

Conservation Division  
266 N. Main St., Ste. 220  
Wichita, KS 67202-1513



2017-10-26 15:03:59  
Kansas Corporation Commission  
/s/ Lynn M. Retz

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

Pat Apple, Chairman  
Shari Feist Albrecht, Commissioner  
Jay Scott Emler, Commissioner

Sam Brownback, Governor

## **NOTICE OF PENALTY ASSESSMENT**

### **18-CONS-3188-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 \$100. 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 266 N. Main St., Suite 220, 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, at 266 N. Main St., Suite 220, 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.

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

Before Commissioners:                      Pat Apple, Chairman  
   Shari Feist Albrecht  
   Jay Scott Emler, Chairman

|   |   |                               |
|---|---|-------------------------------|
| In the matter of the failure of Benjamin M. | ) | Docket No.: 18-CONS-3188-CPEN |
| Giles ("Operator") to comply with K.A.R.    | ) |                               |
| 82-3-602 at the Wright #1 OWWO well in      | ) | CONSERVATION DIVISION         |
| Butler County, Kansas.                      | ) |                               |
| _____                                       | ) | License No.: 5446             |

**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. 74-623 provides that the Commission has the exclusive jurisdiction and authority to regulate oil and gas activities. 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. The Commission has licensing authority pursuant to K.S.A. 55-155.

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

3.        K.A.R. 82-3-602(a) provides that unless otherwise specified in writing by the Commission, each operator shall close drilling pits within 365 calendar days after the spud date of a well.

4. K.A.R. 82-3-602(c) provides that each operator of a pit shall file a pit closure form prescribed by the Commission within 30 days after the closure of the pit. Failure to file the pit closure form shall be punishable by a \$100 penalty.

## **II. FINDINGS OF FACT**

5. Operator conducts oil and gas activities in Kansas under license number 5446.

6. Operator is responsible for the care and control of the Wright #1 OWWO (“the subject well”), API #15-015-01211-00-02, located in Section 32, Township 25 South, Range 4 East, Butler County, Kansas.

7. Commission records indicate that Operator filed an Application for Surface Pit (“CDP-1”) along with the Notice of Intent to Drill (“C-1”) for the subject well. The CDP-1 indicated that at least one drilling pit would be used while drilling the subject well.

8. Commission regulations require drilling pits to be closed within 365 calendar days of the spud date. Commission regulations further require a Closure of Surface Pit (“CDP-4”) form to be filed within 30 days after the closure of a pit.

9. Commission records indicate the subject well was spud in excess of 395 (365 plus 30) days ago. Commission records further indicate a CDP-4 form has not been filed for the subject well.

10. Commission Staff sent a Notice of Violation letter to Operator, requiring Operator to file a CDP-4 to comply with K.A.R. 82-3-602 by a specific deadline. Commission Staff did not receive a complete, accurate CDP-4 by the deadline in the letter.

11. Commission Staff collected evidence and submitted it to the Legal Department with a recommendation that the Commission issue this Order. The recommendation sheet

submitted by Commission Staff is attached to this Order as Exhibit A, incorporated into this Order, and shall serve as the concise and explicit statement of facts required by K.S.A. 77-526.

### **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 the conclusion that the Operator committed one violation of K.A.R. 82-3-602 because Operator has not submitted a complete, accurate CDP-4 in a timely manner for the pit associated with the subject well.

#### **THEREFORE, THE COMMISSION ORDERS:**

- A. Operator shall pay a \$100 penalty.
- B. Operator shall submit a complete, accurate CDP-4 for the pit associated with the subject well.
- C. If no party requests a hearing, and Operator is not in compliance with this Order within 30 days, then Operator's license shall be suspended without further notice. The notice and opportunity for a hearing on this order shall constitute the notice required by K.S.A. 77-512 regarding license suspension. The Commission may impose further sanctions, including additional monetary penalties and any other remedies available to the Commission by law, without further notice.
- D. 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 266 N. Main St., Suite 220, Wichita, Kansas 67202. The payment must include a reference to the docket number of this proceeding.

E. Any party may request a hearing on the above issues by submitting a written request, pursuant to K.S.A. 55-164, K.S.A. 77-537, and K.S.A. 77-542, setting forth the specific grounds upon which relief is sought, to the Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202, within 30 days from the date of service of this Order. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Operator's right to a hearing.

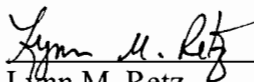
F. If a party requests a hearing, a corporation or similar entity shall not be permitted to enter an appearance except by its attorney. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record.

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.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: OCT 26 2017

  
\_\_\_\_\_  
Lynn M. Retz  
Secretary to the Commission

Mailed Date: October 26, 2017

JRM

## **PENALTY ORDER RECOMMENDATION**

**\*\*\*ROUTINE SURFACE PIT CLOSURE (CDP-4) FORM VIOLATION\*\*\***

*Note: this sheet will be attached to the Order that is mailed to the operator.*

|  |   |
|--|---|
| <b>Date of Recommendation:</b>                           | October 19, 2017  |
| <b>District/Department:</b>                              | EP&R  |
| <b>Person Recommending Penalty:</b>                      | Kathy Haynes  |
| <b>Operator Name:</b>                                    | Giles, Benjamin M.  |
| <b>Operator License Number:</b>                          | 5446  |
| <b>Well Name/Number<br/>associated with surface pit:</b> | WRIGHT 1 OWWO   |
| <b>Well/Lease Location, and County:</b>                  | NENESW, 32-25-4E, BUTLER County.                          |
| <b>Well API Number:</b>                                  | 15-015-01211-00-02  |
| <b>Date Application for Surface Pit approved:</b>        | 8/31/2015   |
| <b>Date Well Spudded:</b>                                | 8/25/2016   |
| <b>Regulation Number:</b>                                | 82-3-602  |
| <b>Description of Violation:</b>                         | Failure to submit complete, accurate CDP-4.               |
| <b>Date NOV letter sent and deadline:</b>                | 10/2/17 with an 10/16/17 deadline                         |
| <b>Requested Monetary Penalty:</b>                       | \$100   |
| <b>Requested Operator Activity:</b>                      | File complete, accurate surface pit closure form (CDP-4). |
| <b>Supervisor Initials</b>                               | JR  |

**CERTIFICATE OF SERVICE**

I certify that on 10/26/17, 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:

Benjamin M. Giles  
346 S. Lulu  
Wichita, KS 67211

and delivered by e-mail to:

Jonelle Rains  
KCC Central Office

/s/ Paula J. Murray  
Paula J. Murray  
Legal Assistant  
Kansas Corporation Commission