

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

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

In the matter of the failure of Benjamin M. Giles ) Docket No.: 17-CONS-3100-CPEN  
("Operator") to comply with K.A.R. 82-3-111 at )  
the Clearwater #2 and Clearwater #5 wells in ) CONSERVATION DIVISION  
Butler County, Kansas. )  
\_\_\_\_\_ ) License No.: 5446

**ORDER APPROVING SETTLEMENT AGREEMENT**

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:

1. On September 15, 2016, the Commission issued in this docket a Penalty Order against Benjamin M. Giles (Operator), finding two violations of K.A.R. 82-3-111 at the Clearwater #2 and Clearwater #5 wells, assessing a \$200 penalty, and directing Operator to either plug, return to service or obtain temporary abandonment status for these wells.<sup>1</sup>

2. On October 17, 2016, Operator requested a hearing on this matter.

3. On January 24, 2017, Commission Staff (Staff) filed a Motion requesting the Commission approve a Settlement Agreement between Staff and Operator.<sup>2</sup> The Settlement Agreement is attached to this Order and incorporated herein by reference. The Agreement notes that Operator has paid the \$200 penalty and requests additional time to bring the aforementioned wells into compliance with K.A.R. 82-3-111.<sup>3</sup> By the terms of the Agreement, Operator has until

<sup>1</sup> *Penalty Order*, p. 3 (Sept. 15, 2016).

<sup>2</sup> *Motion to Approve Settlement Agreement* (Jan. 24, 2017).

<sup>3</sup> *Settlement Agreement*, p. 1 (Jan. 24, 2017).

May 18, 2017, to plug, return to service or obtain temporary abandonment status for the aforementioned wells.<sup>4</sup>

4. The Commission affirms Staff's review and resolution concerning the wells at issue in this matter. The Commission finds the attached Settlement Agreement represents an appropriate manner of resolving the issues addressed therein.

**THEREFORE, THE COMMISSION ORDERS:**

A. The attached Settlement Agreement is approved and incorporated into this Order.

B. The parties have fifteen (15) days, plus three (3) days if mailed service, in which to petition the Commission for reconsideration.<sup>5</sup>

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

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

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: FEB 02 2017



Amy L. Green  
Secretary to the Commission

Mailed Date: February 2, 2017

MJD/sc

<sup>4</sup> *Id.*

<sup>5</sup> K.S.A. 66-118b; K.S.A. 77-529(a)(1).

## SETTLEMENT AGREEMENT

This Agreement is between Benjamin M. Giles (“Operator”) (License #5446) and Commission Staff (“Staff”). If the Commission does not approve this Agreement by a signed Order, then this Agreement shall not be binding on either party. This Agreement shall settle the proceedings in Commission Docket Number 17-CONS-3100-CPEN.

### A. Background

1. On September 15, 2016, the Commission issued a Penalty Order against Operator, finding two violations of K.A.R. 82-3-111 at the Clearwater #2 and Clearwater #5 wells (collectively “the subject wells”), assessing a \$200 penalty, and directing Operator, within 30 days, to plug the subject wells, return them to service, or obtain TA status for them. Operator filed a timely appeal. Operator has paid the \$200 and now concedes the violations, but in return requests additional time to bring the subject wells into compliance with K.A.R. 82-3-111. Staff is willing to enter into such an agreement.

### B. Terms of Settlement

2. By May 18, 2017, Operator shall plug, return to service, or obtain temporary abandonment status for the subject wells. If Operator fails to comply with this deadline, then Operator shall be assessed a \$5,000 penalty. If either of the subject wells are not in compliance with K.A.R. 82-3-111 by being plugged, returned to service, or having temporary abandonment status by May 30, 2017, then Operator shall be assessed an additional \$5,000 penalty, and Staff may plug the wells and assess the costs to Operator.

3. If Operator elects to return to service any of the subject wells, then the well(s) being returned to service shall not be considered as having been brought into compliance for the purpose of meeting any deadline unless: 1) the well(s) successfully pass a Staff-witnessed casing

integrity test, and 2) in addition to being initially returned to service, all equipment necessary for the well(s) to be in service remains installed at the well(s) through November 18, 2017.

4. Operator agrees to waive its right to appeal the Commission's Order approving this Agreement, any penalties or costs assessed under this Agreement, and any suspension of Operator's license implemented by Staff due to Operator's failure to comply with this Agreement. The terms of this Agreement shall remain binding upon Operator even if its interests in the subject wells are conveyed. However, any subject well transferred to another operator and then brought into compliance with K.A.R. 82-3-111 shall count towards Operator meeting its compliance obligations under this Agreement.

5. Except as described by this Agreement, Staff will not pursue Operator for any violation of K.A.R. 82-3-111 at the subject wells that occurred or occurs prior to May 31, 2017.

Commission Staff

Benjamin M. Giles

By: Jon Myers

Benjamin M. Giles  
Benjamin M. Giles

Printed Name: JON MYERS

Printed Name: Benjamin M. Giles

Title: LITIGATION COUNSEL

Title: Owner Operator

Date: 1/24/17

Date: 1-19-17

**CERTIFICATE OF SERVICE**

I certify that on 2/2/17, 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:

Jonathan A. Schlatter  
Morris Laing Evans Brock & Kennedy, Chtd.  
300 N. Mead, Suite 200  
Wichita, KS 67202  
*Attorneys for Benjamin M. Giles*

Benjamin M. Giles  
346 S. Lulu  
Wichita, KS 67211

and delivered by e-mail to:

Dan Fox  
KCC District #2

Michael J. Duenes  
Assistant General Counsel  
KCC Topeka

/s/ Paula J. Murray  
Paula J. Murray  
Legal Assistant  
Kansas Corporation Commission