

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

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

In the matter of the failure of Midwest Oil, LLC) Docket No: 22-CONS-3119-CPEN
(Operator) to comply with K.A.R. 82-3-120.)
) CONSERVATION DIVISION
)
_____) License No: 34497

ORDER APPROVING SETTLEMENT AGREEMENT

The Commission rules as follows:

1. On September 9, 2021, the Commission issued a Penalty Order against Operator for violation of K.A.R. 82-3-120, directing Operator to pay a \$500 penalty and to transfer or plug the wells remaining on its license.¹ At Ordering Clause D, the Penalty Order also stated:

If any unplugged wells remain on Operator's expired license after 60 days from the date of this Order, then:

- a. Operator shall pay an additional \$5,000 penalty;
- b. Staff shall revoke any injection authorizations applicable to the operator; and
- c. Staff is directed to place the well(s) on the appropriate state plugging list, to plug according to priority and as funds allow, and to assess the plugging costs to Operator. This shall not preclude Staff from investigating additional potentially responsible parties.²

2. On September 16, 2021, Operator requested a hearing.³

3. On January 24, 2022, Commission Staff filed a Motion to Approve Settlement Agreement.⁴ The Settlement Agreement notes Operator has paid the \$500 penalty; within the Settlement Agreement Operator admits to the violation of K.A.R. 82-3-120.⁵

¹ See Penalty Order, ¶¶ 6, 10, Ordering Clauses A, C (Sept. 9, 2021).

² *Id.* at Ordering Clause D.

³ See Request for Hearing (Sept. 16, 2021).

⁴ The motion was late (see January 11, 2022, Presiding Officer Order Setting Evidentiary Hearing and Establishing Evidentiary Hearing Deadline, setting a Friday, January 21, 2022, deadline for submission) and was not accompanied by a Motion to File Out-of-Time (see September 23, 2022, Order Designating Presiding Officer and Setting Prehearing Conference, at Ordering Clause D).

⁵ See Motion to Approve Settlement Agreement, at Settlement Agreement ¶ 12.

4. The apparent intent of the Settlement Agreement is: (1) to provide Operator up to 30 days after resolution of Docket 22-3248 to either plug the wells on its expired license or to get the wells on any current, unexpired license, and (2) to not implement the consequences described in Ordering Clause D of the Penalty Order if Operator plugs the wells or gets them on any current, unexpired license before the expiration of that 30-day timeframe.⁶

5. The law encourages settlement.⁷ The Commission finds the Settlement Agreement attached to Staff's Motion to Approve Settlement Agreement constitutes a fair and reasonable resolution of this proceeding. The Settlement Agreement shall be enforced in accordance with the provision described in Paragraph 4 above.

6. The Settlement Agreement is attached to and made part of this Order.

THEREFORE, THE COMMISSION ORDERS:

A. Staff's motion to approve the attached Settlement Agreement is granted; the Settlement Agreement is approved.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).⁸

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Duffy, Commissioner; French, Commissioner

Dated: 02/03/2022



Lynn M. Retz
Executive Director

Mailed Date: 02/03/2022
JRM

⁶ In Docket 22-3248, Operator seeks an exception to Commission regulations so that it can obtain a new operator's license; seemingly, Operator's plan is to obtain a new license and transfer the wells to that license.

⁷ *Bright v. LSI Corp.*, 254 Kan. 853, 858 (1994).

⁸ K.S.A. 55-162; K.S.A. 55-606; K.S.A. 55-707; K.S.A. 77-503(c); K.S.A. 77-531(b).

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

In the matter of the failure of Midwest Oil, LLC)
(Operator) to comply with K.A.R. 82-3-120.) Docket No.: 22-CONS-3119-CPEN
) CONSERVATION DIVISION
)
) License No.: 34497
_____)

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 Operator (collectively referred to herein as the Parties). If the Commission does not approve this Agreement by a signed Order, then the Agreement shall not be binding on either party. The effective date of this Agreement shall be the date the Commission enters an order on the Agreement.

I. BACKGROUND

1. On August 3, 2021, the Commission issued an Order Denying Application for License in Docket 22-CONS-3038-CMSC (Docket 22-3038) regarding the license renewal application submitted by Operator. The license denial also acted as a revocation since the denial was made pursuant to K.S.A. 55-155(c)(3) or (4). The license denial ordered Operator could not reapply for a license for at least one year from the date of the denial in accordance with K.A.R. 82-3-120(j).

2. On September 9, 2021, the Commission issued a Penalty Order against Operator in Docket 22-CONS-3119-CPEN (Docket 22-3119) for one violation of K.A.R. 82-3-120(a) finding that an unplugged well or unplugged wells for which Operator is responsible, remained on Operator's expired license. The Penalty Order in the Docket 22-3119 assessed a \$500 penalty,

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required Operator to immediately shut-in all unplugged wells on its license, and cease oil and gas operations, until Operator is in compliance with the Docket 22-3119 Penalty Order. The Docket 22-3119 Penalty Order also directed Operator to renew its license or obtain a new license and transfer the well(s) to that license, transfer the well(s) to another operator by filing the appropriate form(s) with the Commission, or plug the well(s).

3. On September 15, 2021, Operator paid the \$500 fine assessed by the Commission in Docket 22-3119.

4. On September 16, 2021, Operator timely filed a request for hearing in Docket 22-3119.

5. On September 23, 2021, the Commission issued an Order Designating Presiding Officer and Setting Prehearing Conference, wherein, a prehearing conference was scheduled for October 7, 2021. At the prehearing conference a procedural schedule was set, providing the Parties with deadlines to pre-file direct and rebuttal testimony.

6. On October 29, 2021, Operator filed an Application for Reinstatement of Operator License and for Exception From Provisions of K.A.R. 82-3-120(j) in Docket 22-3119.

7. On December 14, 2021, the Commission issued an Order Denying Requests for Reinstatement/Renewal of Operator's License and Exception from Provisions of K.A.R. 82-3-120 in Docket 22-3119.

8. On December 15, 2021, Operator filed an Application for Midwest Oil, LLC in Docket 22-CONS-3248-CEXC (Docket 22-3248). Operator's application seeks an exemption from the one year revocation period under K.A.R. 82-3-120. This application is still pending.

9. On January 11, 2022, the Commission issued a Presiding Officer Order Setting Evidentiary Hearing and Establishing Settlement Deadline, wherein, an evidentiary hearing was

ATTACHMENT A

scheduled for January 28, 2022, and the parties were given a settlement deadline of January 21, 2022.

10. After the Commission's January 11th Order, the Parties discussed resolution of the underlying issues in these dockets, 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

11. The Parties agree that the Commission has jurisdiction and authority over these matters. 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.

12. Operator stipulates that it committed one violation of K.A.R. 82-3-120(a). Additionally, Operator has paid the \$500 fine assessed by the Commission in Docket 22-3119.

13. The Parties agree to seek Commission approval to hold the outcome of Docket 22--3119 in abeyance, pending the resolution of Operator's application in Docket 22-3248.

14. If Operator's application in Docket 22-3248 is granted, then Operator will have 30 days from the date of the Order Granting Application to renew its license, or obtain a new license and transfer all of the wells associated with license number 34497 onto that new license, if necessary. If the application is granted and a new license is needed, but the wells are not transferred onto the new license, or to the active license of a different operator in good standing, within 30 days of the Order Granting Application, then Operator shall be assessed an additional \$5,000 penalty, Staff shall revoke any injection authorizations applicable to Operator, and Staff shall place the remaining wells on the appropriate state plugging list, to plug the wells according to priority and as funds allow, and to assess the plugging costs to Operator in accordance with the Docket 22-3119 Penalty Order.

ATTACHMENT A

15. If Operator's application in Docket 22-3248 is denied and there are still unplugged wells associated with Operator's license, then Operator shall be assessed an additional \$5,000 penalty, Staff shall revoke any injection authorizations applicable to Operator, and Staff shall place the remaining wells on the appropriate state plugging list, to plug the wells according to priority and as funds allow, and to assess the plugging costs to Operator in accordance with the Docket 22-3119 Penalty Order unless, within 30 days after the Order denying the application on Docket 22-3248 the wells associated with license number 34497 are transferred to the active license of a different operator in good standing.

16. If Operator shall comply with the provisions of paragraph 14 or 15 above, then Operator shall not be required to pay the additional \$5,000.00 penalty under section D of the Penalty Order in this docket 22-3119.

17. Operator agrees to waive its right to appeal the Commission's Order approving this Agreement, and any penalties assessed under this Agreement.

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

Commission Staff

Midwest Oil, LLC

By: Kelcey Marsh

By: John C. Chappell

Printed Name: Kelcey Marsh

Printed Name: John C. Chappell

Title: Litigation Counsel

Title: Attorney

Date: 1/21/22

Date: 01/21/2022

CERTIFICATE OF SERVICE

22-CONS-3119-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
electronic service on 02/03/2022.

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/S/ DeeAnn Shupe
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