

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

In the matter of the failure of VEEM Jade Oil	)	Docket No. 18-CONS-3221-CPEN
& Gas LLC (“Operator”) to comply with	)	
K.A.R. 82-3-111 at the Daves #D21, Smith A	)	CONSERVATION DIVISION
#2, Smith B #10 and Smith B #12 in Elk	)	
County, Kansas.	)	License No. 32874

**STAFF’S RESPONSE TO OPERATOR’S SECOND MOTION  
FOR ORDER LIFTING LICENSE SUSPENSION**

Commission Staff (Staff) of the State Corporation Commission of the state of Kansas (Commission) files this Response, wherein Staff opposes Operator’s second motion to lift its license suspension. In support of its Response, Staff states as follows:

**I. BACKGROUND**

1. On November 21, 2017, the Commission issued a Penalty Order in this docket against Operator, finding that Operator is responsible for the care and control of the Daves #D21, Smith A #2, Smith B #10, and Smith B #12 wells, located in Elk County, Kansas.<sup>1</sup>

2. The Penalty Order found Operator had committed four violations of K.A.R. 82-3-111 and ordered Operator to pay a \$400 penalty.<sup>2</sup>

3. The Penalty Order directed Operator to “plug the subject wells, return the subject wells to service, or obtain TA [temporary abandonment] status for the subject wells if eligible.” The Order also stated, “Obtaining TA status shall include application for, and Commission approval of, an exception to the 10-year TA status if applicable.”<sup>3</sup>

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<sup>1</sup> *Penalty Order*, ¶ 7 (November 21, 2017).

<sup>2</sup> *Id.*, at ¶13 and ¶A.

<sup>3</sup> *Id.*, at ¶B.

4. Pursuant to the Penalty Order and the Kansas Administrative Procedure Act, Operator had 30 days to request a hearing on the above issues.<sup>4</sup> The Penalty Order stated “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.”<sup>5</sup>

5. On December 27, 2017, Operator’s time to request a hearing on the Penalty Order elapsed.<sup>6</sup> No request for hearing was filed. Operator had not plugged the subject wells, returned the subject wells to service, or obtained temporary abandonment status for the wells. Pursuant to the Commission’s Penalty Order, Operator’s license was suspended.

6. On January 2, 2018, Operator filed an Application in Docket 18-CONS-3260-CEXC, seeking an exception to the 10-year limit on TA status for the Daves #D21 and Smith A #2 wells, and “launched an impermissible collateral attack on the Commission’s uncontested finding” that Operator was responsible for the Smith B #10 and Smith B #12 wells.<sup>7</sup>

7. On January 8, 2018, Operator filed a motion for expedited order lifting license suspension. On January 11, 2018, Staff filed a response in opposition to the motion.

8. On January 25, 2018, the Commission issued an order denying Operator’s January 8, 2018, motion, finding that “Operator’s license shall remain suspended until it complies with the Penalty Order.”<sup>8</sup>

9. On February 9, 2018, Operator filed a petition for reconsideration of the Commission’s January 25, 2018, Order, which the Commission denied on March 8, 2018.<sup>9</sup>

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<sup>4</sup> *Id.* at ¶C; K.S.A. 55-164.

<sup>5</sup> *Penalty Order*, ¶C.

<sup>6</sup> K.S.A. 55-164; K.S.A. 77-531(b).

<sup>7</sup> See *Order Denying Motion*, ¶8.

<sup>8</sup> *Id.* at ¶9.

<sup>9</sup> See *Order on Petition for Reconsideration*.

10. On May 25, 2018, Operator filed a second motion for an order lifting its license suspension, to which Staff presently responds.

## II. ARGUMENT

11. Three times the Commission has told Operator what it must do to comply with the Commission's Penalty Order in this matter, first in its November 21, 2017, *Penalty Order*, then in its January 25, 2018, *Order on Motion for Expedited Order Lifting License Suspension*, then in its March 8, 2018, *Order on Petition for Reconsideration*. Operator has been told quite clearly what it must do: Operator must return the four subject wells to service, plug them, or obtain temporary abandonment status for them.<sup>10</sup>

12. Operator's most recent motion treads the same ground trod upon the other three times Operator filed a pleading in this docket, except this time Operator's motion acknowledges that Operator has not done everything required of it.<sup>11</sup> Instead, Operator states that it intends to do everything that has been required of it since December 26, 2017, by June 1, 2018.<sup>12</sup> Operator's acknowledgement is grounds for denying its motion, not granting it.

13. There are at least two additional reasons Operator's motion should be denied. First, even if Operator eventually complies with the Commission's November 21, 2017 Penalty Order, there is no need for the Commission to issue an order reinstating Operator's license. The Commission may simply reinstate the license via its Staff, as is standard practice. To date, Staff does not have evidence Operator has complied with the Commission's Penalty Order. Once it does, Staff will reinstate Operator's license.

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<sup>10</sup> *Penalty Order*, Paragraph B; *Order Denying Motion for Expedited Order Lifting License Suspension*, Paragraph 7; *Order on Petition for Reconsideration*, Paragraph 13.

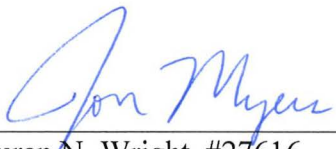
<sup>11</sup> At Paragraph 18, Operator acknowledges it has not returned to service, plugged, or obtained temporary abandonment status for the Daves D #21 and Smith A #2, although Operator complains of bewilderment (Paragraph 11), impossibility (Paragraph 13), and having no clear path to reinstatement (Paragraph 21).

<sup>12</sup> *Id* at Paragraph 18.

14. Second, Operator has already asked for the same thing it asks for now. That request was denied, as was Operator's petition for reconsideration. If Operator was unhappy with the Commission's Order on Reconsideration, it was entitled to petition for judicial review. Operator elected not to do so.<sup>13</sup> Operator is not entitled to keep asking for the same thing, over and over, after all appropriate deadlines have passed.<sup>14</sup> To get its license reinstated, Operator should be required to return the four subject wells to service, plug them, or obtain temporary abandonment status for them, as the Commission has stated three times already.

WHEREFORE, Staff requests Operator's May 25, 2018, motion be denied because (1) Operator has not complied with Commission requirements for having its license reinstated; (2) even if Operator had, no Order is necessary; and (3) Operator has already exhausted its administrative remedies regarding its request.

Respectfully submitted,



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<sup>13</sup> *Id.* at Paragraph 15.

<sup>14</sup> See *Order on Petition for Reconsideration*, Paragraph B; K.S.A. 77-607.

**VERIFICATION**

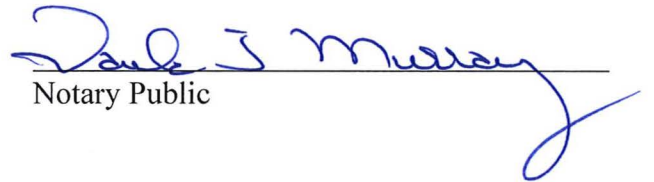
STATE OF KANSAS                     )  
  ) ss.  
COUNTY OF SEDGWICK            )

Jonathan R. Myers, of lawful age, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas; that he has read and is familiar with the foregoing *Response*, and attests that the statements therein are true to the best of his knowledge, information and belief.



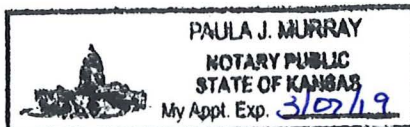
Jonathan R. Myers, S. Ct. #25975  
Litigation Counsel  
State Corporation Commission  
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 4 day of June, 2018.



Notary Public

My Appointment Expires: 3/07/19



## CERTIFICATE OF SERVICE

18-CONS-3221-CPEN

I, the undersigned, certify that the true copy of the attached Response has been served to the following parties by means of electronic service on June 4, 2018.

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/S/ Paula J. Murray

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Paula J. Murray