

CORPORATION COMMISSION
CONSERVATION DIVISION
266 N. MAIN ST., STE. 220
WICHITA, KS 67202-1513

STATE OF KANSAS



PHONE: 316-337-6200
FAX: 316-337-6211
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

NOTICE OF PENALTY ASSESSMENT
19-CONS-3032-CPEN

July 31, 2018

William E. Hammerschmidt
900 S. Section Line
Plainville, KS 67663-3408

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 \$1,350 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,

Lauren N. Wright
Litigation Counsel
316-337-6200

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

| | | |
|--|---|-------------------------------|
| In the matter of the failure of William E. |) | Docket No.: 19-CONS-3032-CPEN |
| Hammerschmidt ("Operator") to comply |) | |
| with K.A.R. 82-3-603 and K.A.R. 82-3-128 |) | CONSERVATION DIVISION |
| at the John A lease in Rooks County, |) | |
| Kansas. |) | License No.: 8133 |

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

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.

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

3. K.A.R. 82-3-101(a)(69) defines “spill” as any escape of saltwater, oil, or refuse by overflow, seepage, or other means from the vicinity of oil, gas, injection, service, or gas storage wells, or from tanks, pipelines, dikes, or pits, if the wells, tanks, pipelines, dikes, or pits are involved in or related to any of the following:

- a. the exploration or drilling for oil or gas;
- b. the lease storage, treatment, or gathering of oil or gas; or
- c. the drilling, operating, abandonment, or postabandonment of wells. For purposes of this regulation, “vicinity” means the area within six feet of the wellhead.

4. K.A.R. 82-3-603(b) provides that the operator shall notify the appropriate district office of any escape of saltwater, oil, or refuse that meets the definition of “spill” in K.A.R. 82-3-101. This notification shall be made no later than the next business day following the date of discovery or knowledge of the spill.⁷ The point of discovery or knowledge means that point when the operator knew or reasonably should have known of the spill.⁸

5. K.A.R. 82-3-603(d) provides that failure to comply with subsection (b) shall be punishable by a \$250 penalty for the first violation, a \$500 penalty for the second violation, and a \$1,000 penalty and an operator license review for the third violation.

6. K.A.R. 82-3-603(e) provides that the operator shall clean up any spill that requires notification under this regulation in accordance with the cleanup method approved by the

⁵ K.S.A. 55-164.

⁶ *Id.*

⁷ K.A.R. 82-3-603(b)(2).

⁸ K.A.R. 82-3-603(b)(4).

appropriate district office. The operator shall complete the cleanup of the spill within 10 days after discovery or knowledge, or by the deadline prescribed in writing by the district office.⁹

7. K.A.R. 82-3-603(f) provides that failure to contain and clean up the spill in accordance with this regulation shall be punishable by a \$1,000 penalty for the first violation, a \$2,500 penalty for the second violation, and a \$5,000 penalty for the third violation.

8. K.A.R. 82-3-128 provides that failure to verify requested information shall be punishable by a \$100 penalty.

II. FINDINGS OF FACT

9. The Operator conducts oil and gas activities in Kansas under active license number 8133.

10. The Operator is responsible for the care and control of the John A Lease, located in Section 30, Township 9 South, Range 18 West, Rooks County, Kansas.

11. On May 08, 2018, District Staff conducted a routine lease inspection of the John A lease and discovered an unreported spill.¹⁰ On May 09, 2018, District Staff sent a Notice of Violation letter to the Operator, requiring the Operator to provide a completed Unreported Incident Form within 7 days and clean up the spill within 10 days from the date of the letter.¹¹

12. Because the deadline in the letter passed and District Staff had not yet received the Unreported Incident Form, on June 22, 2018, District Staff inspected the spill site and found that while the Operator had removed fluid from the gun barrel, no remediation had been performed at that time.¹²

⁹ K.A.R. 82-3-603(e)(1).

¹⁰ Exhibit A.

¹¹ Exhibit B.

¹² Exhibit C.

13. On July 02, 2018, District Staff conducted a follow up inspection and discovered that no remediation had been performed at the spill site. The Operator has failed to submit the Unreported Incident Form.¹³

III. CONCLUSIONS OF LAW

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

15. The Commission finds and concludes that the Operator committed one violation of K.A.R. 82-3-603(b) because the Operator did not notify the appropriate District office of the spill in a timely manner.

16. The Commission finds and concludes that the Operator committed one violation of K.A.R. 82-3-603(e) because the Operator failed to clean up the spill in a timely manner.

17. The Commission finds and concludes that the Operator committed one violation of K.A.R. 82-3-128 because the Operator failed to submit the Unreported Incident Form as requested by District Staff.

THEREFORE, THE COMMISSION ORDERS:

A. The Operator shall pay a \$1,350 penalty.

B. The Operator shall clean up the spill and remediate the affected area according to District #4 specifications. If the spill site is not fully cleaned up and remediated by August 22, 2018, then the Operator shall pay an additional \$2,500 penalty.

C. In addition, if the spill site is not fully cleaned up and remediated by September 21, 2018, then Staff is directed to clean up the spill and remediate the affected areas, and to assess the costs to the Operator, with an additional \$5,000 penalty.

¹³ Exhibit D.

D. The Operator shall plug the subject well, or return the well to service, or obtain TA status for the well 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.

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

F. 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.

G. 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 the Operator's right to a hearing.

H. A corporation shall appear before the Commission by a Kansas licensed attorney.¹⁴

¹⁴ K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

I. 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.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner.

Dated: 07/31/2018



Lynn M. Retz
Secretary to the Commission

Mailed Date: 08/01/2018

LW

INSPECTION REPORT

Case# _____

| | |
|-------------------------------------|---------------------|
| <input type="checkbox"/> | Complaint |
| <input checked="" type="checkbox"/> | New Situation |
| <input type="checkbox"/> | Response to request |
| <input type="checkbox"/> | Follow-up |

Date of

Inspection: May 8, 2018

Operator: Hammerschmidt, William E.

License: 8133

Address: 904 S. Section Line Rd.

Location: NW/4 30-9S-18W

City/St: Plainville, Ks. 67663

Lease: John A

Phone: (785)-434-2403

County: Rooks

Reason for investigation: Routine Lease Inspection

Problem: Unreported Spill

Findings:

- **May 8, 2018: Tank Battery has proper identification.** (GPS LOC: LAT. 39.24862, LONG. 099.37318.).
Unreported spill at the tank battery.
- **John A3 API# 15-163-01583-0000,** located SE NE NW/4 30-9S-18W Rooks County Kansas is currently
producing. (GPS LOC: LAT. 39.24651, LONG. 099.37403 Footages 4369' F.S.L. & 2918' F.E.L.).

Photos: Yes

Action /recommendations:

- Checked Spill data base. Spill has not been reported.
- Sent NOV Letter for K.A.R. 82-3-603 (b)

Pat Bedore E.C.R.S.
(agent)

Pat Bedore
(signature)

cc: file

Date: May 8, 2018

Operator: Hammerschmidt, William E.

Lease: John A

Legal: NW/4 30-9S-18W

Rooks County, Kansas

- < Lease inspection conducted on May 8, 2018 to check lease for compliance with State Rules & Regulations regarding the Conservation of Crude Oil & Natural Gas.



Back side of John A Gunbarrel.



John A Gunbarrel

GPS LOC: LAT. 39.24862, LONG. 099.37318

STATE OF KANSAS

CORPORATION COMMISSION
CONSERVATION DIVISION
DISTRICT OFFICE No. 4
2301 E. 13TH STREET
HAYS, KS 67601-2651



PHONE: 785-261-6250
FAX: 785-625-4564
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

May 9, 2018

Hammerschmidt, William E. #8133
904 S. Section Line Rd.
Plainville, Ks. 67663
(785)434-2403

NOTICE OF VIOLATION

**Re: John A Tank Battery Site
NW/4 30-09S-18W Rooks County Kansas**

Operator:

A recent inspection indicated the existence of an unreported spill at the referenced well or lease. A picture of the violation has been attached.

Under K.A.R. 82-3-603(b), within 24 hours, an operator must notify the appropriate district office of a spill. Because no notification was made, this matter has been referred to the Legal Department, with a \$250 penalty recommendation.

Under K.A.R. 82-3-603(e), each operator shall complete cleanup of a spill within 10 days of when the operator reasonably should have known of the spill. If this does not occur, the matter will again be referred to the Legal Department, with an additional \$1,000 penalty recommendation.

Under K.A.R. 82-3-128, an operator must verify any information necessary to administer Commission rules. You have 7 days from the date on this letter to provide a completed copy of the attached Unreported Incident Form. If you do not comply, then the matter will be referred to the Legal Department, with an additional \$100 penalty recommendation.

If you have any questions regarding this matter please contact me at the KCC District #4 Office, 2301 East 13th, Hays, Kansas 67601, or by calling (785) 261-6250. Your prompt attention to this matter will be greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Pat Bedore".

Pat Bedore
E.C.R.S.

cc:File

UPDATE REPORT

Date: June 22, 2018

Operator: Hammerschmidt, William E.

License: 8133

Location: NW/4 30-9S-18W

Lease: John A

County: Rooks

Findings:

June 22, 2018: Operator has removed fluid from gun barrel. No further clean up has been performed at this time.

➤



Pat Bedore E.C.R.S.

(agent)

Pat Bedore

(signature)

cc: file

UPDATE REPORT

Date: July 2, 2018

Operator: Hammerschmidt, William E.

License: 8133

Location: NW/4 30-9S-18W

Lease: John A

County: Rooks

Findings:

- **July 2, 2018: No remediation has been performed at this time.**
- **Notice of Violation letter for K.A.R.82-3-128 Unreported Incident Form sent to Operator on May 9, 2018. Was to be returned to KCC Office by May 16, 2018. This form has not been returned at this time.**
- **Operator is in violation of K.A.R. 82-3-603(e). Failure to clean up spill within 10 days. Referred to Compliance Officer for penalty order.**



Pat Bedore E.C.R.S.

(agent)

Pat Bedore
(signature)

cc: file

CERTIFICATE OF SERVICE

19-CONS-3032-CPEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail and electronic service on 07/31/2018.

WILLIAM E. HAMMERSCHMIDT
900 S SECTION LINE
PLAINVILLE, KS 67663-3408

JONELLE RAINS
KANSAS CORPORATION COMMISSION
Conservation Division
266 N. Main St. Ste. 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
j.rains@kcc.ks.gov

RICHARD WILLIAMS
KANSAS CORPORATION COMMISSION
DISTRICT OFFICE NO. 4
2301 E. 13TH STREET
HAYS, KS 67601-2654
Fax: 785-271-3354
r.williams@kcc.ks.gov

LAUREN WRIGHT, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
Conservation Division
266 N. Main St. Ste. 220
WICHITA, KS 67202-1513
Fax: 316-337-6211
l.wright@kcc.ks.gov

/S/ DeeAnn Shupe

DeeAnn Shupe