

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

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| In the matter of the failure of Ace Energy, LLC (Operator) to comply with K.A.R. 82-3-111 at seventeen wells in Crawford County, Kansas |) | Docket No.: 22-CONS-3124-CPEN |
| |) | 22-CONS-3150-CPEN |
| |) | 22-CONS-3215-CPEN |
| |) | |
| |) | CONSERVATION DIVISION |
| |) | |
| |) | License No.: 34998 |

MOTION TO LIFT LICENSE SUSPENSION

Comes now, Ace Energy, LLC, as Applicant, and respectfully requests the Commission enter an order lifting the suspension of its license in the above-captioned consolidated dockets.

In support of this Motion, Ace Energy, LLC, alleges and states as follows:

- 1) License No. 34998 previously issued by the KCC to Applicant constitutes a protected property right.
- 2) On May 24, 2022, an Order Approving Settlement Agreement was filed in these consolidated dockets.
- 3) On May 24, 2022, an Order Approving Settlement Agreement was filed in these consolidated dockets.
- 4) Under the terms and conditions of the Settlement Agreement, Ace Energy, LLC, as Operator and Applicant herein, could elect to either return a Subject Well to service, obtain approved TA status or plug the well. If a Subject Well was returned to service Applicant was to conduct a staff-witnessed casing integrity test (CIT) at the well prior to the well or wells being brought into compliance. Any Subject Wells not returned to service or granted

Temporary Abandonment (TA) status shall be plugged at the rate of at least five (5) wells per calendar quarter commencing July 1, 2022.

5) A casing integrity test (CIT) evaluates the mechanical integrity of the well casing itself. The well casing has mechanical integrity if there are no significant leaks in the casing.

6) On September 28, 2022, Applicant sent an e-mail to KCC staff giving notice that the first five (5) injection wells were brought into compliance for the quarter pursuant to the terms and conditions of the Settlement Agreement. Applicant also reported to KCC staff that the five (5) wells were casing integrity test (CIT) compliant as of September 27, 2022, pursuant to the terms of the Settlement Agreement.

7) KCC staff did not require Applicant to submit new casing integrity (CIT) tests for any of the five (5) wells based on each well previously passing required KCC testing. Applicant reactivated the wells and reported to KCC staff that all five (5) wells were active and operating within the oil lease injection system.

8) On October 3, 2022, KCC staff showed up to view the five (5) wells. Four (4) wells were found to be operating satisfactorily. A lead line to one of the wells began to leak during the inspection. The lead line leak was promptly repaired by Applicant with no further issues with any of the five (5) wells. Applicant reports that the lead line leak did not exist prior to October 3, 2022.

9) There is nothing in the Settlement Agreement that says a promptly repaired lead line break separate from an otherwise CIT compliant well is grounds for license suspension.

10) Applicant respectfully states that if KCC staff believed a separate lead line break arising from an otherwise CIT compliant well violates the terms and conditions of the Settlement Agreement, then an administrative show cause motion appears to have been the appropriate procedure with due process and opportunity to be heard afforded to Applicant.

11) A letter dated October 3 (no year listed) was prepared and mailed to Applicant and its legal counsel by an unidentified KCC Legal Department staff suspending Applicant's license. See attached Attachment A. No alleged facts or supporting law is given for the license suspension.

12) The October 3 (no year listed) letter suspending Applicant's license states that a Commission Order suspending the license is on file and may be viewed at the Commission's website. No such order is on file. The most recent filing in these consolidated dockets is the Order Approving Settlement Agreement filed back on May 24, 2022.

13) Applicant argues that KCC Legal Department staff does not have legal authority to unilaterally suspend Applicant's license without due process of law. The purported October 3 license suspension letter issued by KCC Legal Department staff appears to be arbitrary, capricious, and contrary to established law. Suspension of Applicant's license by KCC Legal Department staff on October 3 also appears to violate the legal, constitutional, and due process rights of Applicant.

14) The October 3 suspension letter fails to include any facts or law supporting unilateral suspension of Applicant's license by KCC Legal Department staff. Only a summary conclusion is included in the October 3 letter suspending Applicant's license. Applicant argues

that KCC Legal Department staff do not have legal authority to make findings of fact or conclusions of law for suspension of Applicant's license. There is nothing in the October 3, license suspension letter that says how or why Applicant is alleged to have violated the terms and conditions of the Settlement Agreement.

15) Following receipt of the October 3 license suspension letter, Applicant through its legal counsel, requested immediate reinstatement of Applicant's license. The request for license reinstatement was refused by KCC Legal Department staff.

16) K.S.A. 77-512 states, in pertinent part, that a state agency like the KCC may not revoke, suspend, modify, annul, refuse to renew, or amend a license unless the state agency first gives notice and an opportunity for a hearing. Under applicable Kansas precedent, suspension or revocation of Applicant's license requires at least notice of the grounds for suspension or revocation and a pre-suspension due process hearing. *See Kan. Racing Mgmt., Inc. v. Kan. Racing Commission*, 770 P. 2d 423, 434 (Kan. 1989). The October 3 letter from KCC Legal Staff suspending Applicant's license appears to have been issued contrary to the requirements set forth in K.S.A. 77-512.

17) Applicant's license should be reinstated forthwith.

WHEREFORE, Applicant respectfully request that the Commission lift the purported October 3 suspension of Applicant's license for good cause shown. If the Commission denies this Motion, then Applicant requests an emergency or expedited hearing on its license suspension.

Respectfully submitted,

BIDEAU LAW OFFICES, LLC



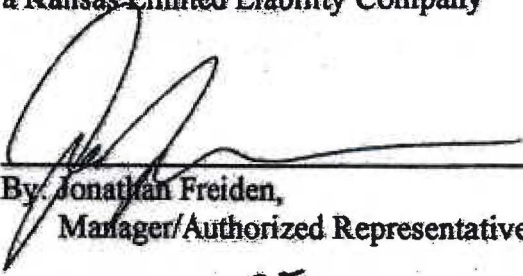
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Ace Energy, LLC

VERIFICATION

STATE OF KANSAS, COUNTY OF JOHNSON, SS:

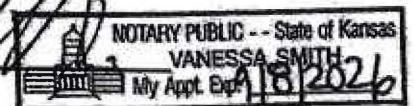
Comes now, Jonathan Freiden, being of lawful age and first duly sworn upon oath states and declares as follows: That he is a Manager of Ace Energy, LLC, and is duly authorized to make this affidavit; that he has read the foregoing Motion to Lift License Suspension, knows the contents thereof, and that the facts set forth therein are true and correct to the best of his knowledge, information and belief at this time.

ACE ENERGY, LLC
a Kansas Limited Liability Company


By: Jonathan Freiden,
Manager/Authorized Representative

SUBSCRIBED AND SWORN to before me this 25 day of October, 2022.


Notary Public



My Appointment Expires:

9/8/2026

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the above and foregoing Motion to Lift License Suspension was served upon the following parties via electronic filing with the Kansas Corporation Commission or by depositing the same in the U.S. Mail, postage prepaid, addressed as follows on this 25th day of October, 2022.

| | |
|---------------------------|---|
| Via Electronic filing to: | Kansas Corporation Commission Conservation Division 266 North Main, Suite 220 Wichita, Kansas 67202 |
| Copy to: | Tristan Kimbrell Litigation Counsel Kansas Corporation Commission 266 North Main, Suite 220 Wichita, Kansas 67202 E-mail: t.kimbrell@kcc.ks.gov |
| Copy to: | Troy Russell Kansas Corporation Commission Conservation Division - District Office No. 3 137 East 21st Street Chanute, Kansas 66720 E-mail: t.russell@kcc.ks.gov |
| Copy to: | Ryan Duling Kansas Corporation Commission Conservation Division - District Office No. 3 137 East 21st Street Chanute, Kansas 66720 E-mail: r.duling@kcc.ks.gov |
| Copy to: | Ace Energy, LLC 11704 Aberdeen Road Leawood, Kansas 66211-2921 E-mail: jfreiden@me.com |

BIDEAU LAW OFFICES, LLC



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ATTACHMENT “A”

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



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

Dwight D. Keen, Chair
Susan K. Duffy, Commissioner
Andrew J. French, Commissioner

Laura Kelly, Governor

October 3,

David J. Bideau
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PO Box 945
Chanute, KS 66720-0945
Attorney for Ace Energy, LLC

Jonathan Freiden
11704 Aberdeen Road
Leawood, KS 66211-2921

NOTICE OF LICENSE SUSPENSION

License No. 34998

Docket No. 22-CONS-3124-CPEN (Lead Docket)
22-CONS-3150-CPEN and 22-CONS-3215-CPEN

Operator:

Our records indicate that you are in violation of a Commission Order in the above Docket.

Your license is hereby suspended.

Until your license is reinstated, it is illegal for you to conduct oil and gas operations in Kansas.

If, after 10 days from the date of this letter (September 24, 2022), Commission Staff discovers you performing oil and gas operations, Staff will recommend a Shut-In Order, including an additional \$10,000 penalty. If you are already shut-in, you must remain shut-in.

Any outstanding monetary penalty may be sent to collections.

You may review the Commission Order, which was mailed to you, at the Commission's website. If you have questions, you may contact us at the phone number listed at the top of this page. If your license is reinstated it will be listed as "Active" at the following webpage:
https://kcc.ks.gov/conservation/oil_license.cgi.

Sincerely,

Legal Department Staff