

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-3088-CPEN

September 6, 2018

Benjamin M. Giles
346 S. Lulu
Wichita, KS 67211-1713

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 Benjamin M.)	Docket No.: 19-CONS-3088-CPEN
Giles (“Operator”) to comply with K.A.R. 82-)	
3-111 at the Ray C #2 in Butler County,)	CONSERVATION DIVISION
Kansas.)	
_____)	License No.: 5446

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.¹ 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 Every operator conducting oil and gas activity in Kansas must be licensed by the Commission.³

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.⁴ 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

¹ K.S.A. 74-623.

² K.S.A. 55-152.

³ K.S.A. 55-155.

⁴ K.S.A. 55-162; K.S.A. 55-164.

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

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.⁷ No well shall be temporarily abandoned unless first approved by the Conservation Division.⁸ 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.⁹ The failure to file a notice of temporary abandonment shall be punishable by a \$100 penalty,¹⁰ and the failure to obtain approval of temporary abandonment status shall subject the Operator to additional administrative action.¹¹

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 5446.

⁵ K.S.A. 55-164.

⁶ *Id.*

⁷ *See* K.A.R. 82-3-111(a).

⁸ K.A.R. 82-3-111(b).

⁹ *Id.*

¹⁰ *Id.*

¹¹ K.S.A. 55-164; K.A.R. 82-3-111(b).

6. The Operator is responsible for the care and control of the Ray C #2 (“the subject well”), API #15-015-21013-00-00, located in Section 34, Township 25 South, Range 3 East, Butler County, Kansas.

7. On May 23, 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 June 20, 2018.¹²

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.¹³

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.¹⁴

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.

¹² Exhibit A.

¹³ Exhibit B.

¹⁴ 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.¹⁵

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.

¹⁵ 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: 09/06/2018 _____



Lynn M. Retz
Secretary to the Commission

Mailed Date: 09/07/2018 _____

LW

STATE OF KANSAS



CORPORATION COMMISSION
CONSERVATION DIVISION
DISTRICT OFFICE No. 2
3450 N. ROCK ROAD
BUILDING 600, SUITE 601
WICHITA, KS 67226

PHONE: 316-337-7400
FAX: 316-630-4005
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

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

May 23, 2018

Ben Giles
Giles, Benjamin M.
346 S. LULU
WICHITA, KS 67211

Re: Temporary Abandonment
API 15-015-21013-00-00
RAY C 2
NW/4 Sec.34-25S-03E
Butler County, Kansas

Dear Ben Giles:

Your application for Temporary Abandonment (TA) for the above-listed well is denied for the following reasons(s):

High Fluid Level
No current
witnessed MIT

Pursuant to K.A.R. 82-3-111, the well must be plugged, or returned to service, or obtain temporary abandonment status by June 20, 2018.

This deadline does NOT override any compliance deadline given to you in any Commission Order.

You may contact me if you have any questions.

Sincerely,
Jonathan Hill
KCC DISTRICT 2

KCC OIL/GAS REGULATORY OFFICES

Date: 08/15/18

District: 02

Case #: _____

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

- ☐ Lease Inspection
☐ Complaint
☐ Field Report

Operator License No: 5446

API Well Number: 15-015-21013-00-00

Op Name: Giles, Benjamin M

Spot: _____ Sec _____ Twp _____ S Rng _____ ☐ E ☐ W

Address 1: 346 S. Lulu

Feet from ☐ N ☐ S Line of Section

Address 2: _____

Feet from ☐ E ☐ W Line of Section

City: Wichita

GPS: Lat: _____ Long: _____ Date: _____

State: KS Zip Code: 67211 -1713

Lease Name: Ray C Well #: 2

Operator Phone #: (316) 265-1992

County: Butler

Reason for Investigation:

Inactive well with denied TA status

Problem:

- Well passed deadline for compliance with K.A.R. 82-3-111 on 6/20/2018

Persons Contacted:

N/A

Findings:

- Operator submitted CP-111 (TA application) on KOLAR on 2/14/2018
- On 5/23/2018, KCC staff denied the TA application for high fluid level and required operator to MIT the casing at 300 psi for TA approval. Previous reported fluid level in 2016 was 900', operator reported (and KCC witnessed) a fluid level test indicating a rise to 240'
- Deadline for Operator to plug, return to service, obtain TA status was 6/20/2018
- Staff inspected well on 7/3/2018, 7/31/2018, and 8/8/2018. Sometime between 7/3/2018 and 7/31/2018 a rock pad had been installed at the site for a workover rig. No other work has been performed at the well.
- As of 8/15/2018, Operator has not brought the well into compliance or contacted the District 2 office.

Action/Recommendations:

Follow Up Required ☒ Yes ☐ No ☐

Date: _____

- Submit field report to district 2 supervisor
- Recommend penalty for Violation of K.A.R. 82-3-111.

Verification Sources:

Photos Taken: Yes

<input type="checkbox"/> RBDMS	<input 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: Jonathan Hill

ECRS

Retain 1 Copy District Office
Send 1 Copy to Conservation Division

Form: _____

Giles, Benjamin M.
Ray C 2
NW 34-25-3E
Inactive well – 8/8/2018



CERTIFICATE OF SERVICE

19-CONS-3088-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 09/06/2018.

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

BENJAMIN M. GILES
346 S. Lulu
Wichita, KS 67211

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