

Conservation Division
Finney State Office Building
130 S. Market, Rm. 2078
Wichita, KS 67202-3802



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

Mark Sievers, Chairman
Thomas E. Wright, Commissioner
Shari Feist Albrecht, Commissioner

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT
13-CONS-372-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 the fine amount. 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 130 S. Market St., Room 2078, 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's Executive Director at 130 S. Market, Room 2078, 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.

5. 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, and each day of a continuing violation constitutes a separate violation.

6. K.A.R. 82-3-407(a) provides that 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 interval or 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. K.A.R. 82-3-407(a) further provides that operators shall establish an injection well's mechanical integrity at least once every five years.

7. K. A.R. 82-3-407(c) provides that 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 that the well will not pose a threat to fresh or usable water or endanger correlative rights.

8. K.A.R. 82-3-407(d) provides that 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 that 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, together with a plan for testing and repairing the well.

9. K.A.R. 82-3-407(g) provides that no injection well shall be operated before having passed a mechanical integrity test. Furthermore, the operator's failure to test a well to show its mechanical integrity shall be punishable by a \$1,000 penalty, and the well shall be shut-in until the required test has been passed.

III. STAFF'S STATEMENT OF FACTS

10. Commission records indicate the subject well last passed a Mechanical Integrity Test ("MIT") on February 8, 2007. The well was due for its next MIT on February 8, 2012.

11. On February 10, 2012, Commission District #4 Staff sent a Mechanical Integrity Test ("MIT") Reminder letter to the Operator for the subject well. The letter stated that an MIT was required for the well on or before February 8, 2012, and that the Operator needed to contact District #4 Staff to schedule the MIT. The letter warned that failure to MIT, plug, convert, or receive an extension for the well might result in a recommendation that a penalty be assessed.

12. On February 6, 2013, District #4 Staff sent a Notice of Violation letter to the Operator for the subject well. The letter stated that the well was past due for an MIT and that the well was to be shut-in and disconnected, and its usage discontinued, until the well was brought into compliance. The letter noted that failure to perform the MIT might result in the matter being referred to Commission Legal Staff with a \$1,000 penalty recommendation.

13. To date, a current, successful MIT has not been performed on the subject well. Commission records indicate the well remains unplugged.

IV. CONCLUSIONS OF LAW

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

15. The above findings of fact demonstrate that the Operator committed one violation of K.A.R. 82-3-407 because a current, successful MIT has not been performed on the subject well.

THEREFORE, THE COMMISSION ORDERS:

- A. The Operator shall pay a \$1,000 penalty.
- B. The Operator shall plug the subject well, or test it to show mechanical integrity.

Compliance shall be obtained within 30 days of service of this Penalty Order.

C. The Operator shall shut-in and disconnect the subject well, and shall cease all injection activities at the well until compliance with this Order is achieved.

D. **Pursuant to K.S.A. 55-164, K.S.A. 77-537, and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Commission's Executive Director, at 130 S. Market, Room 2078, Wichita, Kansas 67202, within 30 days from the date of service of this Penalty Order.** If service is by mail, three days will be added to the Mailed Date listed at the end of this Penalty 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, and this Penalty Order will become a Final Order.**

E. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. A corporation or similar entity shall not be permitted to enter an appearance except by its attorney.

F. If you do not request a hearing, the payment of the monetary penalty is due within 30 days from the date of service of this Order. 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 130 S. Market, Wichita, Kansas 67202. The payment shall include a reference to the docket number of this proceeding.

G. Failure to pay any assessed monetary penalty within 30 days of service of this Penalty Order, and/or failure to comply with the provisions of this Order, may result in suspension of the Operator's oil and gas operating license without further notice. In addition, the Commission may impose further sanctions, including additional monetary penalties and any other remedies available to the Commission by law, without further notice.

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.

Sievers, Chmn.; Wright, Com.; Albrecht, Com.

Dated: MAY 03 2013


Patrice Petersen-Klein
Executive Director

Mailed Date: 5-6-2013

LRP

I CERTIFY THE ORIGINAL
COPY IS ON FILE WITH
The State Corporation Commission

MAY 03 2013



CERTIFICATE OF SERVICE

I certify that on 5-6-2013, 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:

Sharlet Ginther
Ginther Oil, Inc.
449 E. 5th Street
Russell, Kansas 67665-3203

Milton Ginther
Resident Agent for Ginther Oil, Inc.
541 Lakeview Lane
Russell, Kansas 67665

David Wann
KCC District #4

And delivered by hand to:

Alan Snider
Conservation Division Central Office

/s/ Lane R. Palmateer
Lane R. Palmateer
Litigation Counsel
Kansas Corporation Commission