

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

## II. STAFF'S ALLEGATION OF FACTS

3. Operator conducts oil and gas activities in Kansas under license number 34639.
4. Operator is responsible for the care and control of the McGuire C #1 ("the subject well"), API #15-109-21381-00-00, located in Section 25, Township 14 South, Range 33 West, Logan County, Kansas.
5. K.A.R. 82-3-600 provides that pits shall not be used to contain fluids resulting from oil and gas activities until approved by the Commission.
6. On December 12, 2014, Commission Staff approved a Notice of Intent to Drill for the subject well. The accompanying Application for Surface Pit ("CDP-1") was approved on the condition that Operator only use steel pits, as Staff determined and informed Operator that an earthen pit at the requested location would present a pollution threat to water resources. Commission Staff also notified Operator that an additional Application for Surface Pit would need to be filed if Operator wished to use a haul-off pit.
7. Also on December 12, 2014, Operator filed a CDP-1 requesting use of a haul-off pit. Staff notified Operator that it could not approve the CDP-1 because the spot location put the haul-off pit in a drainage area. On December 15, 2015, after Operator submitted corrections, Staff again notified Operator that it could not approve the CDP-1 because the spot location was still in an impermissible location. On December 18, 2014, Staff provided Operator with footages that would be suitable for a haul-off pit.
8. On December 19, 2014, Staff inspected the subject well location and found an earthen pit containing fluids, at an impermissible location within the drainage area.<sup>1</sup> On December 30, 2014, Staff sent a letter to Operator, stating that they had found an unpermitted pit on site. A follow-up inspection conducted on January 12, 2015, indicated that the earthen pit

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<sup>1</sup> See Exhibit A.

remained open and continued to contain fluids. To date, Commission records indicate that the pit remains open, in violation of K.A.R. 82-3-600.

9. Kansas Geological Survey records indicate that Operator produced 350,761 barrels of oil in the first 9 months of 2014. Assuming an average Kansas crude-oil first-purchase price of \$80 per barrel,<sup>2</sup> Operator apparently made approximately \$28,000,000 in gross revenue from oil production in the first nine months of 2014.

10. On May 6, 2014, the Commission issued a penalty order in Docket 14-CONS-831-CPEN, finding that Operator had failed to timely remove fluids from 10 pits, had failed to locate 6 pits in approved locations, and had failed to notify the appropriate District office of a spill. The Commission assessed \$13,250 in penalties, with \$5,000 assessed pursuant to K.S.A. 55-164 due to:

Operator's recent history of non-compliance, the number of violations found, and the heightened environmental risks associated with Operator improperly locating pits in natural drainage areas in and near the Smoky Hill River, with those risks compounded due to Operator's failure to timely remove the fluids from those pits<sup>3</sup>

11. Since February 2013, the Commission has penalized Operator for a total of 30 violations of Commission regulations and has assessed Operator \$17,250 in penalties.<sup>4</sup> Since May 2014, Operator has twice been suspended for non-compliance with Commission orders. Across the last three years, only six operators have had more violations and only six operators have been assessed more in penalties.

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<sup>2</sup> This is a conservative estimate. See U.S. Energy Information Administration, Petroleum & Other Liquids, Kansas Crude Oil First Purchase Price, available at <http://www.eia.gov/petroleum/index.cfm>; Coffeyville Resources Refining & Marketing, available at <https://www.coffeyvillecrude.com/CVRCrude/showPriorPriceBulletin.do>.

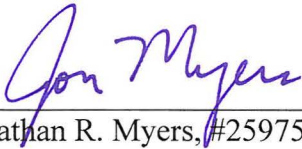
<sup>3</sup> See Docket 14-CONS-831-CPEN, Penalty Order (May 6, 2014), paragraph 34.

<sup>4</sup> See Dockets 13-CONS-199-CPEN (Failure to timely remove fluids from a pit, \$500); 13-CONS-270-CPEN (Well Completion Report, \$500); 13-CONS-383-CPEN (Well Completion Report, \$500); 13-CONS-457-CPEN (Well Completion Reports, \$1,500); 14-CONS-641-CPEN (Surface Pit Closure Form, \$100); 14-CONS-677-CPEN (Waste Transfer Form, \$500); 14-CONS-812-CPEN (Tank Battery Identification, \$500); 14-CONS-831-CPEN (Failure to Timely Remove Fluids, Failure to Locate Pits in Approved Locations, Spill, \$13,250).

### III. CONCLUSION

12. Operator has continued to disregard the Commission's pit permit requirements and appears to be ignoring Commission regulations and Staff directives as a calculated business decision. This behavior should not be allowed to continue. Thus, Staff requests that an Order to Show Cause be issued, designating a prehearing officer and scheduling a prehearing conference, in anticipation of a hearing before the Commission where Staff will ask for a substantial economic penalty for Operator's ongoing violation of K.A.R. 82-3-600 at the subject well.

Respectfully submitted,



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Jonathan R. Myers, #25975  
Litigation Counsel  
Kansas Corporation Commission  
266 N. Main, Suite 220  
Wichita, Kansas 67202-1513  
Phone: 316-337-6200  
Fax: 316-337-6106

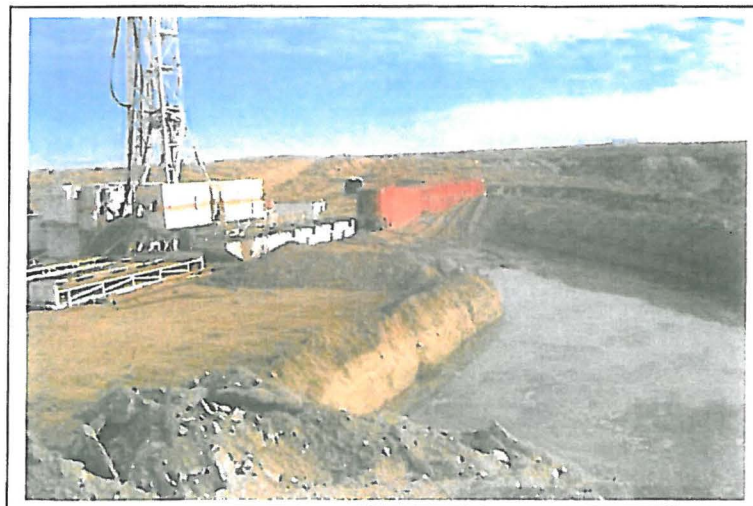
12/30/14  
Black Tea Oil, LLC  
McGuire C1  
NE/4 Sec. 25-14S-33W  
Logan County, Kansas

- Lease inspection conducted on December 19, 2014 to check lease for compliance with State Rules & Regulations regarding the Conservation of Crude Oil & Natural Gas.



View of the pit toward the south from the north end. Note the fractured bedrock and proximity of the pit to the draw. District staff provided operator with permissible location near trailer on the horizon of the above picture.

Picture taken by Darrell Dipman Friday, December 19, 2014



View of the pit is from the north end, and shows the drilling fluids running from the steel pits directly into the pit.

Picture taken by Darrel Dipman Friday, December 19, 2014

**CERTIFICATE OF SERVICE**

I certify that on 2/13/15, I caused a complete and accurate copy of this Motion to be served via United States mail, with the postage prepaid and properly addressed to the following:

Christopher C. Leiker  
Black Tea Oil, LLC  
1014 E. 29<sup>th</sup> Street  
Hays, Kansas 67601

Case Morris  
KCC District #4  
2301 E. 13th Street  
Hays, Kansas 67601

And delivered by hand to:

Jonelle Rains  
Conservation Division Central Office

/s/ Jonathan R. Myers  
Jonathan R. Myers  
Litigation Counsel  
Kansas Corporation Commission