

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

In the matter of the failure of Gus & Annie)	Docket No. 20-CONS-3308-CPEN
Myers (Operator) to report activity that)	
occurred during the 2019 calendar year in)	CONSERVATION DIVISION
compliance with K.A.R. 82-3-409.)	
) License No. 33354

MOTION TO APPROVE SETTLEMENT AGREEMENT

Staff of the State Corporation Commission of the State of Kansas (“Staff” and “Commission”, respectively) hereby files this Motion to Approve Settlement Agreement. In support of its Motion, Staff states as follows:

1. On June 9, 2020, the Commission issued a *Penalty Order* against Operator for three violations of K.A.R. 82-3-409 because Operator failed to file the necessary annual fluid injection report(s) at the wells subject to the Penalty Order.¹

2. On June 16, 2020, Operator filed the annual fluid injection report(s) for the wells subject to the Penalty Order for the 2019 calendar year. Operator also filed a *Request for Hearing*, wherein its representative noted that the annual fluid injection report(s) were filed late, but that an underlying health issue had contributed to the delay.

3. Subsequent to the status conference on September 3, 2020, Staff and Operator discussed resolution of the underlying issues in this docket, and reached a settlement in this matter. The settlement has been reduced to writing and is attached hereto as **Attachment A**, and incorporated herein by reference (Agreement).

4. The Agreement requires Operator to pay the make a \$100 payment at the end of three consecutive months beginning September 30, 2020. Failure to pay the scheduled deadlines as described in the Agreement shall result in the immediate suspension of Operator’s license and

¹ Penalty Order, ¶9.

full remaining balance becoming due. Staff believes the Agreement constitutes a reasonable resolution of all issues in this docket. Further the Agreement will allow Staff and Operator to avoid potential litigation costs, and it should foster administrative efficiency.

WHEREFORE, Staff respectfully requests the Commission grant this motion, thereby approving the Settlement Agreement attached hereto as Attachment A.

Respectfully submitted,

/s/ Kelcey A. Marsh
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SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into by and between the Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) and Operator (collectively referred to herein as the Parties). The effective date of this Agreement will be the date the Commission enters an order approving or amending the terms of the Agreement.

I. BACKGROUND

1. On June 9, 2020, the Commission issued a Penalty Order against Operator for three violations of K.A.R. 82-3-409 because Operator failed to file the necessary annual fluid injection reports at the wells subject to the Penalty Order. The Penalty Order assessed a \$300 penalty, and directed Operator to file the required annual fluid injection reports.

2. On June 16, 2020, Operator filed the necessary annual fluid injection reports for the wells subject to the Penalty Order.

3. On June 16, 2020, Operator timely filed a request for hearing, wherein its representative noted that the fluid injection reports were filed late, but that employment issues and recovery from an underlying health issue contributed to the delay.

4. On August 13, 2020, a prehearing conference was held and a status conference was set for September 3, 2020. The September 3rd date was set in order to provide the Parties the opportunity to resolve the underlying issues in this docket, if possible. Subsequent to the prehearing conference, the Parties discussed resolution of the underlying issues in this docket, and

reached a settlement in this matter. As part of the settlement, Staff agreed to reduce the terms to writing and submit the same for Commission approval. The terms of the settlement are set forth below.

II. TERMS OF THE SETTLEMENT AGREEMENT

5. 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 terms as set forth below.

6. Operator stipulates that it committed three violations of K.A.R. 82-3-409.

7. Based on the content of Operator's letter contesting the penalty and the fact that Operator has filed the appropriate fluid injection reports, as described above, the Parties agree to seek Commission approval to schedule a payment plan for the \$300 monetary penalty imposed in the docket. Operator shall pay \$100 at the end of three consecutive months beginning September 30, 2020. Failure to meet any deadline will result in the full remaining balance becoming due.

8. Staff 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.

9. Failure to timely pay will result in the suspension of Operator's license. Operator agrees and understands that if its license is suspended for the failure to meet the deadlines above, the license shall remain suspended until a total of \$300 in monetary penalties has been paid in this docket.

III. RESERVATIONS

10. This Settlement Agreement fully resolves the issues specifically addressed between the Parties in this docket. The terms of this Agreement constitute a fair and reasonable resolution of the issues addressed herein.

11. The terms and provisions of this Agreement have resulted from negotiations between the Parties 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.

12. Unless otherwise specified in this Agreement, the Parties 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, even if the Commission decides to not 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.

13. Further this Agreement does not waive any party's legal rights, positions, claims, assertions or arguments in this docket, or any other proceeding before the Commission or in any court.

14. If the Commission approves this Agreement in its entirety and incorporates the same into a final order in this docket, the Parties agree not to appeal the Commission's order.

15. This Agreement shall be binding on all Parties upon signing.

ATTACHMENT A

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

Commission Staff

By: Kelcy Marsh

Printed Name: Kelcey Marsh

Title: Litigation Counsel

Date: 10/6/2020

Gus & Annie Myers

By: Annie Myers

Printed Name: Annie Myers

Title: Co-owner

Date: 9-30-20

CERTIFICATE OF SERVICE

20-CONS-3308-CPEN

I, the undersigned, certify that a true copy of the attached Motion to Approve Settlement Agreement has been served to the following by means of electronic service on October 8, 2020.

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/S/ Paula J. Murray

Paula J. Murray