

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

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

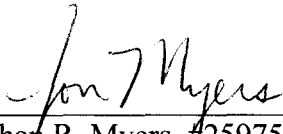
In the matter the failure of Edward E. Birk ) Docket No.: 16-CONS-4056-CPEN  
("Operator") to comply with K.A.R. 82-3-400 )  
regarding injection that took place during the ) CONSERVATION DIVISION  
2015 calendar year. )  
\_\_\_\_\_ ) License No.: 8210

**MOTION TO APPROVE SETTLEMENT AGREEMENT**

Commission Staff moves for the Commission to adopt and approve the attached Settlement Agreement, which has been signed by both parties. Approval of the Agreement will render the currently scheduled September 8, 2016, prehearing conference unnecessary.

Staff believes the Agreement represents an appropriate manner of resolving the issues described therein.

Respectfully submitted,



Jonathan R. Myers, #25975  
Litigation Counsel  
Kansas Corporation Commission  
266 N. Main, Suite 220  
Wichita, Kansas 67202  
Phone: 316-337-6200; Fax: 316-337-6211

## **SETTLEMENT AGREEMENT**

This Agreement is between Edward E. Birk (“Operator”) (License #8210) 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 16-CONS-4056-CPEN.

### **A. Background**

1. The June 9, 2016, Penalty Order in this docket required Operator to pay \$3,000 for three violations of K.A.R. 82-3-400. Operator filed a timely appeal.
2. Operator reports that it submitted erroneous data regarding the wells at issue. Operator has submitted updated Annual Fluid Injection Reports (“U3C”).
3. Staff notes that it inadvertently recommended a duplicative penalty in this docket regarding the Stroud A #2-D well. Staff’s recommendation should have been for the assessment of a \$2,000 penalty and for the finding of two violations of Commission regulations. Given the duplicative penalty and Operator’s clerical error, Staff recommends that the penalty in this docket should be reduced to \$1,000.

### **B. Terms of Settlement**

4. Instead of paying \$3,000, Operator shall pay \$1,000 in this docket, which shall be due within 30 days from the date this Agreement is approved by an Order of the Commission.
5. The Commission shall find Operator committed two violations of K.A.R. 82-3-409, rather than three violations of K.A.R. 82-3-400.
6. If Operator fails to comply with the payment deadline, then Staff shall suspend Operator’s license until compliance is obtained. If Staff suspends Operator’s license, then Staff shall send its standard notice of license suspension letter to Operator. If Staff finds Operator

conducting oil and gas operations after 10 days from the date of the notice of license suspension letter, and Operator's license is still suspended, then Staff is authorized to seal all of Operator's oil and gas operations and to assess an additional \$5,000.

7. Operator agrees to waive its right to appeal the Commission's Order approving this Agreement, any penalties assessed under this Agreement, and any suspension of Operator's license implemented due to Operator's failure to comply with this Agreement.

Commission Staff

Edward E. Birk

By: Jon Myers

By: Edward E. Birk

Printed Name: JON MYERS

Printed Name: Edward E Birk

Title: LITIGATION COUNSEL

Title: \_\_\_\_\_

Date: 8/24/16

Date: 08/24/2016

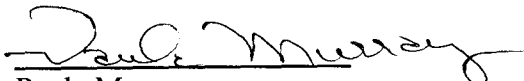
**CERTIFICATE OF SERVICE**

I certify that on 8/30/16, I caused a complete and accurate copy of this Motion to be served via United States mail, with the postage prepaid and properly addressed to the following:

Edward E. Birk  
302 S. 16<sup>th</sup> Street  
Burlington, Kansas 66839

And delivered by email to:

John McCannon  
Conservation Division Central Office

  
Paula Murray  
Legal Assistant  
Kansas Corporation Commission