

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

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

In the matter of the failure of Edward E. Birk) Docket No.: 16-CONS-4056-CPEN
("Operator") to comply with K.A.R. 82-3-400)
regarding injection that took place during the 2015) CONSERVATION DIVISION
calendar year.)
_____) License No.: 8210

ORDER APPROVING SETTLEMENT AGREEMENT

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:

1. Commission Staff and the Operator have executed a settlement agreement, which is attached as an exhibit to this Order and incorporated by reference.
2. The settlement agreement provides a fair and efficient resolution of this matter.

THEREFORE, THE COMMISSION ORDERS:

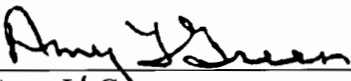
- A. The settlement agreement is approved and incorporated into this Order.
- B. Any party affected by this Order may file with the Commission a petition for reconsideration pursuant to K.S.A. 77-529(a). The petition shall be filed within 15 days after service of this Order. If service of this Order 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. 55-606 and 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.

C. 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.

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated: SEP 13 2016



Amy L. Green
Secretary to the Commission

Mailed Date: September 13, 2016

JM

SETTLEMENT AGREEMENT

This Agreement is between Edward E. Birk ("Operator") (License #8210) and Commission Staff ("Staff"). If the Commission does not approve this Agreement by a signed Order, then this Agreement shall not be binding on either party. This Agreement shall settle the proceedings in Commission Docket Number 16-CONS-4056-CPEN.

A. Background

1. The June 9, 2016, Penalty Order in this docket required Operator to pay \$3,000 for three violations of K.A.R. 82-3-400. Operator filed a timely appeal.
2. Operator reports that it submitted erroneous data regarding the wells at issue. Operator has submitted updated Annual Fluid Injection Reports ("U3C").
3. Staff notes that it inadvertently recommended a duplicative penalty in this docket regarding the Stroud A #2-D well. Staff's recommendation should have been for the assessment of a \$2,000 penalty and for the finding of two violations of Commission regulations. Given the duplicative penalty and Operator's clerical error, Staff recommends that the penalty in this docket should be reduced to \$1,000.

B. Terms of Settlement

4. Instead of paying \$3,000, Operator shall pay \$1,000 in this docket, which shall be due within 30 days from the date this Agreement is approved by an Order of the Commission.
5. The Commission shall find Operator committed two violations of K.A.R. 82-3-409, rather than three violations of K.A.R. 82-3-400.
6. If Operator fails to comply with the payment deadline, then Staff shall suspend Operator's license until compliance is obtained. If Staff suspends Operator's license, then Staff shall send its standard notice of license suspension letter to Operator. If Staff finds Operator

conducting oil and gas operations after 10 days from the date of the notice of license suspension letter, and Operator's license is still suspended, then Staff is authorized to seal all of Operator's oil and gas operations and to assess an additional \$5,000.

7. Operator agrees to waive its right to appeal the Commission's Order approving this Agreement, any penalties assessed under this Agreement, and any suspension of Operator's license implemented due to Operator's failure to comply with this Agreement.

Commission Staff

Edward E. Birk

By: Jon Myers

By: Edward E. Birk

Printed Name: JON MYERS

Printed Name: Edward E Birk

Title: LITIGATION COUNSEL

Title: _____

Date: 8/24/16

Date: 08/24/2016

CERTIFICATE OF SERVICE

I certify that on September 13, 2016, 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:

Edward E. Birk
302 S. 16th Street
Burlington, KS 66839-2329

And delivered electronically to:

Jonathan R. Myers
Rene Stucky
KCC Central Office

/s/ Cynthia K. Maine
Cynthia K. Maine
Administrative Assistant
Kansas Corporation Commission