

STATE OF KANSAS



CORPORATION COMMISSION  
CONSERVATION DIVISION  
266 N. MAIN ST., STE. 220  
WICHITA, KS 67202-1513

PHONE: 316-337-6200  
FAX: 316-337-6211  
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

**NOTICE OF PENALTY ASSESSMENT**

19-CONS-3063-CPEN

August 16, 2018

Elden R. Koehn  
2241 Moccasin Road  
Galva, KS 67443-8842

This is a notice of a penalty assessment for violation(s) 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:**

You have been assessed a \$100 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 and mailed to the Conservation Division of 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. Payment by credit card may be made by calling the Conservation Division at 316-337-6200.

**IF YOU CONTEST THE PENALTY:**

You have the right to request a hearing. A written request for hearing must be made within 30 days after service of the Penalty Order setting forth the specific grounds upon which relief is sought. Respondent must submit the request to the Commission, at 266 N. Main St., Suite 220, Wichita, Kansas 67202. The Commission shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act within 30 days after receipt of such request. K.S.A. 55-164; K.S.A. 77-542; K.A.R. 82-1-215.

**IF YOU FAIL TO ACT:**

Failure to pay the fine amount, or in the alternative, provide a written request for a hearing, within thirty (30) days of service of the Penalty Order, will result in the attached Penalty Order becoming a Final Order and 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. K.S.A. 55-164; K.S.A. 77-537.

Respectfully,

Lauren N. Wright  
Litigation Counsel  
316-337-6200

**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 the failure of Elden R. Koehn	)	Docket No.: 19-CONS-3063-CPEN
("Operator") to comply with K.A.R. 82-3-111	)	
at the Johnson #1 in McPherson County,	)	CONSERVATION DIVISION
Kansas.	)	
<hr/>		License No.: 3822

**PENALTY ORDER**

The above captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined the 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 and authority to regulate oil and gas activities in Kansas.<sup>1</sup> 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."<sup>2</sup> Every operator conducting oil and gas activity in Kansas must be licensed by the Commission.<sup>3</sup>

2.       The Commission has the authority to issue a Penalty Order for violation of any provision of K.S.A. 55-101 *et seq.*, rule, regulation, or order of the Commission.<sup>4</sup> The Commission shall take appropriate action which may include, but not be limited to, imposing a monetary penalty "not to exceed \$10,000, which shall constitute an actual and substantial

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<sup>1</sup> K.S.A. 74-623.

<sup>2</sup> K.S.A. 55-152.

<sup>3</sup> K.S.A. 55-155.

<sup>4</sup> K.S.A. 55-162; K.S.A. 55-164.

economic deterrent to the violation for which the penalty is assessed.”<sup>5</sup> “In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.”<sup>6</sup>

3. 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: (1) plug the well, (2) return the well to service, or (3) file an application with the Conservation Division requesting temporary abandonment (“TA”) authority, on a form prescribed by the Conservation Division.<sup>7</sup> No well shall be temporarily abandoned unless first approved by the Conservation Division.<sup>8</sup> A well shall not be eligible for TA 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.<sup>9</sup> The failure to file a notice of temporary abandonment shall be punishable by a \$100 penalty,<sup>10</sup> and the failure to obtain approval of temporary abandonment status shall subject the Operator to additional administrative action.<sup>11</sup>

4. K.A.R. 82-3-111(e) provides an exemption for certain wells that are (1) fully equipped for production of oil or gas or for injection; (2) capable of immediately resuming production of oil or gas or of injection; (3) subject to a valid continuing oil and gas lease; when (4) the cessation period for the well is less than 365 days; and (5) the well is otherwise in full compliance with all of the Commission’s regulations.

## **II. FINDINGS OF FACT**

5. The Operator conducts oil and gas activities in Kansas under active license number 3822.

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<sup>5</sup> K.S.A. 55-164.

<sup>6</sup> *Id.*

<sup>7</sup> *See* K.A.R. 82-3-111(a).

<sup>8</sup> K.A.R. 82-3-111(b).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> K.S.A. 55-164; K.A.R. 82-3-111(b).

6. The Operator is responsible for the care and control of the Johnson #1 (“the subject well”), API #15-113-20321-00-00, located in Section 12, Township 20 South, Range 2 West, McPherson County, Kansas.

7. On July 09, 2018, Commission records indicated that the subject well had been inactive and unplugged for longer than the 90 days allowed by K.A.R. 82-3-111 and that the well was not exempt pursuant to K.A.R. 82-3-111(e). The well had also not been approved for temporary abandonment status. Thus, District Staff sent a letter to the Operator, requiring the Operator to bring the subject well into compliance with K.A.R. 82-3-111 by August 6, 2018.<sup>12</sup>

8. Because the deadline in the letter passed and the violation had not been resolved, on August 08, 2018, District Staff inspected the subject well, verifying that the well continued to be inactive and unplugged.<sup>13</sup>

### **III. CONCLUSIONS OF LAW**

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

10. The Commission finds and concludes the Operator committed one violation of K.A.R. 82-3-111 because the subject well has been inactive in excess of the time allowed by regulation without being plugged, returned to service, or approved for TA status.<sup>14</sup>

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

A. The Operator shall pay a \$100 penalty.

B. The Operator shall plug the subject well, or return the well to service, or obtain TA status for the well if eligible. Obtaining TA status shall include application for, and Commission approval of, an exception to the 10-year limit on TA status if applicable.

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<sup>12</sup> Exhibit A.

<sup>13</sup> Exhibit B.

<sup>14</sup> K.S.A. 55-164; K.A.R. 82-3-111(b).



C. If no party requests a hearing, and the Operator is not in compliance with this Order within 30 days from the date of service of this Order, then the 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. 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. Credit card payments may be made by calling the Conservation Division at 316-337-6200.

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. A corporation shall appear before the Commission by a Kansas licensed attorney.<sup>15</sup>

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

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<sup>15</sup> K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 08/16/2018



Lynn M. Retz  
Secretary to the Commission

Mailed Date: 08/17/2018

LW



Shari Feist Albrecht, Chair  
Jay Scott Emler, Commissioner  
Dwight D. Keen, Commissioner

Corporation Commission

Jeff Colyer, M.D., Governor

## **NOTICE OF VIOLATION**

KOEHN, ELDON R.  
2241 MOCCASIN RD  
GALVA KS 67443-8842

July 09, 2018  
KCC Lic.-3822

**RE: TEMPORARY ABANDONMENT**  
API Well No. 15-113-20321-00-00  
JOHNSON 1  
12-20S-2W, NWNESE  
MCPHERSON County, Kansas

Operator:

On July 09, 2018, a lease inspection documented a probable violation of the following regulation at the referenced well:

- K.A.R. 82-3-111. Within 90 days after operations cease on a well, the operator must return the well to service, plug the well, or obtain approval for temporary abandonment status.

**Failure to remedy this violation  
by AUGUST 06, 2018  
shall be punishable by a \$100 penalty.**

You may contact me if you have any questions.

Sincerely,

JERRY SPARLING  
KCC District # 2

# KCC OIL/GAS REGULATORY OFFICES

Date: 01/10/18

District: 02

Case #: \_\_\_\_\_

- ☐ New Situation  
☐ Response to Request  
☐ Follow-Up

- ☐ Lease Inspection  
☐ Complaint  
☐ Field Report

Operator License No: 3822

API Well Number: 15-113-20321

Op Name: Eldon Koehn R

Spot: NW NE SE Sec 12 Twp 20 S Rng 2 ☐ E ☒ W

Address 1: 2241 Moccasin road

2310 Feet from ☒ N ☐ S Line of Section

Address 2: \_\_\_\_\_

990 Feet from ☐ E ☒ W Line of Section

City: Galva

GPS: Lat: 38.32526 Long: 97.48557 Date: 1/10/18

State: Kansas Zip Code: 67443 -8842

Lease Name: Johnson Well #: 1

Operator Phone #: (620) 654-3397

County: McPherson

Reason for Investigation:

Routine lease inspection

Problem:

Compliance Issues

Persons Contacted:

Eldon Koehn

Findings:

Well is not capable of operation ( No Pumpjack ) well is equipped with rods and tubing.  
 KGS shows last oil sale was in 2008  
 Tank battery at the road has no lease sign  
 UPDATE June 1, 2018 A partially assembled pumpjack has been moved onto location but the pump jack is not in a condition to operate.  
 UPDATE August 8, 2018 No Progress has happened at this location.

Action/Recommendations:

Follow Up Required ☒ Yes ☐ No ☐

Date: \_\_\_\_\_

A recommendation for Penalty is in order for Non Compliance  
 ( Not returning this well to service or plugging this well. ) after the Temporary Abandonment Application was Denied

Verification Sources:

Photos Taken: Yes

<input checked="" type="checkbox"/> RBDMS	<input checked="" type="checkbox"/> KGS	<input type="checkbox"/> TA Program
<input type="checkbox"/> T-I Database	<input type="checkbox"/> District Files	<input type="checkbox"/> Courthouse
<input type="checkbox"/> Other: _____		

By: Jerry Sparling  
Environmental Compliance and Regulatory Specialist

Retain 1 Copy District Office  
 Send 1 Copy to Conservation Division





Johnson #1, Inactive well located in the SE/4 of 12-20S-2W, McPherson County. API#15-113-20321-00-00. Operated by Koehn, Eldon R. Lic. #3822. Photo taken by Jerry Sparling-ECRS on August 8, 2018.

No change in well status, failure to comply with 82-3-111.

**CERTIFICATE OF SERVICE**

19-CONS-3063-CPEN

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 08/16/2018.

DANIEL FOX, COMPLIANCE OFFICER, KCC DISTRICT 2  
KANSAS CORPORATION COMMISSION  
DISTRICT OFFICE NO. 2  
3450 N. ROCK RD BLDG 600 STE 601  
WICHITA, KS 67226  
Fax: 316-630-4005  
d.fox@kcc.ks.gov

ELDON R. KOEHN  
2241 MOCCASIN RD  
GALVA, KS 67443-8842

LAUREN WRIGHT, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
Conservation Division  
266 N. Main St. Ste. 220  
WICHITA, KS 67202-1513  
Fax: 316-337-6211  
l.wright@kcc.ks.gov

/s/ DeeAnn Shupe  
DeeAnn Shupe