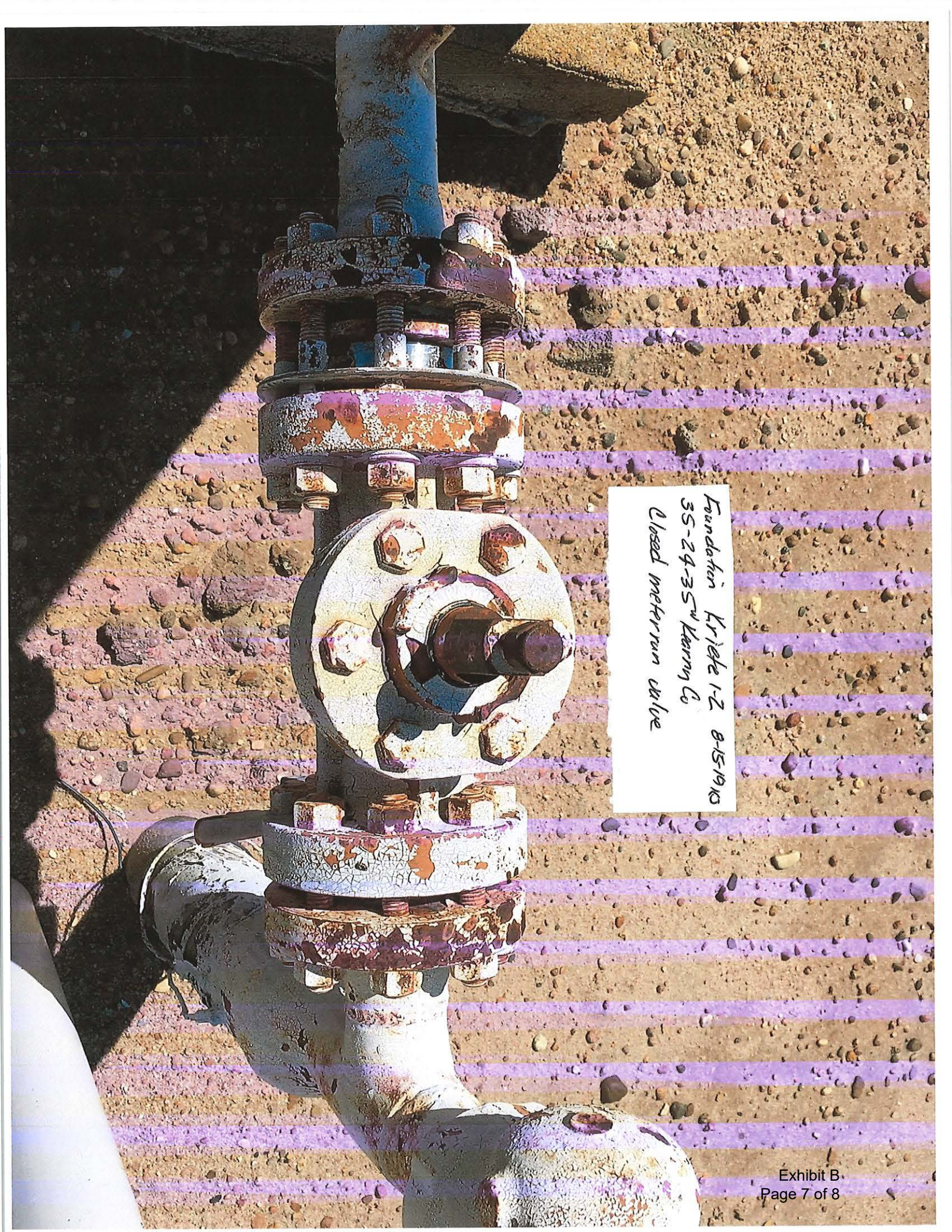
Exhibit B

Page 5 of 8

Foundation Kriete 1-2 8-15-19 KS
35-24-35W Kearny Co
Facing west




FOUNDATION ENERGY MANAGEMENT, LLC
EMERGENCY # (866) 677-3600 OKLIC #22187
OPERATOR NO. 30332
KRIETE 1-2
SEC. 35, T24S, R35W
KEARNY COUNTY, KANSAS
EMERGENCY PH: 620-824-0156



Foundation Krjete 1-2 8-15-1910
35-24-35" Kerning Co
Closed meter run valve

Foundation Kniele 1-2 8-15-19 KS
35-24-35 w Knappe &
No gas recorder in the
meter house.

CERTIFICATE OF SERVICE

20-CONS-3103-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 10/10/2019.

MICHAEL GLAMANN, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
CENTRAL OFFICE
266 N. MAIN ST, STE 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
m.glamann@kcc.ks.gov

RICHARD PAYNE
FOUNDATION ENERGY MANGEMENT, LLC
5057 KELLER SPRINGS RD STE 650
ADDISON, TX 75001
regulatory@foundationenergy.com

ROBERT VINCENT, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
r.vincent@kcc.ks.gov

FRED MACLAREN
KANSAS CORPORATION COMMISSION
DISTRICT OFFICE NO. 1
210 E. FRONTVIEW SUITE A
DODGE CITY, KS 67801
Fax: 785-271-3354
e.maclaren@kcc.ks.gov

MICHELE PENNINGTON
KANSAS CORPORATION COMMISSION
DISTRICT OFFICE NO. 1
210 E. FRONTVIEW SUITE A
DODGE CITY, KS 67801
Fax: 785-271-3354
m.pennington@kcc.ks.gov

/S/ DeeAnn Shupe

DeeAnn Shupe