

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

Before Commissioners: Mark Sievers, Chairman
 Ward Loyd
 Thomas E. Wright

In the Matter of an Order to Show Cause on) Docket No. 11-CONS-253-CSHO
the Commission's own Motion issued TSCH,)
LLC, Gary and Kayla Bridwell d/b/a Black)
Rain Energy, and John M. Denman Oil Co.,)
Inc., with regard to responsibility under) CONSERVATION DIVISION
K.S.A. 55-179 for plugging the M.A.)
Alexander lease in the East Half of the)
Northwest Quarter and the West Half of the)
Northeast Quarter of Section 31, Township 34) License No. 34407
South, Range 12 East, Chautauqua County,) License No. 30916
Kansas.) License No. 5729
)

ORDER TO SHOW CAUSE

Now, the above captioned matter comes on for consideration and determination before the State Corporation Commission of Kansas ("Commission" or "KCC") on its own motion. Being duly advised in the premises and familiar with its files and records, the Commission finds and concludes as follows:

I. JURISDICTION

1. The Commission has jurisdiction to regulate the production of oil and gas in the State of Kansas under the provision of Chapter 55 of the Kansas Statutes Annotated and the General Rules and Regulations for the Conservation of Crude Oil and Natural Gas, K.A.R. 82-3-100 *et seq.* Pursuant to K.S.A. 55-162 the Commission has jurisdiction to institute proceedings to enforce the laws of Kansas and Commission rules, regulations and Orders. Under K.S.A. 55-179 the Commission has jurisdiction to determine the person or persons legally responsible for the proper care and control of oil and gas wells, including plugging responsibility for such wells.

2. Under K.S.A. 55-179(c), upon the finding that a particular person is responsible for the proper care and control of a well and that such well is abandoned, in fact, and is causing or likely to cause pollution or loss of any usable water, the Commission has the authority to make any order or orders prescribed by K.S.A. 55-162 to take any appropriate action necessary to prevent pollution and protect water quality. Such action may include, but is not limited to:

- a. Ordering the person to take action to remedy the violation;
- b. Ordering the well or the lease to be shut down until the violation is corrected;
- c. Ordering the person to pay any costs and reasonable attorney fees incurred by the Commission in any action pursuant to this section or enforcement of a Commission order, and to pay interest on any portion which remains unpaid more than 30 days;
- d. Ordering any combination of such orders listed in the subsections above; or
- e. If the Commission finds that a person has not complied with an order issued under one of the subsections above, the Commission may order the suspension or revocation of any license issued pursuant to this act to such person.

3. Under K.S.A. 55-162(b), if it appears to the Commission that damage may result if immediate action is not taken, the Commission, on the basis of emergency adjudicative proceedings, shall make such order as authorized in K.S.A. 55-162(a), or may authorize its agents to enter the land upon which an abandoned well is located and take such remedial action necessary, pending the giving of notice and hearing in accordance with the Kansas administrative procedure act.

II. OTHER APPLICABLE STATUTES AND REGULATIONS

4. K.S.A. 55-179(b) provides that a person who is legally responsible for the proper care and control of an abandoned well shall include, but is not limited to, one or more of the following: any operator of a waterflood or other pressure maintenance program deemed to be causing pollution or loss of usable water; the current or last operator of the lease upon which such well is located, irrespective of whether such operator plugged or abandoned such well; the original operator who plugged or abandoned such well; and any person who without authorization tampers with or removes surface equipment or downhole equipment from an abandoned well.

5. K.S.A. 55-150(e) defines "Operator" as a person who is responsible for the physical operation and control of a well, gas gathering system, or underground natural gas storage facility.

6. K.A.R. 82-3-111(a) provides that within 90 days after operations cease on any well drilled for the purpose of exploration, discovery, service, or production of oil, gas, or other minerals, the operator of that well shall perform either of the following:

- (1) Plug the well; or
- (2) file an application with the conservation division requesting temporary abandonment authority, on a form prescribed by the conservation division.

7. K.A.R. 82-3-111(b) provides, in part, that no well shall be temporarily abandoned as described above unless first approved by the conservation division. Furthermore, a well shall not be eligible for temporary abandonment status if the well has been shut in for 10 years or more without an application for an exception pursuant to K.A.R. 82-3-100 and approval by the

commission. The failure to file a notice of temporary abandonment shall be punishable by a \$100 penalty.

II. FACTUAL FINDINGS

8. On July 3, 2008, KCC District #3 Staff ("District #3 Staff") received a Request for Change of Operator Transfer of Injection or Surface Pit Permit ("T-1 Form") transferring operator responsibility for thirty-two (32) wells on the M.A. Alexander lease from John M. Denman Oil Co., Inc. ("Denman") to Gary Bridwell and Kayla Bridwell effective July 1, 2008.

9. On June 21, 2010, KCC Central Office ("Central Office") Staff received a T-1 form transferring operator responsibility for thirty-two (32) wells on the M.A. Alexander lease from Gary and Kayla Bridwell d/b/a Black Rain Energy to TSCH with an effective date of April 1, 2010; however, since TSCH did not become licensed until June 18, 2010, the transfer became effective that date.

10. On February 8, 2011, KCC Legal ("Legal") Staff wrote TSCH after receiving a complaint about the M.A. Alexander lease. The letter informed TSCH that they had ninety (90) days to bring the lease into compliance with K.A.R. 82-3-111 by plugging the wells, returning them to service, or filing for an extension of the wells temporary abandonment ("TA") status. The letter also advised TSCH of several other probable violations. Legal Staff also wrote Denman and informed them of their reasoning to believe that Denman was the last responsible operator for at least twelve (12) abandoned wells on the M.A. Alexander lease and requested Denman respond within twenty (20) days with a plugging plan for the wells.

11. On February 10, 2011, Legal Staff received a telephone call from Denman denying liability for the wells on the M.A. Alexander lease. In support of Denman's claim, they

sent a facsimile of a lease assignment from Denman to Gary Bridwell and Kayla Bridwell recorded with the Chautauqua County, Kansas Register of Deeds on July 1, 2008.

12. On April 14, 2011, Legal Staff received an application for an extension of TA status for the wells on the M. A. Alexander lease.

13. On April 25, 2011, Legal Staff received a protest to TSCH's application.

14. On April 28, 2011, Staff reviewed the application and informed TSCH via letter that the matter would have to be set for a hearing due to the protest. Legal Staff further informed TSCH that it would recommend the Commission deny its application for several reasons. Legal Staff also informed TSCH that it must be represented by counsel pursuant to K.A.R. 82-1-228(d)(2). The letter set a deadline of May 18, 2011 for TSCH's counsel to enter an appearance and warned that failing to do so, would result in Legal Staff recommending the Commission dismiss the application.

15. On May 23, 2011, Legal Staff spoke with TSCH and was informed they would not be retaining counsel. Legal Staff has requested the Commission dismiss its application in Docket No. 11-CONS-211-CEXC.

16. At issue in this proceeding is the determination of the party or parties legally responsible for plugging of the wells located on the M.A. Alexander lease in the East Half of the Northwest Quarter and the West Half of the Northeast Quarter of Section 31, Township 34 South, Range 12 East, Chautauqua County, Kansas.

III. STAFF RECOMMENDATIONS

17. Staff recommends the Commission require TSCH, Gary and Kayla Bridwell, and Denman to come before it at an evidentiary hearing to determine the plugging responsibility for the M.A. Alexander lease.

18. Staff further recommends that sufficient evidence is present in the record to sustain a finding of operator responsibility for all of the parties involved.

IV. CONCLUSIONS

14. The Commission finds and concludes that pursuant to K.S.A. 55-179, a hearing in regard to the issues as stated above, is necessary and appropriate to determine the party or parties responsible for plugging the M.A. Alexander lease.

15. TSCH, Gary and Kayla Bridwell, and Denman, should appear before the Commission to show cause, if any exists, as to why they are not the party responsible for the proper care and control of M.A. Alexander lease under K.S.A. 55-179. Furthermore, TSCH, Gary and Kayla Bridwell, and Denman should appear before the Commission to show cause, if any exists, as to why the Commission's costs in investigating and hearing this matter should not be assessed against them under K.S.A. 55-162 and 55-164, if they are found to be the responsible party for the proper care and control of the M.A. Alexander lease.

IT IS, THEREFORE, BY THE COMMISSION ORDERED:

A. TSCH, Gary and Kayla Bridwell, and Denman are hereby directed to appear before this Commission at 10:00 a.m. on July 21, 2011, in the Commission Hearing Room, Kansas Corporation Commission, 130 S. Market, Room 2078, Wichita, Kansas 67202, to show cause, if any exists, why they should not be determined to be the party responsible for the proper care and control of the wells on the M.A. Alexander lease, and why the costs incurred by the Commission in investigating and hearing this proceeding should not be assessed against TSCH, Gary and Kayla Bridwell, and Denman.

B. Any party affected by this Order may file with the Commission a petition for reconsideration pursuant to K.S.A. 77-529(a). Such a petition must be filed within fifteen (15)

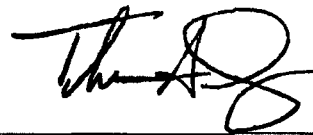
days after service of this Order and must state the specific grounds upon which relief is requested. The petition for reconsideration shall be filed with the Executive Director of the Kansas Corporation Commission, 130 S. Market, Room 2078, Wichita, Kansas 67202.

C. The Commission retains jurisdiction of the subject matter and the parties for the purpose of entering such further Order or Orders as from time-to-time it may deem proper.

BY THE COMMISSION IT IS SO ORDERED.

Sievers, Chr.; Loyd, Com.; Wright, Com.

Dated: JUN 01 2011



Thomas A. Day
Acting Executive Director

Date Mailed: 6/3/11

RAH

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

JUN 01 2011

CERTIFICATE OF SERVICE

I hereby certify that on 6/3/11, I caused a true and correct copy of the foregoing "Order to Show Cause" to be served by placing the same in the United States mail, postage prepaid, and properly addressed to the following:

Charles L. Hoffman, Jr.
TSCH, LLC
480 Mars Way
Juno Beach, Florida 33408-1909

Gary and Kayla Bridwell
871 N. 3325th St.
PO Box 1404
Independence, Kansas 67301

Wayne Bright
John M. Denman Oil Co., Inc.
202 S. Chautauqua
PO Box 36
Sedan, Kansas 67361-1605

Steve Korf, John Almond
KCC District #3 Office
1500 W. Seventh
Chanute, Kansas 66720



Ryan A. Hoffman
Litigation Counsel
Kansas Corporation Commission