2015-08-21 08:29:41 Kansas Corporation Commission /s/ Amy L. Gilbert

THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

Before Commissioners:

Shari Feist Albrecht, Chair Jay Scott Emler Pat Apple

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In the matter of an agreed compliance schedule for Joe Brake to plug the wells on the Korte Lease in Butler County, Kansas. Docket No.: 15-CONS-173-CMSC

CONSERVATION DIVISION

License No.: 31074

ORDER APPROVING SETTLEMENT AGREEMENT

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. FINDINGS OF FACT

1. On August 19, 2014, this docket was opened when Commission Staff moved for approval of a Compliance Schedule signed by both Staff and Joe Brake ("Operator").

2. On August 28, 2014, the Commission approved the Compliance Schedule. There were two wells addressed by the Compliance Schedule, and under its terms, the wells were to be plugged by Operator by September 30, 2014. One of the wells was not plugged by that deadline.

3. On December 12, 2014, Staff suspended Operator's license for failure to abide by the terms of the Compliance Schedule. On April 3, 2015, Staff found Operator pumping a well despite the license suspension. As a result, on April 23, 2015, the Commission issued an order assessing a \$10,000 penalty. Operator timely appealed, and the matter has been set for a September 17, 2015, evidentiary hearing.

4. On August 6, 2015, Staff filed a motion to approve a Settlement Agreement, reporting that Operator had now plugged both wells addressed by the Compliance Schedule, and

that the only issue now remaining was the outstanding \$10,000 penalty. The Settlement Agreement reduces the penalty to \$5,000, to be paid in installments, and reinstates Operator's license. The Commission finds that the Settlement Agreement, which is attached to and incorporated into this Order, provides a fair and efficient resolution of the issues in this docket.

II. CONCLUSIONS OF LAW

5. The Commission concludes that the Settlement Agreement should be approved, and the evidentiary hearing should be cancelled.

THEREFORE, THE COMMISSION ORDERS:

A. The Settlement Agreement is approved.

B. The scheduled September 17, 2015, hearing in this docket is cancelled.

C. Any party affected by this Order may file with the Commission a petition for reconsideration pursuant to K.S.A. 77-529(a). The petition shall be filed within 15 days after service of this Order. If service of this Order is by mail, three days are added to the deadline. The petition shall be addressed to the Commission and sent to 266 N. Main Street, Suite 220, Wichita, Kansas 67202. Pursuant to K.S.A. 55-606 and K.S.A. 77-529(a), reconsideration is prerequisite for judicial review of this Order. Any party taking an action permitted by this summary proceeding before the deadline for a petition for reconsideration does so at their own risk of further proceedings.

D. 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.

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BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: _____ AUG 2 0 2015

Amy Gelbert

Amy L. Gilbert Secretary to the Commission

Mailed Date: _____August 20, 2015

JRM

SETTLEMENT AGREEMENT

Joe Brake dba Brake Inc. ("Operator") and the Commission Staff agree as follows:

1. This settlement agreement resolves the Commission's Penalty Order issued on April 23, 2015, in KCC Docket 15-CONS-173-CMSC, and Operator's appeal thereof. By signing this agreement, Operator waives his appeal of the Penalty Order in consideration of the penalty reduction and payment plan.

2. Operator has completed the plugging of the Korte #5. The only issue remaining in this docket is the outstanding \$10,000 penalty for operating on a suspended license in violation of a Commission Order. Operator admits that the Utt #2 pumped during a period of license suspension but alleges that the purpose of pumping the well was to relieve gas pressure. Staff is without sufficient information to admit or deny the given reason for pumping the well.

3. Operator and Staff agree that the total penalty should be reduced to \$5,000, and that \$500 payments shall be made by the last day of each calendar month until the balance is paid. The first payment shall be due at the end of August 2015.

Operator's license suspension shall end on the day the Commission approves this 4. settlement agreement by Order. The failure to comply with a payment deadline shall constitute a violation of the Commission's Order and result in license suspension until the payment is made.

5. This agreement shall be effective only if it is incorporated into a Commission Order. This agreement may be modified or terminated only by subsequent Commission Order.

Joe Brake dba Brake Inc.

ane R. Palmateer Litigation Counsel

<u>August 6, 2015</u>

CERTIFICATE OF SERVICE

I certify that on <u>August 20, 2015</u>, 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:

Joe Brake Route 1, Box 84 Latham, Kansas 67072

And delivered by hand to:

Lane Palmateer Conservation Division Central Office

<u>/s/ Paula Murray</u> Paula Murray Legal Assistant Kansas Corporation Commission