

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Susan K. Duffy

In the matter of the failure of Prairie Gas) Docket No: 20-CONS-3129-CPEN
Operating, LLC ("Operator") to comply with)
K.A.R. 82-3-111 at the Watson #1 and Earl #1) CONSERVATION DIVISION
in Greeley County and Hamilton County,)
Kansas.) License No: 35442

In the matter of the failure of Prairie Gas) Docket No: 20-CONS-3144-CPEN
Operating, LLC ("Operator") to comply with)
K.A.R. 82-3-407 at the Bounds #2 in Greeley) CONSERVATION DIVISION
County, Kansas.)
License No: 8061

In the matter of the failure of Prairie Gas) Docket No: 20-CONS-3220-CPEN
Operating, LLC ("Operator") to comply with)
K.A.R. 82-3-111 at the Watson Farms #1,) CONSERVATION DIVISION
Monroe #2-4H, and Fecht D #1 in Greeley)
County, Kansas.) License No: 35442

**ORDER ON PETITIONS FOR LIFTING OF SUSPENSION
AND SETTING PREHEARING CONFERENCE**

Between November 2019 and February 2020, the Commission penalized Operator in the captioned dockets; Operator requested hearings but then withdrew its requests. Between August 2020 and September 2020 the dockets were closed. Between September 2020 and October 2020, Staff suspended Operator's license for non-compliance with the penalty orders.

Commission records indicate Operator remains suspended for non-compliance with the penalty orders in Docket 20-3129 and Docket 20-3220.¹ On March 12, 2021, Operator filed a petition in Docket 20-3220 to lift the license suspensions. On March 24, 2021, Staff responded in opposition; on April 13, 2021 Operator replied. Also on April 13, 2021, in consolidated Dockets 20-3129/3144,

¹ See K.A.R. 82-1-230(h).

Operator filed a petition and reply identical to those it filed in Docket 20-3220, except the caption was changed and the reply was missing its exhibit. The Commission rules as follows.

I. Initial Procedural Issues

1. These dockets have been closed for quite some time. Operator's petitions make no request to reopen the dockets. Further, Dockets 20-3129 and 20-3144 were consolidated prior to their closure, but Docket 20-3220 was not consolidated. The Commission finds a request to reopen the dockets and to consolidate them to be implicit in Operator's filings, but suggests to counsel that the request ought to have been explicit. Regardless, the captioned dockets are reopened. The Commission may consolidate dockets for hearing on a common record if in the public interest;² for the sake of judicial efficiency, they are consolidated.

II. Substantive Issues

2. Operator's license is currently suspended due to the state of affairs at the Earl #1, Fecht D #1, and Watson #1 wells.³ The penalty orders addressing the wells, which found violations of K.A.R. 82-3-111, ordered:

Operator shall plug the subject wells, or return the wells to service, or obtain temporary abandonment status for the wells if eligible...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 hearing on this Order shall constitute the notice required by K.S.A. 77-512 regarding license suspension.⁴

3. Operator, more or less, says it has ensured the wells are capable of resuming production, but for the license suspension.⁵ Staff says that the wells have had temporary abandonment applications denied or revoked due to high fluid levels, and thus under K.A.R. 82-3-111(c) the wells

² K.A.R. 82-1-224(b).

³ See Staff's Response to Petition, ¶ 4-6, 9-13 (Mar. 24, 2021).

⁴ See Docket 20-CONS-3129-CPEN, Penalty Order, Ordering Clauses B & C (Nov. 17, 2019); Docket 20-CONS-3220-CPEN, Penalty Order, Ordering Clauses B & C (Feb. 3, 2020).

⁵ See Petition, ¶ 9 and Exhibit C (Earl #1); ¶¶ 13, 14 and Exhibit C (Fecht #1); Exhibit C and D (Watson #1); Reply ¶ 9.

need to be plugged or repaired.⁶ Staff maintains that requiring Operator to demonstrate that there is no threat to fresh and usable water is an appropriate and necessary action.⁷

4. Staff may be right. But the basis for Operator's license suspension must be non-compliance with the Commission's penalty orders. The penalty orders allowed Operator to achieve compliance through returning the wells to service; if Operator does so, it is in compliance. Further, the Commission finds, in these dockets, that dewatering amounts to a return to service. Thus, if at any time since the issuance of the penalty orders in these dockets, Operator has fully equipped the Earl #1, Fecht D #1, and Watson #1 wells and produced fluids from each of them, simultaneously or otherwise, then Operator has complied with the Commission's penalty orders. If Operator has done so, or upon Operator doing so (Operator is allowed to do so), then Staff is directed to lift any license suspension associated with Operator's non-compliance with the orders in the captioned dockets.

III. Additional Procedural Issues

5. The broadening of issues may be permitted by the Commission in any proceeding before the Commission.⁸ As the Commission has previously ruled, high fluid levels constitute grounds for denial of temporary abandonment applications.⁹ On the claims made in the briefs, the Commission believes the Earl #1, Fecht D #1, and Watson #1 may need to have casing integrity tests conducted upon them and/or be repaired or plugged. The Commission is broadening the issues in this proceeding, so as to develop the record in regard to these possible needs.

THEREFORE, THE COMMISSION ORDERS:

A. The captioned dockets are reopened and consolidated as described above, and Commission Staff is directed to handle the status of Operator's license as described above.

⁶ See Staff's Response to Petition, ¶¶ 8-9, 12-13.

⁷ See *id.*

⁸ See K.A.R. 82-1-224(c).

⁹ See, e.g., Docket 19-CONS-3271-CPEN, Final Order, ¶¶ 12, 14 (Mar. 23, 2021).

B. On the issue of whether the Earl #1, Fecht D #1, and Watson #1 need to have casing integrity tests conducted upon them and/or be repaired or plugged, and in regard to any uncertainty about whether Operator has met the requirements outlined above for lifting the license suspensions in these dockets, the Commission sets a Prehearing Conference for **Thursday, May 6, 2021, at 2:30 p.m.** by telephone. The conference call information is: telephone number (866) 620-7326, conference code PIN 3902542751. Operator must appear via a licensed attorney.¹⁰ Jonathan R. Myers, Assistant General Counsel, is assigned as Presiding Officer, under the terms described in the May 12, 2020, Order Designating Prehearing Officer and Setting Prehearing Conference in Docket 20-3220; Kelcey Marsh, Litigation Counsel, remains the attorney designated to appear on behalf of Commission Staff.

C. At the Prehearing Conference, parties shall be prepared to discuss deadlines for filing testimony and briefs, discovery procedures, scheduling of a hearing with the Commission, and any other issues that will promote the orderly and prompt resolution of this proceeding. At the Prehearing Conference, without further notice, this proceeding may be converted into a conference hearing or a summary proceeding for disposition of this matter as provided by the Kansas Administrative Procedure Act (KAPA). Any party that fails to attend or participate in the Prehearing Conference, hearing, or other stage of this proceeding may be held in default under the KAPA.


D. Each subsequent filing submitted in these dockets shall be captioned in the manner this order is captioned and shall be filed only in Docket 20-CONS-3220-CPEN; Commission employees shall then populate the filing in the other consolidated dockets. Electronic service is authorized as described in the June 4, 2020, Prehearing Officer Order Regarding Electronic Service in Docket 20-CONS-3220-CPEN.

¹⁰ See: K.A.R. 82-1-228(d)(2); K.S.A. 77-515(c).

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 04/20/2021



Lynn M. Retz
Secretary to the Commission

Mailed Date: 04/20/2021

JRM

CERTIFICATE OF SERVICE

20-CONS-3129-CPEN, 20-CONS-3144-CPEN, 20-CONS-3220-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
electronic service on 04/20/2021.

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