

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



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

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

Sam Brownback, Governor

## NOTICE OF PENALTY ASSESSMENT 14-CONS-049-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 at 316-337-6200, 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, in the alternative, request a hearing within 30 days as set forth above, will result your being in noncompliance with a Commission Order, which 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:                      Mark Sievers, Chairman  
   Thomas E. Wright  
   Shari Feist Albrecht

In the matter of the failure of CMX, Inc., to	)	Docket No.: 14-CONS-049-CPEN
comply with K.A.R. 82-3-602 at the Socrates	)	
#1-H in Rice County, Kansas.	)	CONSERVATION DIVISION
	)	
	)	License No.: 3532

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**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. 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.

2.        K.S.A. 74-623 provides that the Commission has the exclusive jurisdiction and authority to regulate oil and gas activities.

3.        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.

4.        K.A.R. 82-3-602 provides that drilling pits shall be closed within 365 days after the spud date of a well. A pit permit may be extended upon written request by the operator and

approval by the Director of the Conservation Division. The failure to comply with this regulation is punishable by a penalty of \$250.

## **II. FINDINGS OF FACT**

5. Operator is currently licensed to conduct oil and gas activities in Kansas under K.S.A. 55-155, and operates under license number 3532.

6. Operator is responsible for the care and control of the Socrates #1-H (“the subject well”), API #15-159-22667-01-00, located in the Northeast Quarter of Section 10, Township 21 South, Range 7 West, Rice County, Kansas.

7. On December 31, 2012, District #2 Staff inspected the subject well and found that the drilling pits remained open. KCC records indicated the subject well had been spud on December 30, 2011, approximately one year before the inspection.

8. On January 10, 2013, Environmental Protection and Remediation (“EP&R”) Staff sent a letter to the Operator with a deadline of January 18, 2013, to file for an extension.

9. On January 24, 2013, District #2 Staff again inspected the subject well and found the pits remained open.

10. On February 11, 2013, the Director of the Conservation Division issued an extension to the Operator, giving until May 8, 2013, to close the pits at the subject well. The letter warned of a penalty if the pits were not timely closed.

11. On July 3, 2013, District #2 Staff inspected the subject well and found that the drilling pits remained open, with standing water in them due to recent rains.

## **III. CONCLUSIONS OF LAW**

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

13. The above findings of fact are sufficient evidence to support that the Operator committed one violation of K.A.R. 82-3-602 because the operator did not close the drilling pits at the subject well within the regulatory deadline or obtain an additional extension from the Director of the Conservation Division.

**THEREFORE, THE COMMISSION ORDERS:**

- A. The Operator is hereby assessed a \$250 penalty, payable within 30 days.
- B. The Operator shall close the drilling pits at the subject well within 30 days.
- C. 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.
- D. 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.
- E. 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.

F. The failure to comply with this Order within 30 days shall be punishable by license suspension without the need for an additional Order to be issued by the Commission. The notice and opportunity for a hearing on this order shall constitute the notice required by K.S.A. 77-512 regarding license suspension. 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.

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.**

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

Dated: AUG 01 2013

  
Kim Christiansen  
Executive Director

Mailed Date: 8-5-2013

LRP

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

AUG 01 2013



**CERTIFICATE OF SERVICE**

I certify that on 8-5-2013, 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:

Douglas H McGinness II  
CMX, Inc.  
1700 N Waterfront Pkwy, Bldg 300B  
Wichita, Kansas 67206

Douglas H McGinness II  
Resident Agent for CMX, Inc.  
150 N. Main, Ste. 1026  
Wichita, Kansas 67202

Dan Fox  
KCC District #2

And delivered by hand to:

Jonelle Rains  
Environmental Protection and Remediation Department  
Conservation Division Central Office

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