

Conservation Division
266 N. Main St., Ste. 220
Wichita, KS 67202-1513



2015-09-03 16:10:56
Kansas Corporation Commission
/s/ Amy L. Gilbert

Phone: 316-337-6200
Fax: 316-337-6211
<http://kcc.ks.gov/>

Shari Feist Albrecht, Chair
Jay Scott Emler, Commissioner
Pat Apple, Commissioner

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

16-CONS-514-CPEN

This is a notice of a penalty assessment for violation 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:

The Penalty Order may include the assessment of a monetary penalty. You have 30 days from the service date of this Penalty Order to pay \$500. Check or money order must be made payable to the Kansas Corporation Commission. Payment is to be mailed to the Conservation Division of the Kansas Corporation Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202, and must include a reference to the docket number of this proceeding. Credit card payment may be made by calling the Conservation Division at 316-337-6200.

The Penalty Order may require you to perform certain actions by deadlines stated therein. Compliance must be obtained by the applicable deadlines to avoid further compliance actions. If you have any questions about how compliance can be obtained, you may contact the legal department or the appropriate department or district office.

IF YOU CONTEST THE PENALTY:

You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Respondent must submit an original and seven copies of the request to the Commission, at 266 N. Main St., Suite 220, Wichita, Kansas 67202, within 30 days, plus three days to account for the mail, from the mailed date on the last page of the Penalty Order. K.A.R. 82-1-215.

IF YOU FAIL TO ACT:

Failure to either comply with the penalty order or request a hearing will result in the attached Penalty Order becoming a Final Order. Failure to comply or request a hearing by the deadlines in the Penalty Order 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.

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

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

In the matter of the failure of Brickley Enterprises, LLC ("Operator") to comply with K.A.R. 82-3-600 at the Draper #A-13 in Butler County, Kansas.)	Docket No.: 16-CONS-514-CPEN
)	CONSERVATION DIVISION
)	License No.: 34426

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. K.S.A. 74-623 provides that the Commission has the exclusive jurisdiction and authority to regulate oil and gas activities. K.S.A. 55-152 provides that 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. The Commission has licensing authority pursuant to K.S.A. 55-155.
2. K.S.A. 55-162 and K.S.A. 55-164 provide the Commission with authority to issue a Penalty Order regarding a violation of Chapter 55 of the Kansas Statutes Annotated, or of any rule, regulation, or order of the Commission. A Penalty Order may include a monetary penalty of up to \$10,000; each day of a continuing violation constitutes a separate violation.
3. K.A.R. 82-3-101(a)(52) provides that "pit" means any constructed, excavated, or naturally occurring depression upon the surface of the earth.

4. K.A.R. 82-3-600(a) provides that pits shall not be used to contain fluids resulting from oil and gas activities until approved by the Commission. Use of a pit without a pit permit shall be punishable by a \$500 penalty.

II. FINDINGS OF FACT

5. Operator conducts oil and gas activities in Kansas under license number 34426.

6. Operator is responsible for the care and control of the Draper #A-13 (“the subject well”), API #15-015-20852-00-01, located in Section 27, Township 25 South, Range 5 East, Butler County, Kansas.

7. On August 11, 2015, Commission District #2 Staff inspected the subject well. Staff found a workover pit in use at the subject well site. Staff took a photograph, which is attached to this Order as Exhibit A. Commission records indicate that Operator has not obtained a permit for the workover pit.

III. CONCLUSIONS OF LAW

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

9. The above findings of fact are sufficient evidence to support the conclusion that Operator committed one violation of K.A.R. 82-3-600 because Operator used a pit at the subject well without a permit.

THEREFORE, THE COMMISSION ORDERS:

A. Operator shall pay a \$500 penalty.

B. Operator shall file an application for and obtain a pit permit, or alternatively shall close the unpermitted pit, within 30 days of service of this Order.

C. 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. 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.

D. 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 Street, Suite 220, Wichita, Kansas 67202. The payment must include a reference to the docket number of this proceeding.

E. 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 Street, 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 Operator's right to a hearing.

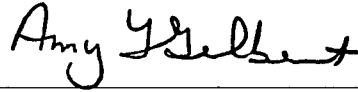
F. If a party requests a hearing, a corporation or similar entity shall not be permitted to enter an appearance except by its attorney. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record.

G. 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; Apple, Commissioner

Dated: **SEP 03 2015**



Amy L. Gilbert
Secretary to the Commission

Mailed Date: Sept. 3, 2015

JRM



Brickley Enterprises, LLC KCC #34426
Draper A-13 SWD, D-18519
NW SE SW, Sec. 27-25-5E, BU Co.
Photo showing an unauthorized pit
next to the Draper A-13 with water
and heavy BS that has washed into
the pit. Date: 8-11-2015

CERTIFICATE OF SERVICE

I certify that on Sept. 3, 2015, 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 Brickley
Brickley Enterprises, LLC
P.O. Box 1118
El Dorado, Kansas 67042

Jeff Klock
Dan Fox
KCC District #2
3450 N. Rock Road, Bldg. 600, Suite 601
Wichita, KS 67226

And delivered by hand to:

Jonelle Rains
KCC Wichita Central Office

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