

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

Before Commissioners: Shari Feist Albrecht
 Jay Scott Emler
 Pat Apple

In the matter of the failure of Patrick Development Corporation ("Operator") to comply with K.A.R. 82-3-400 at the Hegwald #d-1 (WSW), Hendricks #PDC 11, Hendricks #PDC 10 and Henrichs #PDC 9 wells in Woodson and Allen Counties, Kansas.)	Docket No.: 15-CONS-197-CPEN
)	
)	CONSERVATION DIVISION
)	
)	License No.: 6279

ORDER ON APPEAL

The above-captioned matter comes before the State Corporation Commission of the State of Kansas for consideration and determination. Having examined its files and records, and being duly advised in the premises, the Commission makes the following findings:

I. JURISDICTION

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

II. FINDINGS OF FACT

3. On August 26, 2014, the Commission issued its Penalty Order to Patrick Development Corporation ("Patrick"), finding five violations of K.A.R. 82-3-400 and assessing a \$5,000 penalty. The Order was mailed September 9, 2014.
4. On September 24, 2014, Patrick timely appealed through counsel.

5. On October 2, 2014, the Commission issued an Order designating a prehearing officer and setting a prehearing conference date.

6. The prehearing conference was held on October 23, 2014, and attended by counsel for both parties. The same day, the prehearing officer issued a procedural schedule.

7. On December 1, 2014, Cheryl Boyer prefiled testimony on behalf of Staff, including about two pages of testimony and three exhibits.

8. On December 2, 2014, Patrick moved the Commission to continue the hearing, citing settlement negotiations. Staff did not file a response or objection.

9. On December 8, 2014, the Prehearing Officer issued an Order continuing the hearing to January 15, 2015. Respondent's prefiled testimony was due by January 5, 2015.

10. On January 6, 2015, having received no prefiled testimony on behalf of Patrick, Staff filed a Motion for a default order requesting that four violations be rescinded, the fifth violation be affirmed, and the remaining \$1,000 total penalty be reduced to \$500. Patrick filed a Response on January 8, 2015, alleging that Staff is attempting to deny Patrick's due process rights to attend the hearing and participate in cross examination. (Response, P. 1-2). Patrick indicated it did not intend to prefile testimony but would participate in the hearing through cross examination of Staff's witness. (Response, P. 2). The Response also states that Patrick now has strong reservations about entering into any settlement agreement. (Response, P. 2). On January 8, 2015, Staff withdrew its motion for a default order.

11. On January 15, 2015, the hearing was held as scheduled. Jon Myers appeared on behalf of the Commission Staff and the public generally. (Transcript, P. 1). Patrick was not in attendance. (Transcript, P. 1). Mr. Myers explained that Patrick had verbally agreed to a settlement offer but had not submitted a signed agreement. (Transcript, P. 1-2). Mr. Myers

explained that he offered to make a verbal motion at the hearing to ask the Commission to approve the terms of the settlement agreement, and that the written, signed agreement would follow. (Transcript, P. 2). Staff then outlined the terms of the settlement, which basically mirrored the terms proposed in the motion for a default order: that four violations be rescinded, the fifth violation be converted to a violation of K.A.R. 82-3-409, and the remaining violation's penalty amount be halved, for a total penalty of \$500. (Transcript, P. 4-5). Staff indicated the original settlement offer was made December 1, 2014. (Transcript, P. 5). Staff indicated that, due to the length of time, there was concern about a signature being provided without Commission action. (Transcript, P. 4, 5, 7). Staff indicated four of the five violations were issued in error, and that those violations should be rescinded. (Transcript, P. 8). A court reporter was present at the hearing. (Transcript, P. 8-9). Staff's witness was present for the hearing. (Transcript, P. 9). All three Commissioners were present for the hearing. (Transcript, P. 1).

12. The Commission commended Staff for working with the operator, including Staff's continuing to advocate a \$500 settlement. (Transcript, P. 10). The Commission indicated it would not support the penalty reduction on the remaining violation because the operator was abusing the hearing process at the Commission's expense and misusing Staff. (Transcript, P. 9-12). After discussing whether a higher, \$10,000 penalty should be assessed, the Commission determined to proceed with affirmation of the \$1,000 penalty for one violation of K.A.R. 82-3-400 and the additional assessment of the court reporter costs. (Transcript, P. 9-12).

13. The Commission has received an invoice for the costs of the court reporter in the amount of \$215.40, and the invoice is attached as an exhibit to this Order. The Commission has paid or will pay the court reporter, and the operator shall reimburse the Commission.

III. CONCLUSIONS OF LAW

14. The Commission concludes that it has jurisdiction to determine this matter.

15. The Commission concludes that the Penalty Order should be affirmed with regard to one violation of K.A.R. 82-3-400. The other four violations are rescinded. The \$1,000 penalty for the remaining violation is affirmed. Court reporter costs in the amount of \$215.30 are assessed to the operator.

THEREFORE, THE COMMISSION ORDERS:

A. The Penalty Order is affirmed with regard to one violation of K.A.R. 82-3-400. The \$1,000 penalty shall be paid within 30 days.

B. The remaining four violations of K.A.R. 82-3-400 are rescinded.

C. Court reporter costs of \$215.40 are assessed to the operator, and are payable to the Commission within 30 days.

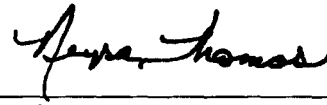
D. Any party affected by this Order may file with the Commission a petition for reconsideration pursuant to K.S.A. 77-529(a). The petition shall be filed within 15 days after service of this Order. If service of this Order is by mail, three days are added to the deadline. The petition shall be addressed to the Commission and sent to 266 N. Main, Ste. 220, Wichita, Kansas 67202. Pursuant to K.S.A. 77-529(a), reconsideration is prerequisite for judicial review of this Order. Any party taking an action permitted by this summary proceeding before the deadline for a petition for reconsideration does so at their own risk of further proceedings.

E. 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: FEB 03 2015



Neysa Thomas
Acting Secretary

Mailed Date: 2/4/15

LRP

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

FEB 03 2015



Harrison Elliott

Invoice

Certified Court Reporters

1417 N. St. Paul St.

Wichita, KS 67203

(316)267-8278

Fax (316)267-8621

Date	Invoice #
1/20/2015	35803

Bill To

Kansas Corporation Commission

130 South Market, Suite 2078

Wichita, KS 67202

Description	Amount
IN THE MATTER OF THE FAILURE OF PATRICK DEVELOPMENT CORPORATION ("OPERATOR") TO COMPLY WITH K.A.R. 82-3-400 AT THE HEGWALD #d-1 (WSW), HENDRICKS #PDC 11, HENDRICKS #PDC 10 & HENDRICKS #PDC 9 WELLS IN WOODSON and ALLEN COUNTIES, KANSAS	
Hearing held on January 15, 2015	
Transcript of Proceedings	215.40
TAX ID #46-4074123	
<div>Received KANSAS CORPORATION COMMISSION JAN 20 2015 CONSERVATION DIVISION WICHITA, KS</div>	
H	
<i>We're grateful for your business and vow that we never fail to show our appreciation.</i>	Total \$215.40

CERTIFICATE OF SERVICE

I certify that on 2/4/15, 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:

Jeff Kennedy
Martin Pringle Oliver Wallace & Bauer
100 N. Broadway, Ste. 500
Wichita, Kansas 67202
Attorney for the Appellant

And delivered by hand to:

Jon Myers, Litigation Counsel
KCC Central Office

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