

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

In the matter of an Order to Show Cause issued) Docket No.: 18-CONS-3053-CSHO
to Southwind Petroleum Corporation)
("Operator") for its failure to comply with) CONSERVATION DIVISION
K.A.R. 82-3-602 at the Dirks #27-2 in Rush)
County, Kansas.) License No.: 6743

MOTION TO RECOMMEND ADDITIONAL PENALTY

The Staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission," respectively) files this *Motion to Recommend Additional Penalty*. In support of its Motion, Staff states as follows:

1. On July 17, 2017, Staff filed a Motion for an Order to Show Cause, the Designation of a Prehearing Officer, and the Scheduling of a Prehearing Conference.
2. On August 22, 2017, the Commission issued an Order to Show Cause, Designating a Prehearing Officer, and Setting a Prehearing Conference. The Order set a Prehearing Conference for October 2, 2017.
3. On March 1, 2018, Staff filed a Motion to Approve Settlement Agreement with an attached proposed Settlement Agreement ("SA").¹ On April 17, 2018, the Commission issued an Order Approving the Settlement Agreement. The pertinent terms of the SA are as follows:
 - a. Within 60 days of the effective date of this Agreement, Operator shall empty all pits at the Dirks #27-2 (API #15-165-22104), Eileen Hagerman #4-5 (API #15-145-21811), and Karst-Hoskins #27-3 (API #15-163-22109) locations (collectively "the subject locations"); close all pits; file complete, accurate pit closure forms for such closures; and file complete, accurate waste transfer forms as applicable.
 - b. Operator shall be found to have committed one violation of K.A.R. 82-3-602(a)(1)(A). Within 90 days of the effective date of this Agreement, Operator shall pay a \$1,000 penalty for its violation of K.A.R. 82-3-602(a)(1)(A).

¹ See Exhibit A.

- c. If Operator fails to comply with any deadline in Paragraph 12 or 13, then Staff will recommend to the Commission that Operator be assessed an additional \$1,000 penalty for each missed deadline. Operator agrees that an additional \$1,000 penalty is a reasonable penalty for failure to comply with each missed deadline in Paragraph 12 or 13.
- d. If Operator fails to empty and close all pits at the subject locations within 90 days of the effective date of this Agreement, then Staff will recommend to the Commission that Operator be assessed an additional \$2,500 penalty and may request authorization for Staff to empty and close the pits and assess the costs to Operator. Operator agrees that an additional \$2,500 penalty and assessment of costs is a reasonable consequence for failure to empty and close the pits within 90 days.

4. June 16, 2018, was the Operator's 60-day deadline to empty and close all pits; file complete, accurate pit closure forms; and file complete, accurate waste transfer forms as applicable.² District Staff inspected two of the subject locations on June 18, 2018, verifying that the Operator failed to close the pit at the Dirks #27-2 (API #15-165-22104).³ Per the terms of the SA, Staff recommends that the Operator be assessed an additional \$1,000 penalty.

5. July 16, 2018, was the Operator's 90-day deadline to empty and close all pits; file complete, accurate pit closure forms; and file complete, accurate waste transfer forms as applicable.⁴ District Staff inspected the subject location on July 20, 2018, verifying that the pit at the Dirks #27-2 (API #15-165-22104) remained open.⁵ Per the terms of the SA, Staff recommends that the Operator be assessed an additional \$2,500 penalty.

6. District Staff inspected the Eileen Hagerman location on July 20, 2018, 94 days after the effective date of the SA. Upon inspection, District Staff discovered that the Operator failed to close the working pit, reserve pit, water pit, and the cellar and flow ditch at the Eileen

² *Id.* at ¶12.

³ *See* Exhibit B.

⁴ Exhibit A at ¶15.

⁵ *See* Exhibit C.

Hagerman #4-5 (API #15-145-21811).⁶ Per the terms of the SA, Staff recommends that the Operator be assessed an additional \$1,000 penalty for missing the 60-day deadline and an additional \$2,500 penalty for missing the 90-day deadline.

7. July 16, 2018, was the Operator's deadline to pay a \$1,000 penalty for its violation of K.A.R. 82-3-602(a)(1)(A).⁷ This deadline has passed and the Operator has failed to pay the \$1,000 penalty. Per the terms of the SA, Staff recommends that the Operator be assessed an additional \$1,000 penalty.

THEREFORE, for the reasons described above, Staff recommends to the Commission that the Operator be assessed an additional \$8,000 penalty for failure to comply with the terms of the Settlement Agreement. Furthermore, Staff request authorization to empty and close the pits and assess the costs to the Operator.

Respectfully submitted,



Lauren N. Wright, #27616
Litigation Counsel,
Kansas Corporation Commission
266 N. Main, Suite 220, Wichita, Kansas 67202
Phone: 316-337-6200; Fax: 316-337-6211

⁶ See Exhibit D.

⁷ Exhibit A at ¶13.

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

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

In the matter of an Order to Show Cause issued) Docket No. 18-CONS-3053-CSHO
to Southwind Petroleum Corporation)
("Operator") for its failure to comply with) CONSERVATION DIVISION
K.A.R. 82-3-602 at the Dirks #27-2 in Rush)
County, Kansas.) License No. 6743

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into by and between the Staff of the Corporation Commission of the State of Kansas ("Staff" and "Commission," respectively) and Southwind Petroleum Corporation ("Operator"). Its effective date will be the date the Commission enters an order approving or amending the terms of the Agreement.

I. JURISDICTION

1. Pursuant to K.S.A. 74-623, the Commission shall have the exclusive jurisdiction and authority to regulate oil and gas activities.

2. Pursuant to K.S.A. 55-150 *et seq.*, the Commission has authority to regulate the construction, operation, and abandonment of any well and the protection of the useable water of this state from any actual or potential pollution from any well.

3. Pursuant to K.S.A. 55-155, operators and contractors, as defined in K.S.A. 55-150, shall be licensed by the Commission.

4. Pursuant to K.S.A. 55-162, if the Commission finds that such person violated any provisions of K.S.A. 55-150 *et seq.*, the Commission shall take any appropriate action necessary to prevent pollution and protect water supply.

5. Pursuant to K.S.A. 55-164, in addition to any other penalty provided by law, the Commission, upon finding that an operator or contractor has violated the provisions of K.S.A. 55-150 *et seq.*, or any rule and regulation or order of the Commission, may impose a penalty not to exceed \$10,000, which shall constitute an actual and substantial economic deterrent to the violation for which the penalty is assessed. In the case of continuing violation, every day such violation continues shall be deemed a separate violation.

6. K.A.R. 82-3-602(a)(1)(A) provides that drilling pits shall be closed within 365 calendar days after the spud date of a well.

7. K.A.R. 82-3-602(c) provides that an operator of a pit shall file a pit closure form within 30 days after closure of the pit.

II. BACKGROUND

8. On July 17, 2017, Commission Staff filed a Motion for an Order to Show Cause, alleging Operator had failed to close a pit in violation of K.A.R. 82-3-602(a)(1)(A) and contrary to the representations made by Operator in its March 31, 2016, CDP-4 filing.

9. On August 22, 2017, the Commission issued an Order to Show Cause, setting an October 2, 2017, prehearing conference, subsequently continued to February 2, 2018.

10. Counsel for Operator and Litigation Counsel for Staff informally discussed the possibility of a settlement. During the informal discussions, Staff and Operator were able to reach mutually agreeable terms in anticipated settlement of the issues. It was agreed that Staff would subsequently reduce the terms to writing and forward the draft to Operator for approval and signature.

III. TERMS OF THE STIPULATED SETTLEMENT AGREEMENT

11. The parties agree that the Commission has jurisdiction and authority over this matter. The parties also agree that adoption of this Agreement is in the public interest and that the Commission should approve the stipulations as set forth below.

12. Within 60 days of the effective date of this Agreement, Operator shall empty all pits at the Dirks #27-2 (API #15-165-22104), Eileen Hagerman #4-5 (API #15-145-21811), and Karst-Hoskins #27-3 (API #15-163-22109) locations (collectively “the subject locations”); close all pits; file complete, accurate pit closure forms for such closures; and file complete, accurate waste transfer forms as applicable.

13. Operator shall be found to have committed one violation of K.A.R. 82-3-602(a)(1)(A). Within 90 days of the effective date of this Agreement, Operator shall pay a \$1,000 penalty for its violation of K.A.R. 82-3-602(a)(1)(A).

14. If Operator fails to comply with any deadline in Paragraph 12 or 13, then Staff will recommend to the Commission that Operator be assessed an additional \$1,000 penalty for each missed deadline. Operator agrees that an additional \$1,000 penalty is a reasonable penalty for failure to comply with each missed deadline in Paragraph 12 or 13.

15. If Operator fails to empty and close all pits at the subject locations within 90 days of the effective date of this Agreement, then Staff will recommend to the Commission that Operator be assessed an additional \$2,500 penalty and may request authorization for Staff to empty and close the pits and assess the costs to Operator. Operator agrees that an additional \$2,500 penalty and assessment of costs is a reasonable consequence for failure to empty and close the pits within 90 days.

16. Operator understands that failure to address the matters set out in Paragraphs 11-15 above and/or failure to pay any penalties or costs set out above could result in the suspension of its license without further notice, and the Commission may submit the matter for judicial enforcement or enforcement through the Kansas Attorney General's Office.

17. Staff agrees to recommend to the Commission that this Agreement be approved. Staff further agrees that upon approval by the Commission, and barring default proceedings pursuant to K.S.A. 77-520, this Agreement shall constitute a final resolution of this matter.

IV. RESERVATIONS

18. This Stipulated Settlement Agreement fully resolves issues specifically addressed between the parties. The terms of this Agreement constitute a fair and reasonable resolution of the issues addressed herein.

19. The terms and provisions of this Agreement have resulted from negotiations between the signatories and are interdependent. In the event the Commission does not approve the terms of the Agreement in total, any party has the option to terminate this Agreement and, if so terminated, none of the signatories hereto shall be bound by, prejudiced, or in any way affected by any of the terms or provisions hereof, unless otherwise provided herein.

20. Unless (and only to the extent) otherwise specified in this Agreement, the signatories to this Agreement shall not be prejudiced, bound by, or affected in any way by the terms of this Agreement: (1) in any future Commission or court proceeding; (2) in any proceeding currently pending before the Commission under a separate docket; and/or (3) in this proceeding, if the Commission decides not to approve this Agreement in total or in any way conditions its approval of the same. This paragraph is not meant to limit future enforcement of this Agreement, should either party fail to fulfill all terms and provisions.

21. Unless (and only to the extent) otherwise specified in this Agreement, this Agreement does not prejudice or waive any party's legal rights, positions, claims, assertions or arguments in any proceedings in this docket, or any other proceeding before the Commission or in any court.

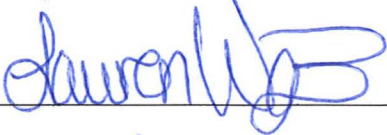
22. If the Commission approves this Agreement in its entirety and incorporates the same into a final order in this docket, the parties agree to be bound by its terms and the Commission's order incorporating its terms as to all issues addressed herein, and will not appeal the Commission's order.


23. This Settlement Agreement shall be binding on all parties upon signing.

IN WITNESS WHERETO, the parties hereby execute and approve this Stipulated Settlement Agreement by subscribing their signatures below.

Commission Staff
266 N. Main, Ste. 220
Wichita, Kansas 67202

Southwind Petroleum Corp.
1400 W. 14th Street
Wichita, Kansas 67203

By:  _____

By:  _____

Printed Name: Lauren Wright


Printed Name: ROBERT L. WILLIAMS, JR.

Title: Litigation Counsel

Title: AGENT

Date: 03/01/18

Date: FEB. 26, 2018


DANIEL WERNERT
WERNERT LAW LLC
ATTORNEY FOR SOUTHWIND PETROLEUM CORP.

KCC OIL/GAS REGULATORY OFFICES

Date: 06/18/18

District: 01

Case #: _____

- New Situation
 Response to Request
 Follow-Up

- Lease Inspection
 Complaint
 Field Report

Operator License No: 6743

API Well Number: Tank Battery

Op Name: Southwind Petroleum Corp.

Spot: SESESENE Sec 27 Twp 19 S Rng 16 E / W

Address 1: 1400 W 14th St.

2725 Feet from N / S Line of Section

Address 2: _____

47 Feet from E / W Line of Section

City: Wichita

GPS: Lat: 38.37040 Long: 99.06983 Date: 6/15/17

State: Kansas Zip Code: 67203 -2901

Lease Name: Vernon W Dirks Well #: Tank Battery

Operator Phone #: (316) 267-3741

County: Rush

Reason for Investigation:

Check to see if pits have been closed

Problem:

The drill pits on the 27-2 well are still open, no water in pits.

Persons Contacted:

Findings:

Checked the pit and it is still open, there isn't any water in the pits, no dirt work has been done on location since last lease inspection on 6-15-2017, well is not pumping at this time, it has run at some time, the marks are off the polish rod.

Action/Recommendations:

Follow Up Required Yes No

Date: _____

Turn report into Wichita office and Dodge office.

Verification Sources:

Photos Taken: 2

- RBDMS KGS TA Program
 T-I Database District Files Courthouse
 Other: _____

By: _____
Michael Maier

Retain 1 Copy District Office
Send 1 Copy to Conservation Division

Date: 06/18/18

District: 01

License #: 6743

Op Name: 6743

Spot: SESESENE Sec 27 Twp 19 S Rng 16 E W

County: Rush

Lease Name: Vernon W Dirks Well #: Tank Battery

I.D. Sign Yes No

Tank Battery Condition
Condition: Good Questionable Overflowing

Pits, Injection Site
Fluid Depth: _____ ft; Approx. Size: _____ ft. x _____ ft.

Oil Spill Evidence

Abandoned Well Potential Pollution Problem Yes No

Lease Cleanliness
 Very Good Satisfactory Poor Very Bad

Gas Venting Yes No

Pits
Fluid Depth: _____ ft; Approx. Size: _____ ft. x _____ ft.

Saltwater Pipelines
Leaks Visible: Y N Tested for Leaks: Y N

Flowing Holes

TA Wells

Monitoring Records

SWD/ER Injection Well Yes No Rush

Permit #: _____ Pressure – Actual: _____ psi; Authorized: _____ psi

Permit #: _____ Pressure – Actual: _____ psi; Authorized: _____ psi

Permit #: _____ Pressure – Actual: _____ psi; Authorized: _____ psi

Permit #: _____ Pressure – Actual: _____ psi; Authorized: _____ psi

Gauge Connections Yes No

Tubing: _____; T/C Annulus: _____; C/SP Annulus: _____

Tubing: _____; T/C Annulus: _____; C/SP Annulus: _____

Tubing: _____; T/C Annulus: _____; C/SP Annulus: _____

Tubing: _____; T/C Annulus: _____; C/SP Annulus: _____

API Number	Footages	Spot Location	GPS	Well #	Well Status
15-165-22080-00-00	2993FSL 994FEL	SWSENE	38.37114-99.07315	27-1	Pumping, running off it's own gas, oil scar around well head
15-165-22104-00-00	3627FSL 439FEL	W/2NESENE	38.37288-99.07125	27-2	Not pumping, fully equipped, runs on it's own gas



Southwind Petroleum Corp.
Dirks Lease
Open pits on the #27-2
Facing NE
W/2 NESENE-27/19-16-Rush Co.
June 18, 2018



Southwind Petroleum Corp.

Dirks Lease

Open pit on the #27-2

Facing NE

W/2 NESENE-27/19-16-Rush Co.

June 18, 2018



Southwind Petroleum Corp.

Dirks Lease

Open pits on the #27-2

Facing NW

W/2 NESENE-27/19-16-Rush Co.

June 18, 2018

KCC OIL/GAS REGULATORY OFFICES

Date: 07/20/18

District: 01

Case #: _____

- New Situation
- Response to Request
- Follow-Up

- Lease Inspection
- Complaint
- Field Report

Operator License No: 6743

API Well Number: 15-165-22104-0000

Op Name: Southwind Petroleum Corp.

Spot: W2NESENE Sec 27 Twp 19 S Rng 16 E / W

Address 1: 1400 W 14th St.

3627 Feet from N / S Line of Section

Address 2: _____

439 Feet from E / W Line of Section

City: Wichita

GPS: Lat: 38.37288 Long: 99.07125 Date: 6/15/17

State: Kansas Zip Code: 67203 -2901

Lease Name: Dirks Well #: 27-2

Operator Phone #: (316) 267-3741

County: Rush

Reason for Investigation:

Legal requested pit check

Problem:

Pit has not been closed

Persons Contacted:

Lauren Wright

Findings:

Pit has not been closed since last lease inspection dated 6/18/18

Action/Recommendations:

Follow Up Required Yes No

Date: _____

Report findings to legal dept.

Verification Sources:

Photos Taken: 2

- RBDMS
- T-I Database
- Other: _____
- KGS
- District Files
- TA Program
- Courthouse

By: _____

Michael Maier

Retain 1 Copy District Office
Send 1 Copy to Conservation Division

Form: _____





KCC OIL/GAS REGULATORY OFFICES

Date: 07/20/18

District: 01

Case #: _____

New Situation

Lease Inspection

Response to Request

Complaint

Follow-Up

Field Report

Operator License No: 6743

API Well Number: 15-145-21811-00-00

Op Name: Southwind Petroleum Corporation

Spot: SE/NE/NW Sec 4 Twp 20 S Rng 16 E / W

Address 1: 1400 W 14th ST

4346 Feet from N / S Line of Section

Address 2: _____

2314 Feet from E / W Line of Section

City: Wichita

GPS: Lat: 38.34582 Long: 99.09850 Date: 7/20/18

State: KS Zip Code: 67203 -2901

Lease Name: Eileen Hagerman Well #: 4-5

Operator Phone #: (316) 267-3741

County: Pawnee

Reason for Investigation:

Open drill pits.

Problem:

Open Drill Pits

Persons Contacted:

None

Findings:

Drill pits remain on location. This includes cellar and ditches, working pits, reserve pit, and water pit.

Action/Recommendations:

Follow Up Required Yes No

Date: _____

Send to legal.

Verification Sources:

Photos Taken: Yes

RBDMS KGS TA Program
 T-I Database District Files Courthouse
 Other: On-site inspection

By: _____
Ken Scofield

Retain 1 Copy District Office
Send 1 Copy to Conservation Division

Date: 07/20/18

District: 01

License #: 6743

Op Name: 6743

Spot: SE/NE/NW Sec 4 Twp 20 S Rng 16 E W

County: Pawnee

Lease Name: Eileen Hagerman Well #: 4-5

I.D. Sign Yes No

Tank Battery Condition
Condition: Good Questionable Overflowing

Pits, Injection Site
Fluid Depth: _____ ft; Approx. Size: _____ ft. x _____ ft.

Oil Spill Evidence

Abandoned Well Potential Pollution Problem Yes No

Lease Cleanliness
 Very Good Satisfactory Poor Very Bad

Gas Venting Yes No

Pits
Fluid Depth: _____ ft; Approx. Size: _____ ft. x _____ ft.

Saltwater Pipelines
Leaks Visible: Y N Tested for Leaks: Y N

Flowing Holes

TA Wells

Monitoring Records

SWD/ER Injection Well Yes No Pawnee

Permit #: _____ Pressure – Actual: _____ psi; Authorized: _____ psi

Permit #: _____ Pressure – Actual: _____ psi; Authorized: _____ psi

Permit #: _____ Pressure – Actual: _____ psi; Authorized: _____ psi

Permit #: _____ Pressure – Actual: _____ psi; Authorized: _____ psi

Gauge Connections Yes No

Tubing: _____; T/C Annulus: _____; C/SP Annulus: _____

Tubing: _____; T/C Annulus: _____; C/SP Annulus: _____

Tubing: _____; T/C Annulus: _____; C/SP Annulus: _____

Tubing: _____; T/C Annulus: _____; C/SP Annulus: _____

API Number	Footages	Spot Location	GPS	Well #	Well Status
15-145-21811-00-00	4346' FSL 2314' FEL	SE/NE/NW	N38.34582 W99.09805	4-5	Well not drilled. Drill pits need closed.

Southwind Petroleum Corp.

Eileen Hagerman #4-5

SE/NE/NW 4-20-16 PN Co.

Reserve Pit



Southwind Petroleum Corp.

Eileen Hagerman #4-5

SE/NE/NW 4-20-16 PN Co.

Working Pits



Southwind Petroleum Corp.

Eileen Hagerman #4-5

SE/NE/NW 4-20-16 PN Co.

Cellar and flow ditch to pit #1



Southwind Petroleum Corp.

Eileen Hagerman #4-5

SE/NE/NW 4-20-16 PN Co.

Water Pit

Southwind Petroleum Corp.

Eileen Hagerman #4-5

SE/NE/NW 4-20-16 PN Co.



CERTIFICATE OF SERVICE

18-CONS-3053-CSHO

I, the undersigned, certify that the true copy of the attached Motion has been served to the following parties by means of electronic service on July 23, 2018.

MICHAEL DUENES, ASSISTANT GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
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TOPEKA, KS 66604
Fax: 785-271-3354
m.duenes@kcc.ks.gov

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

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El Dorado, KS 67042
djwernert@wernertlaw.com

/S/ Paula J. Murray
Paula J. Murray
