



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

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

Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Susan K. Duffy, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
21-CONS-3218-CPEN

April 8, 2021

Randy Clark
Clark Energy, LLC
1525 S Evergreen Ave
Chanute, KS 66720-3159

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 \$1,000 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. 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. 55-162; K.S.A. 55-164; K.S.A. 77-537.

Respectfully,

Kelcey Marsh
Litigation Counsel
316-337-6200

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Susan K. Duffy

In the matter of the failure of Clark Energy,)	Docket No.: 21-CONS-3218-CPEN
LLC (Operator) to comply with K.A.R. 82-3-)	
407 at the Aiken #2 in Chautauqua County,)	CONSERVATION DIVISION
Kansas.)	
<hr/>		License No.: 33712

PENALTY ORDER

The Commission rules 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 is not limited to, imposing a monetary penalty “not to exceed \$10,000, which shall constitute an actual and substantial

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.

economic deterrent to the 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. Each injection well shall be completed, equipped, operated, and maintained in a manner that will prevent pollution of fresh and usable water, prevent damage to sources of oil or gas, and confine fluids to the intervals approved for injection. An injection well shall be considered to have mechanical integrity if there are no significant leaks in the tubing, casing, or packer, and no fluid movement into fresh or usable water. An injection well’s mechanical integrity shall be established at least once every five years.⁷

4. The operator of any well failing to demonstrate mechanical integrity shall have no more than 90 days from the date of initial failure to repair and retest the well to demonstrate mechanical integrity, plug the well, or isolate any leaks to demonstrate the well will not pose a threat to fresh or usable water or endanger correlative rights.⁸

5. Mechanical failures or other conditions indicating that a well may not be directing injected fluid into the permitted or authorized zone shall be cause to shut in a well, and the operator shall orally notify the Conservation Division of any failures or conditions within 24 hours of knowledge. The operator shall submit written notice of a well failure within five days, with a plan for testing and repairing the well.⁹

6. No injection well shall be operated before passing a mechanical integrity test (MIT). Failure to test a well to show mechanical integrity shall be punishable by a \$1,000 penalty, and the well shall be shut-in until the test is passed.¹⁰

⁵ K.S.A. 55-164.

⁶ *Id.*

⁷ K.A.R. 82-3-407(a).

⁸ K.A.R. 82-3-407(c).

⁹ K.A.R. 82-3-407(d).

¹⁰ K.A.R. 82-3-407(g).

II. FINDINGS OF FACT

7. Operator conducts oil and gas activities in Kansas under active license number 33712.

8. Operator is responsible for the care and control of the Aiken #2 (Subject Well) API #15-019-26718-00-00, authorized for injection pursuant to Underground Injection Control Permit #D-28658, and located in Section 15, Township 33 South, Range 13 East, Chautauqua County, Kansas.

9. Under K.A.R. 82-3-407, injection wells shall be tested for mechanical integrity at least once every five years. On February 4, 2021, Operator had last tested the Subject Well on January 27, 2016. Thus, Commission Staff sent a letter to Operator, requiring Operator to bring the Subject Well into compliance with K.A.R. 82-3-407 by February 18, 2021.¹¹ Operator did not bring the Subject Well into compliance until March 8, 2021.

III. CONCLUSIONS OF LAW

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

11. The Commission concludes Operator committed one violation of K.A.R. 82-3-407 because a successful MIT was not performed on the Subject Well by the deadline set in K.A.R. 82-3-407.

THEREFORE, THE COMMISSION ORDERS:

- A. Operator shall pay a \$1,000 penalty.
- B. 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, to the Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202, within 30 days from the date of service of

¹¹ Exhibit A.

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.

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 and shall remain suspended until Operator complies with this Order. 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. 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.

E. A corporation shall appear before the Commission by a Kansas licensed attorney.¹²

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner (Recused); Duffy, Commissioner

Dated: 04/08/2021



Lynn M. Retz
Executive Director

Mailed Date: 04/08/2021

KAM

¹² K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).



Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Susan K. Duffy, Commissioner

Corporation Commission

Laura Kelly, Governor

NOTICE OF VIOLATION
MECHANICAL INTEGRITY TEST (MIT)

LICENSE 33712
CLARK ENERGY, LLC
1525 S EVERGREEN AVE
CHANUTE KS 66720-3159

February 04, 2021

Re: Past Due Mechanical Integrity Test

Operator:

Commission records indicate that a current Mechanical Integrity Test (MIT) has not been conducted for the wells listed on the next page.

It is a violation of K.A.R. 82-3-407 for an operator to fail to conduct a timely MIT.

**Failure to conduct an MIT on the well(s)
by February 18, 2021
shall be punishable by a \$1,000 per well penalty.**

- The date of the MIT must be mutually agreed upon with Commission staff.
- Please contact the Commission district staff at least 2 days prior to your proposed testing date.
- A representative of the operator must be on site during the MIT.
- The well must be shut-in and disconnected until it complies with K.A.R. 82-3-407(c) of the General Rules and Regulations for the State of Kansas.

You will be penalized if you do not contact District staff by February 18, 2021.

If you received a letter with a later deadline because this well failed an MIT, disregard this letter.

Sincerely,

DUANE SIMS
KCC District # 3

February 04, 2021

List of Wells: PAST Due for a Mechanical Integrity Test					
DOCKET	API Well #	Lease Name / Well #	Well Location	County	MIT Expiration
D28658.0	15-019-26718-00-00	AIKEN 2	15-33S-13E, NWSWNWSW	CHAUTAUQUA	1/25/2021

CERTIFICATE OF SERVICE

21-CONS-3218-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 04/08/2021.

JOHN ALMOND
KANSAS CORPORATION COMMISSION
DISTRICT OFFICE NO. 3
137 E. 21ST STREET
CHANUTE, KS 66720
Fax: 785-271-3354
j.almond@kcc.ks.gov

RANDY CLARK
CLARK ENERGY, LLC
1525 S EVERGREEN AVE
CHANUTE, KS 66720-3159
rw_clark@yahoo.com

KELCEY MARSH, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
CENTRAL OFFICE
266 N. MAIN ST, STE 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
k.marsh@kcc.ks.gov

TROY RUSSELL
KANSAS CORPORATION COMMISSION
DISTRICT OFFICE NO. 3
137 E. 21ST STREET
CHANUTE, KS 66720
Fax: 785-271-3354
t.russell@kcc.ks.gov

RENE STUCKY
KANSAS CORPORATION COMMISSION
266 N. Main St., Ste. 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
r.stucky@kcc.ks.gov

/S/ DeeAnn Shupe

DeeAnn Shupe