

CORPORATION COMMISSION
CONSERVATION DIVISION
266 N. MAIN ST., STE. 220
WICHITA, KS 67202-1513



PHONE: 316-337-6200
FAX: 316-337-6211
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

NOTICE OF PENALTY ASSESSMENT
18-CONS-3377-CPEN

June 26, 2018

Anders Almgren
Blue Top Energy LLC
606 Post Road East #702
Westport, CT 06880-6020

This is a notice of a penalty assessment for violation(s) of Kansas Oil and Gas Conservation Statutes, Rules, and Regulations. For a full description of the penalty and process please refer to the Penalty Order that is attached to this notice.

IF YOU ACCEPT THE PENALTY:

You have been assessed a \$3000 penalty. You have 30 days from the service date of this Penalty Order to pay the fine amount. Check or money order must be made payable to the Kansas Corporation Commission and mailed to the Conservation Division of the Kansas Corporation Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202. The payment must include a reference to the docket number of this proceeding. Payment by credit card may be made by calling the Conservation Division at 316-337-6200.

IF YOU CONTEST THE PENALTY:

You have the right to request a hearing. A written request for hearing must be made within 30 days after service of the Penalty Order setting forth the specific grounds upon which relief is sought. Respondent must submit the request to the Commission, at 266 N. Main St., Suite 220, Wichita, Kansas 67202. The Commission shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act within 30 days after receipt of such request. K.S.A. 55-164; K.S.A. 77-542; K.A.R. 82-1-215.

IF YOU FAIL TO ACT:

Failure to pay the fine amount, or in the alternative, provide a written request for a hearing, within thirty (30) days of service of the Penalty Order, will result in the attached Penalty Order becoming a Final Order and may result in additional sanctions, including additional monetary penalties, the suspension of your oil and gas operating license, and the shutting-in of all operations until compliance is obtained. K.S.A. 55-164; K.S.A. 77-537.

Respectfully,

Lauren N. Wright
Litigation Counsel
316-337-6200

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the matter of the failure of Blue Top)	Docket No.: 18-CONS-3377-CPEN
Energy LLC (“Operator”) to comply with)	
K.A.R. 82-3-407 at the E Larsen #7, E Larsen)	CONSERVATION DIVISION
#11 and E Larsen #14 in Allen County,)	
Kansas.)	License No.: 34443

PENALTY ORDER

The above captioned matter comes before the State Corporation Commission of the State of Kansas. Having examined the files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

I. JURISDICTION

1. The Commission has the exclusive jurisdiction and authority to regulate oil and gas activities in Kansas.¹ The Commission has jurisdiction to regulate the “construction, operation, and abandonment of any well and the protection of the usable water of this state from any actual or potential pollution from any well.”² Every operator conducting oil and gas activity in Kansas must be licensed by the Commission.³

2. The Commission has the authority to issue a Penalty Order for violation of any provision of K.S.A. 55-101 *et seq.*, rule, regulation, or order of the Commission.⁴ The Commission shall take appropriate action which may include, but not be limited to, imposing a monetary penalty “not to exceed \$10,000, which shall constitute an actual and substantial

¹ K.S.A. 74-623.

² K.S.A. 55-152.

³ K.S.A. 55-155.

⁴ K.S.A. 55-162; K.S.A. 55-164.

economic deterrent to the violation for which the penalty is assessed.”⁵ “In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.”⁶

3. Each injection well shall be completed, equipped, operated, and maintained in a manner that will prevent pollution of fresh and usable water, prevent damage to sources of oil or gas, and confine fluids to the intervals approved for injection. An injection well shall be considered to have mechanical integrity if there are no significant leaks in the tubing, casing, or packer, and no fluid movement into fresh or usable water. An injection well’s mechanical integrity shall be established at least once every five years.⁷

4. The operator of any well failing to demonstrate mechanical integrity shall have no more than 90 days from the date of initial failure to repair and retest the well to demonstrate mechanical integrity, plug the well, or isolate any leaks to demonstrate the well will not pose a threat to fresh or usable water or endanger correlative rights.⁸

5. Mechanical failures or other conditions indicating that a well may not be directing injected fluid into the permitted or authorized zone shall be cause to shut in a well, and the operator shall orally notify the Conservation Division of any failures or conditions within 24 hours of knowledge. The operator shall submit written notice of a well failure within five days, with a plan for testing and repairing the well.⁹

6. No injection well shall be operated before passing a mechanical integrity test (“MIT”). Failure to test a well to show mechanical integrity shall be punishable by a \$1,000 penalty, and the well shall be shut-in until the test is passed.¹⁰

⁵ K.S.A. 55-164.

⁶ *Id.*

⁷ K.A.R. 82-3-407(a).

⁸ K.A.R. 82-3-407(c).

⁹ K.A.R. 82-3-407(d).

¹⁰ K.A.R. 82-3-407(g).

II. FINDINGS OF FACT

7. The Operator conducts oil and gas activities in Kansas under active license number 34443.

8. The Operator is responsible for the care and control of the following wells (“the subject wells”), authorized for injection pursuant to Underground Injection Control Permit #E-29020, and all located in Section 13, Township 26 South, Range 18 East, Allen County, Kansas:

- a. E Larsen #7, API #15-001-24724-00-01,
- b. E Larsen #11, API #15-001-24764-00-01, and
- c. E Larsen #14, API #15-001-24872-00-01.

9. The Commission has no evidence that the subject wells have been subjected to a current and successful MIT as required by K.A.R. 82-3-407. Staff witnessed no such tests and the Operator did not inform Staff that such tests had been conducted.

10. On May 22, 2018, Commission Staff sent a letter to the Operator, requiring the Operator to bring the subject wells into compliance with K.A.R. 82-3-407 by June 5, 2018.¹¹

11. To date, the Operator has not conducted a current and successful MIT at the subject wells in accordance with Commission regulations.

III. CONCLUSIONS OF LAW

12. The Commission concludes that it has jurisdiction over the Operator and this matter under K.S.A. 55-152 and K.S.A. 74-623.

13. The Commission finds the Operator committed three violations of K.A.R. 82-3-407 because current and successful MITs have not been performed on the subject wells.

¹¹ Exhibit A.

THEREFORE, THE COMMISSION ORDERS:

- A. The Operator shall pay a \$3000 penalty.
- B. The Operator shall perform successful MITs on the subject wells or plug them.
- C. The Operator shall shut-in and disconnect the subject wells until such time as successful MITs have been performed or the wells have been plugged.
- D. If no party requests a hearing, and the Operator is not in compliance with this Order within 30 days from the date of service of this Order, then the Operator's license shall be suspended without further notice. The notice and opportunity for a hearing on this Order shall constitute the notice required by K.S.A. 77-512 regarding license suspension. The Commission may impose further sanctions, including additional monetary penalties and any other remedies available to the Commission by law, without further notice.
- E. Checks and money orders shall be payable to the Kansas Corporation Commission. For credit card payments, include the type of card (Visa, MasterCard, Discover, or American Express), account number, and expiration date. Payments shall be mailed to the Kansas Corporation Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202. The payment must include a reference to the docket number of this proceeding.
- F. Any party may request a hearing on the above issues by submitting a written request, pursuant to K.S.A. 55-164, K.S.A. 77-537, and K.S.A. 77-542, setting forth the specific grounds upon which relief is sought, to the Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202, within 30 days from the date of service of this Order. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of the Operator's right to a hearing.


G. A corporation shall appear before the Commission by a Kansas licensed attorney.¹²

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

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 06/26/2018 _____



Lynn M. Retz
Secretary to the Commission

Mailed Date: 06/27/2018 _____

LNW

¹² K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).



Shari Feist Albrecht, Chair
Jay Scott Emler, Commissioner
Dwight D. Keen, Commissioner

Corporation Commission

Jeff Colyer, M.D., Governor

NOTICE OF VIOLATION
MECHANICAL INTEGRITY TEST (MIT)

LICENSE 34443
BLUE TOP ENERGY LLC
606 POST ROAD EAST # 702
WESTPORT CT 06880-6020

May 22, 2018

Re: Past Due Mechanical Integrity Test

Operator:

Commission records indicate that a current Mechanical Integrity Test (MIT) has not been conducted for the wells listed on the next page.

It is a violation of K.A.R. 82-3-407 for an operator to fail to conduct a timely MIT.

**Failure to conduct an MIT on the well(s)
by June 05, 2018
shall be punishable by a \$1,000 per well penalty.**

- The date of the MIT must be mutually agreed upon with Commission staff.
- Please contact the Commission district staff at least 2 days prior to your proposed testing date.
- A representative of the operator must be on site during the MIT.
- The well must be shut-in and disconnected until it complies with K.A.R. 82-3-407(c) of the General Rules and Regulations for the State of Kansas.

You will be penalized if you do not contact District staff by June 05, 2018.

If you received a letter with a later deadline because this well failed an MIT, disregard this letter.

Sincerely,

LARRY MARCHANT
KCC District # 3

May 22, 2018

List of Wells: PAST Due for a Mechanical Integrity Test

DOCKET	API Well #	Lease Name / Well #	Well Location	County	MIT Expiration
E29020.4	15-001-24724-00-01	E LARSEN 7	13-26S-18E, NESESE	ALLEN	5/16/2018
E29020.6	15-001-24764-00-01	E LARSEN 11	13-26S-18E, SWSWSESE	ALLEN	5/16/2018
E29020.7	15-001-24872-00-01	E LARSEN 14	13-26S-18E, SESESE	ALLEN	5/16/2018

CERTIFICATE OF SERVICE

18-CONS-3377-CPEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of
06/26/2018
first class mail and electronic service on _____.

ANDERS ALMGREN
BLUE TOP ENERGY LLC
606 POST ROAD EAST #702
WESTPORT, CT 06880-6020
aalmgren@bluetopenenergy.com

JOHN ALMOND
KANSAS CORPORATION COMMISSION
DISTRICT OFFICE NO. 3
137 E. 21ST STREET
CHANUTE, KS 66720
Fax: 785-271-3354
j.almond@kcc.ks.gov

RENE STUCKY
KANSAS CORPORATION COMMISSION
Conservation Division
266 N. Main St. Ste. 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
r.stucky@kcc.ks.gov

LAUREN WRIGHT, LITIGATION COUNSEL
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Conservation Division
266 N. Main St. Ste. 220
WICHITA, KS 67202-1513
Fax: 316-337-6211
l.wright@kcc.ks.gov

/S/ DeeAnn Shupe

DeeAnn Shupe