

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

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

In the matter of the failure of Flintstone) Docket No: 20-CONS-3145-CPEN
Energy, LLC (“Operator”) to comply with)
K.A.R. 82-3-407 at the Tomlinson #1 X in) CONSERVATION DIVISION
Chautauqua County, Kansas.)
_____) License No: 34185

ORDER APPROVING SETTLEMENT AGREEMENT

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 November 14, 2019, the Commission issued a *Penalty Order* against Flintstone Energy, LCC (Operator) for one violation of K.A.R. 82-3-407 because a current and successful mechanical integrity test (MIT) had not been conducted at the Tomlinson #1 X well.¹ The *Penalty Order* directed Operator to pay a \$1,000 penalty, and to either perform a successful MIT or plug the well, and stated that failure to comply within 30 days would result in license suspension.²
2. On December 3, 2019, Operator requested a hearing.³
3. On March 6, 2020, Commission Staff filed a *Motion to Approve Settlement Agreement*, attaching the Settlement Agreement and stating that “Staff believes the attached Settlement Agreement constitutes a reasonable resolution of all issues in this docket.”⁴ By signing

¹ See *Penalty Order*, ¶¶ 8, 13 (Nov. 14, 2019).

² See *id.* at Ordering Clauses A thru D.

³ See Letter Requesting Hearing (Dec. 3, 2019).

⁴ *Motion to Approve Settlement Agreement*, ¶ 7 (Mar. 6, 2020).

the proposed Settlement Agreement, Staff and Operator concurred that the Agreement constitutes “a fair and reasonable resolution of the issues addressed.”⁵

4. In relevant part, the Settlement Agreement gives Operator until April 23, 2020, to pay a fine of \$500⁶ and to either conduct a successful MIT on the subject well or to plug it.⁷ Failure to timely pay or to successfully MIT or plug the well would result in license suspension and reinstatement of the originally-assessed \$1,000 penalty.⁸

5. The Commission finds it appropriate to clarify its interpretation of how license suspension is resolved under the Settlement Agreement. The Commission interprets the terms of the Settlement Agreement to mean that if Operator’s license is suspended for non-compliance with any aspect of the April 23, 2020, deadline, then the license shall remain suspended until a total of \$1,000 in monetary penalties has been paid in this docket and until Operator has either successfully MIT’d or plugged the subject well.

6. The law encourages settlements.⁹ The Commission finds the Settlement Agreement attached to Staff’s *Motion to Approve Settlement Agreement* constitutes a fair and reasonable resolution of this proceeding. The Settlement Agreement is attached to and made part of this Order.

THEREFORE, THE COMMISSION ORDERS:

A. Staff’s motion to approve the attached Settlement Agreement is granted; the Settlement Agreement is approved.

⁵ *Id.* at attached Settlement Agreement, ¶ 12.

⁶ At least, that is how the Commission elects to interpret the settlement, which actually only states that the parties agree to seek Commission approval of a reduction of the penalty to \$500, not that the penalty is in fact reduced pursuant to the settlement. *See id.* at attached Settlement Agreement, ¶ 9.

⁷ *See id.* at attached Settlement Agreement, ¶ 8.

⁸ *See id.* at attached Settlement Agreement, ¶ 11.

⁹ *Bright v. LSI Corp.*, 254 Kan. 853, 858 (1994).

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).¹⁰

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

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Albrecht, Commissioner; Keen, Commissioner

Dated: 03/12/2020



Lynn M. Retz
Executive Director

Mailed Date: 03/12/2020

JRM

¹⁰ K.S.A. 55-162; K.S.A. 55-606; K.S.A. 55-707; K.S.A. 77-503(c); K.S.A. 77-531(b).

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

| | | |
|--|---|-------------------------------|
| In the matter of the failure of Flintstone |) | Docket No.: 20-CONS-3145-CPEN |
| Energy, LLC (“Operator”) to comply with |) | |
| K.A.R. 82-3-407 at the Tomlinson #1 X in |) | CONSERVATION DIVISION |
| Chautauqua County, Kansas. |) | |
| |) | License No.: 34185 |

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into by and between the Staff of the Corporation Commission of the State of Kansas (“Staff” and “Commission,” respectively) and Flintstone Energy, LLC (“Operator”) (collectively referred to herein as “the Parties”). The effective date of this Agreement will be the date the Commission enters an order approving or amending the terms of the Agreement.

I. BACKGROUND

1. On November 14, 2019, the Commission issued a *Penalty Order* against Operator for one violation of K.A.R. 82-3-407 finding that a current and successful mechanical integrity test (“MIT”) had not been performed on the Tomlinson #1 X (“Subject Well”).¹ The Penalty Order assessed a \$1,000 penalty, directed Operator to perform a successful MIT on the Subject Well or plug the well.

2. On December 3, 2019, Operator timely filed a request for hearing.

3. On December 12, 2019, the Commission issued its Order Designating Prehearing Officer and Setting Prehearing Conference, wherein it set a prehearing conference for January 7, 2020.

¹ The legal description of the Subject Well is API #15-019-40051-00-01, located in Section 33, Township 32 South, Range 10 East, Chautauqua County, Kansas.

ATTACHMENT A

4. On January 7, 2020, a prehearing conference was held and a status conference was set for January 28, 2020. The January 28th date was set in order to allow Operator the opportunity to obtain counsel, and to provide Staff and Operator the opportunity to resolve the underlying issues in this docket, if possible.

5. On January 24, 2020, Operator conducted a Staff-witnessed MIT on the Subject Well, but the MIT failed. However, Operator expressed its continued willingness to take the necessary steps to bring the Subject Well into compliance. As a result of the discussions between Staff and Operator, an agreement was reached and is herein reduced to writing for Commission approval. The terms of the agreement are as follows:

II. TERMS OF THE SETTLEMENT AGREEMENT

6. The Parties agree that the Commission has jurisdiction and authority over this matter. The parties also agree that adoption of this Agreement is in the public interest and that the Commission should approve the terms as set forth below.

7. Operator stipulates that it committed one violation of K.A.R. 82-3-407 and is responsible for bringing the Subject Well into compliance with K.A.R. 82-3-407.

8. Operator agrees to bring the Subject Well into compliance by April 23, 2020, by either: (1) repairing and retesting the well to demonstrate mechanical integrity, or (2) plugging the well. A successful MIT must be Staff witnessed.

9. Because Operator agrees to conduct the necessary work on the subject well, as described above, the Parties agree to seek Commission approval to reduce the \$1,000 monetary penalty imposed in the docket to \$500 ("Reduced Penalty"). The Reduced Penalty will be due by April 23, 2020.

ATTACHMENT A

10. Staff agrees to reduce the agreement to writing and submit the Agreement to the Commission for approval. Staff further agrees that upon approval by the Commission, and barring default proceedings pursuant to K.S.A. 77-520, this Agreement shall constitute a final resolution of this matter.

11. Operator agrees and understands that the failure to meet any of the deadlines above shall result in the reinstatement of the full administrative penalty and immediate suspension of Operator's license.

III. RESERVATIONS

12. This Settlement Agreement fully resolves the issues specifically addressed between the Parties in this docket. The terms of this Agreement constitute a fair and reasonable resolution of the issues addressed herein.

13. The terms and provisions of this Agreement have resulted from negotiations between the signatories and are interdependent. In the event the Commission does not approve the terms of the Agreement in total, any Party has the option to terminate this Agreement.

14. Unless otherwise specified in this Agreement, the Parties shall not be prejudiced, bound by, or affected in any way by the terms of this Agreement: (1) in any future Commission or court proceeding; (2) in any proceeding currently pending before the Commission under a separate docket; and/or (3) in this proceeding, even if the Commission decides to not approve this Agreement in total or in any way conditions its approval of the same. This paragraph is not meant to limit future enforcement of this Agreement, should either Party fail to fulfill all terms and provisions.

ATTACHMENT A

15. Further this Agreement does not waive any party's legal rights, positions, claims, assertions or arguments in this docket, or any other proceeding before the Commission or in any court.

16. If the Commission approves this Agreement in its entirety and incorporates the same into a final order in this docket, the Parties agree not to appeal the Commission's order.

17. This Agreement shall be binding on all Parties upon signing.

IN WITNESS WHERETO, the Parties hereby execute and approve this Settlement Agreement by subscribing their signatures below.

Commission Staff

By: Kelcey Marsh

Printed Name: Kelcey Marsh

Title: Litigation Counsel

Date: 3/5/2020

Flintstone Energy, LLC

By: David Slackley

Printed Name: David Slackley

Title: Manager

Date: 3/4/2020

CERTIFICATE OF SERVICE

20-CONS-3145-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 03/12/2020.

DAVID STACKLEY
FLINTSTONE ENERGY, LLC
9647 NE COLE CREEK RD
EL DORADO, KS 67042-8606

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

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

KELCEY MARSH, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
CENTRAL OFFICE
266 N. MAIN ST, STE 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
k.marsh@kcc.ks.gov

JONATHAN R. MYERS, ASSISTANT GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
266 N. Main St., Ste. 220
WICHITA, KS 67202-1513
Fax: 316-337-6211
j.myers@kcc.ks.gov

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

/S/ DeeAnn Shupe

DeeAnn Shupe