

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



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

Shari Feist Albrecht, Chair  
Jay Scott Emler, Commissioner  
Pat Apple, Commissioner

Sam Brownback, Governor

## NOTICE OF PENALTY ASSESSMENT

15-CONS-617-CPEN

This is a notice of a penalty assessment for violation 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:

The Penalty Order may include the assessment of a monetary penalty. You have 30 days from the service date of this Penalty Order to pay \$250. Check or money order must be made payable to the Kansas Corporation Commission. Payment is to be mailed to the Conservation Division of the Kansas Corporation Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202, and must include a reference to the docket number of this proceeding. Credit card payment may be made by calling the Conservation Division at 316-337-6200.

The Penalty Order may require you to perform certain actions by deadlines stated therein. Compliance must be obtained by the applicable deadlines to avoid further compliance actions. If you have any questions about how compliance can be obtained, you may contact the legal department or the appropriate department or district office.

### IF YOU CONTEST THE PENALTY:

You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Respondent must submit an original and seven copies of the request to the Commission, at 266 N. Main St., Suite 220, Wichita, Kansas 67202, within 30 days, plus three days to account for the mail, from the mailed date on the last page of the Penalty Order. K.A.R. 82-1-215.

### IF YOU FAIL TO ACT:

Failure to either comply with the penalty order or request a hearing will result in the attached Penalty Order becoming a Final Order. Failure to comply or request a hearing by the deadlines in the Penalty Order 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.

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

Before Commissioners:                      Shari Feist Albrecht, Chair  
   Jay Scott Emler  
   Pat Apple

In the matter of the failure of Mike Becker	)	Docket No.: 15-CONS-617-CPEN
("Operator") to comply with K.A.R. 82-3-608	)	
at the Neighbaum #1 well in Labette County,	)	CONSERVATION DIVISION
Kansas.	)	
_____	)	License No.: 32711

**PENALTY ORDER**

The above captioned matter comes before the State Corporation Commission of the State of Kansas. Having examined the files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

**I. JURISDICTION**

1.        K.S.A. 74-623 provides that the Commission has the exclusive jurisdiction and authority to regulate oil and gas activities. K.S.A. 55-152 provides that 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. The Commission has licensing authority pursuant to K.S.A. 55-155.

2.        K.S.A. 55-162 and K.S.A. 55-164 provide the Commission with 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.

3.        K.A.R. 82-3-602(a) provides that unless otherwise specified in writing by the Commission, each operator shall close drilling pits within 365 calendar days after the spud date of a well.

4. K.A.R. 82-3-602(b) provides that before backfilling any pit, operator shall dispose of the pit contents according to K.A.R. 82-3-607 and shall submit the required form pursuant to K.A.R. 82-3-608.

5. K.A.R. 82-3-608(a) provides that each operator shall file a form prescribed by the commission within 30 days after the operator transfers refuse from any pit or diked area or refuse relating to any remediation or cleanup activity.

6. K.A.R. 82-3-608(b) provides that the failure to timely submit the form specified in subsection (a) shall be punishable by the following penalties: \$250 for the first violation, \$500 for the second violation, and \$1,000 and an operator license review for the third violation.

## **II. FINDINGS OF FACT**

7. Operator conducts oil and gas activities in Kansas under license number 32711.

8. Operator is responsible for the care and control of the Neighbaum #1 (“the subject well”), API #15-099-24684-00-00, located in Section 11, Township 31 South, Range 21 East, Labette County, Kansas.

9. Commission records indicate that Operator filed an Application for Surface Pit (“CDP-1”) along with the Notice of Intent to Drill (“C-1”) for the subject well. As part of the CDP-1 approval process, either Operator stated refuse would be transferred or Commission Staff required refuse to be transferred, prior to the closure of a drilling pit.

10. Commission regulations require drilling pits to be closed within 365 calendar days of the spud date of the associated well. Commission regulations further require an Exploration and Production Waste Transfer (“CDP-5”) form to be filed within 30 days after an operator transfers refuse from any pit.

11. Commission records indicate the subject well was spud in excess of 395 (365 plus 30) days ago. Commission records further indicate a CDP-5 form has not been filed for the subject well.

12. Commission Staff sent a Notice of Violation letter to Operator, requiring Operator to file a CDP-5 to comply with K.A.R. 82-3-608 by a specific deadline. Commission Staff did not receive a complete, accurate CDP-5 by the deadline in the letter.

13. Commission Staff collected evidence and submitted it to the Legal Department with a recommendation that the Commission issue this Order. The recommendation sheet submitted by Commission Staff is attached to this Order as Exhibit A, incorporated into this Order, and shall serve as the concise and explicit statement of facts required by K.S.A. 77-526.

### **III. CONCLUSIONS OF LAW**

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

15. The above findings of fact are sufficient evidence to support the conclusion that Operator committed one violation of K.A.R. 82-3-608 because Operator has not submitted a complete, accurate CDP-5 for the subject well in a timely manner.

#### **THEREFORE, THE COMMISSION ORDERS:**

- A. Operator shall pay a \$250 penalty.
- B. Operator shall submit a complete, accurate CDP-5 for the subject well.
- C. If no party requests a hearing, and Operator is not in compliance with this Order within 30 days, then 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.

D. Checks and money orders shall be payable to the Kansas Corporation Commission. For credit card payments, include the type of card (Visa, MasterCard, Discover, or American Express), account number, and expiration date. 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.

E. 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 Operator's right to a hearing.


F. If a party requests a hearing, a corporation or similar entity shall not be permitted to enter an appearance except by its attorney. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record.

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

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner


Dated: JAN 29 2015

  
Neysa Thomas  
Acting Secretary

Mailed Date: 1/30/2015

JRM

I CERTIFY THE ORIGINAL  
COPY IS ON FILE WITH  
The State Corporation Commission

JAN 29 2015  


## **PENALTY ORDER RECOMMENDATION**

### **\*\*\*ROUTINE WASTE TRANSFER (CDP-5) FORM VIOLATION\*\*\***

*Note: this sheet will be attached to the Order that is mailed to the operator.*

<b>Date of Recommendation:</b>	January 22, 2015
<b>District/Department:</b>	EP&R
<b>Person Recommending Penalty:</b>	Kathy Haynes
<b>Operator Name:</b>	Becker, Mike
<b>Operator License Number:</b>	32711
<b>Well Name/Number associated with surface pit:</b>	Neighbaum 1
<b>Well/Lease Location, and County:</b>	SWSWSWNW, 11-31S-21E, LABETTE County.
<b>Well API Number:</b>	15-099-24684-00-00
<b>Date Application for Surface Pit (CPD-1) approved:</b>	9/6/2013
<b>Date Well Spudded:</b>	10/18/2013
<b>Regulation Number:</b>	82-3-608
<b>Description of Violation:</b>	Failure to submit complete, accurate CDP-5.
<b>Date NOV letter sent and deadline:</b>	1/2/15 with a 1/16/15 deadline
<b>Requested Monetary Penalty:</b>	\$250
<b>Requested Operator Activity:</b>	File complete, accurate waste transfer form (CDP-5).
<b>Supervisor Initials</b>	

**CERTIFICATE OF SERVICE**

I certify that on 1/30/2015, I caused a complete and accurate copy of this Order to be served via United States mail, with the postage prepaid and properly addressed to the following:

Mike Becker  
15135 Broadmoor  
Stanley, KS 66223-3111

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