

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of an Order to Show Cause) Docket No.: 18-CONS-3338-CSHO
issued to Viva International, Inc. (“Operator”))
for its failure to comply with K.A.R. 82-3-603) CONSERVATION DIVISION
at the Mitchell lease and Wright lease in Linn)
County, Kansas.) License No.: 5556

**ORDER TO SHOW CAUSE, DESIGNATING A PREHEARING OFFICER,
AND SETTING A PREHEARING CONFERENCE**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

I. JURISDICTION

1. The Commission has the exclusive jurisdiction to regulate oil and gas activities in Kansas.¹

Whenever the commission, from investigation or upon written complaint filed with the commission, finds reasonable cause to believe that a person has violated any provision of this act or any rules and regulations adopted pursuant to this act, the commission shall cause such person to come before it at a hearing held in accordance with the provisions of the Kansas administrative procedure act.²

2. The Commission may impose a penalty of up to \$10,000 upon finding an operator has violated any regulation of the Commission, with such penalty constituting an actual and substantial economic deterrent to the violation.³ In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.⁴

¹ K.S.A. 74-623.

² K.S.A. 55-162.

³ K.S.A. 55-164(a).

⁴ *Id.*

II. BACKGROUND

3. On March 5, 2018, Commission Staff (Staff) moved the Commission to issue an order to show cause, alleging that:

- a. On October 17, 2017, Commission District #3 Staff inspected the Operator's Wright lease and found spills at seven wells.
- b. On October 17, 2017, Staff notified the Operator of the spills on the Wright lease and requested remediation of the spills by October 27, 2017.
- c. On November 9, 2017, Staff inspected the Wright lease and found Operator had failed to remediate the spills.
- d. On December 1, 2017, Staff inspected the Operator's Mitchell lease and found spills at eleven wells. On December 4, 2017, Staff notified the Operator of the spills on the Mitchell lease and requested remediation by December 15, 2017.
- e. By January 17, 2018, the Operator had completed remediation of the spills on the Mitchell and Wright leases.

4. Staff alleged the Operator committed eighteen violations of K.A.R. 82-3-603(b)(2) for failure to notify the appropriate Commission District Office of the spills at the Wright and Mitchell leases and recommended a \$16,750 penalty.⁵

5. Staff alleged the Operator committed eighteen violations of K.A.R. 82-3-603(e)(1) for failure to timely remediate the spills on the Wright and Mitchell leases and recommended a \$83,500 penalty.

⁵ Motion for an Order to Show Cause, the Designation of a Prehearing Officer, and the Scheduling of a Prehearing Conference (Mar. 5, 2018).

III. CONCLUSIONS OF LAW

6. The Commission finds and concludes that reasonable cause exists to believe that the Operator violated Commission regulations and shall appear before the Commission at an evidentiary hearing held in accordance with the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.*

7. Pursuant to K.S.A. 77-551(c), the Commission finds that a Prehearing Officer should be designated in this proceeding to address any matters listed in K.S.A. 77-517(b). The Commission also finds that a Prehearing Conference should be scheduled in this matter.

THEREFORE, THE COMMISSION ORDERS:

A. The Prehearing Officer in this proceeding shall be Dustin Kirk, Deputy General Counsel, Kansas Corporation Commission, 1500 SW Arrowhead Road, Topeka, Kansas 66604, telephone number (785) 271-33198, email d.kirk@kcc.ks.gov.

B. A Prehearing Conference is scheduled for **July 3, 2018, at 9:00 a.m.** by telephone. The conference call information is: telephone number (866) 620-7326, Conference Code PIN: 7632914771#.

C. At the Prehearing Conference, parties shall be prepared to discuss deadlines for filing testimony and briefs, discovery procedures, scheduling of a hearing with the Commission, and any other issues that will promote the orderly and prompt resolution of this proceeding.

D. At the Prehearing Conference, without further notice, this proceeding may be converted into a conference hearing or a summary proceeding for disposition of this matter as provided by the Kansas Administrative Procedure Act (KAPA). Any party that fails to attend or participate in the Prehearing Conference, hearing, or other stage of this proceeding may be held in default under the KAPA.

E. Pursuant to K.A.R. 82-1-228(d)(2), corporations must enter an appearance via an attorney. If a corporation fails to enter an appearance via an attorney prior to the Prehearing Conference, it shall be held in default under the KAPA.

F. The attorney designated to appear on behalf of the agency in this proceeding is Lauren Wright, Litigation Counsel, telephone number 316-337-6200, email address l.wright@kcc.ks.gov.

G. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 06/07/2018



Lynn M. Retz
Secretary to the Commission

Mailed Date: 06/08/2018

DLK/sc

CERTIFICATE OF SERVICE

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I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail and electronic service on 06/07/2018.

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/S/ DeeAnn Shupe

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