

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

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

In the matter of an Order to Show Cause ) Docket No.: 17-CONS-3204-CSHO  
issued to McCune Engineering ("Operator") )  
regarding responsibility under K.S.A. 55-179 ) CONSERVATION DIVISION  
for unplugged wells on an expired license. )  
\_\_\_\_\_ ) License No.: 4657

**ORDER TO SHOW CAUSE, DESIGNATING A PREHEARING OFFICER,  
AND SETTING A PREHEARING CONFERENCE**

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

**I. JURISDICTION**

1. The Commission has jurisdiction to regulate oil and gas production in Kansas pursuant to K.S.A. 55-101 *et seq.* and K.A.R. 82-3-100 *et seq.* K.S.A. 55-162 gives the Commission jurisdiction to institute proceedings to enforce the laws of Kansas and Commission rules, regulations, and orders.

1. K.S.A. 55-179 gives the Commission jurisdiction to determine the persons legally responsible for the proper care and control of oil and gas wells, including the responsibility to plug the wells. Subsection (b) provides that a person who is legally responsible for the proper care and control of an abandoned well shall include one or more of the following:

- a. Any operator of a waterflood or other pressure maintenance program deemed to be causing pollution or loss of usable water;
- a. the current or last operator of the lease upon which such well is located, irrespective of whether such operator plugged or abandoned such well;

- b. the original operator who plugged or abandoned such well; and
- c. any person who without authorization tampers with or removes surface equipment or downhole equipment from an abandoned well.

2. K.S.A. 55-180 gives the Commission a cause of action against responsible parties for the reasonable plugging costs of abandoned wells. K.A.R. 82-3-120 provides that no Operator shall conduct activities at a well without a current license.

## **II. FINDINGS OF FACT**

3. On October 17, 2016, Commission Staff moved the Commission to issue an order to show cause, alleging that:

- a. The wells listed on the attached Exhibit A, which is incorporated into this order, are unplugged;
- b. the wells on the attached Exhibit A are listed on Operator's license, which is expired, so the wells appear to be abandoned; and
- c. pursuant to Kansas statutes and Commission regulations, Operator appears to be responsible for plugging the wells.

4. Staff's October 17, 2016, Motion was served on Operator, and no response was filed.

## **III. CONCLUSIONS OF LAW**

5. The Commission finds that Operator should attend an evidentiary hearing to show cause why Operator is not responsible for the wells listed on Exhibit A.

6. Pursuant to K.S.A. 77-551(c), the Commission finds that a Prehearing Officer should be designated in this proceeding to address any matters listed in K.S.A. 77-517(b). The Commission also finds that an initial Prehearing Conference should be scheduled in this matter.

**THEREFORE, THE COMMISSION ORDERS:**

A. The Prehearing Officer in this proceeding shall be Michael J. Duenes, Assistant General Counsel, Kansas Corporation Commission, 1500 SW Arrowhead Road, Topeka, Kansas 66604, telephone number (785) 271-3181, email [m.duenes@kcc.ks.gov](mailto:m.duenes@kcc.ks.gov).

B. A Prehearing Conference is scheduled for February 9, 2017 at 2:00 p.m. by telephone. The conference call information is: telephone number (866) 620-7326, Conference Code PIN: 7632914771#.

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.

D. 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.

E. Pursuant to K.A.R. 82-1-228(d)(2), corporations must enter an appearance via an attorney. If a corporation fails to enter an appearance via an attorney prior to the Prehearing Conference, it shall be held in default under the KAPA.


F. The attorney designated to appear on behalf of the agency in this proceeding is Jonathan R. Myers, Litigation Counsel, telephone number 316-337-6200, email address [j.myers@kcc.ks.gov](mailto:j.myers@kcc.ks.gov).

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

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

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated: JAN 12 2017

  
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Amy L. Green  
Secretary to the Commission

Mailed Date: January 13, 2017

MJD/pjm

# **Exhibit A**

## **McCune Engineering License: 4657**

<b><u>Unplugged Wells on Operator's License</u></b>				
API Well #	Lease Name / Well #		Well Location	County
15-059-01001-00-01	LAWSON	X-2	28-16S-21E, SESWSW	FRANKLIN
15-059-01002-00-01	LAWSON	Z-2	28-16S-21E, SWSESW	FRANKLIN
15-059-24123-00-00	LAWSON	Y-1	28-16S-21E, SWSESW	FRANKLIN

**CERTIFICATE OF SERVICE**

I certify that on January 13, 2017, 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:

Dwayne McCune  
McCune Engineering  
PO Box 451  
Baldwin City, KS 66006

and delivered by e-mail to:

Jonathan R. Myers, Litigation Counsel  
KCC Wichita Central Office

Michael J. Duenes, Assistant General Counsel  
KCC Topeka Office

/s/ Cynthia K. Maine  
Cynthia K. Maine  
Administrative Assistant  
Kansas Corporation Commission