

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

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

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

ORDER APPROVING SETTLEMENT AGREEMENT

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds the following:

1. On June 9, 2020, the Commission issued a Penalty Order against Gus & Annie Myers (Operator) for three violations of K.A.R. 82-3-409 because Operator failed to timely file required annual fluid injection reports at three wells.¹ The Penalty Order directed Operator to submit the reports and pay a \$300 penalty² On June 16, 2020, Operator requested a hearing.³

2. On October 8, 2020, Commission Staff filed a Motion to Approve Settlement Agreement, attaching the Settlement Agreement and stating that “Staff believes the Agreement constitutes a reasonable resolution of all issues in this docket.”⁴ By signing the proposed Settlement Agreement, Staff and Operator concurred that the Settlement Agreement constitutes “a fair and reasonable resolution of the issues addressed.”⁵

¹ See *Penalty Order*, ¶¶ 5, 9, Exhibit A (Jun. 9, 2020).

² See *id.* at Ordering Clauses A and B.

³ See Request for Hearing (June 16, 2020).

⁴ Motion to Approve Settlement Agreement, ¶ 4 (Oct. 8, 2020).

⁵ *Id.* at attached Settlement Agreement, ¶ 10.

3. In relevant part, the Settlement Agreement notes that Operator has submitted the required reports and provides a payment plan for the \$300 penalty assessed.⁶

4. 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 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.

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 10/15/2020



Lynn M. Retz
Executive Director

Mailed Date: 10/15/2020

JRM

⁶ See *id.* at attached Settlement Agreement, ¶ 7.

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).

ATTACHMENT A

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.)	
<hr/>		License No.: 33354

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

ATTACHMENT A

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.

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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

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I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 10/15/2020.

GUS & ANNIE MYERS
132A STATE HWY 99 #A
SEDAN, KS 67361-8518
myersanniemae@gmail.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

JONATHAN R. MYERS, ASSISTANT GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
266 N. Main St., Ste. 220
WICHITA, KS 67202-1513
Fax: 316-337-6211
j.myers@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