

Conservation Division  
Finney State Office Building  
130 S. Market, Rm. 2078  
Wichita, KS 67202-3802



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

Mark Sievers, Chairman  
Thomas E. Wright, Commissioner  
Shari Feist Albrecht, Commissioner

Sam Brownback, Governor

## **NOTICE OF PENALTY ASSESSMENT**

### **14-CONS-027-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 the fine amount. 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 130 S. Market St., Room 2078, 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's Executive Director at 130 S. Market, Room 2078, 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:                      Mark Sievers, Chairman  
                                                      Thomas E. Wright  
                                                      Shari Feist Albrecht

In the matter of the failure of Dwaine Grubb	)	Docket No.: 14-CONS-027-CPEN
to comply with K.A.R. 82-3-103, K.A.R. 82-	)	
3-120 and K.A.R. 82-3-600 at the Haska #3	)	CONSERVATION DIVISION
well in Ellsworth County, Kansas.	)	
<hr/>		License No.: Unlicensed

**ORDER**

Upon its own motion, the Commission finds and concludes Dwaine Grubb ("the Operator") has committed one violation of K.A.R. 82-3-103, one violation of K.A.R. 82-3-120, and one violation of K.A.R. 82-3-600 for the following reasons:

**I. BACKGROUND**

1. Commission records indicate the Operator is not licensed to conduct oil and gas activities in Kansas under K.S.A. 55-155.
2. This Order addresses events at the Haska #3 well ("the subject well"), API #15-053-00624-00-00, located in the Southeast Quarter of Section 5, Township 16 South, Range 10 West, Ellsworth County, Kansas.

**II. JURISDICTION**

3. 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.
4. K.S.A. 74-623 provides that the Commission has the exclusive jurisdiction and authority to regulate oil and gas activities.

5. 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.

6. K.S.A. 55-150 provides, in part, that “operator” means a person who is responsible for the physical operation and control of a well.

7. K.A.R. 82-3-101(a)(70) defines “spud date” as the date of first actual penetration of the earth with a drilling bit.

8. K.A.R. 82-3-103(d) provides that drilling before receiving Commission approval or drilling without an approved notice of intent to drill posted on the drilling rig shall be punishable by a penalty \$1,000 penalty.

9. K.A.R. 82-3-120(a)(1) provides, in part, that no operator or contractor shall drill, complete, service, plug, or operate any oil or gas well without first obtaining or renewing an operator license.

10. K.A.R. 82-3-120(k) provides that the failure to obtain or renew an operator license before operating shall be punishable by a \$500 penalty.

11. K.A.R. 82-3-600(a) provides that pits shall not be used to contain fluids resulting from oil and gas activities until approved by the Commission. Use of a pit without a permit shall be punishable by a \$500 penalty.

### **III. STAFF’S STATEMENT OF FACTS**

12. Commission records indicate the subject well was plugged at least 30 years ago.

13. On October 30, 2012, Commission District #2 Staff conducted a routine lease inspection and found an unlicensed workover rig on the subject well. Staff noted that there was

tubing in the wellbore, equipped with a power swivel and a mud pump. Older drilled-out cement was present beside the well. No workers were present. Staff took photographs of the well, the rig, the drilled-out cement, and a pit that contained fluids.

14. On November 1, 2012, District #2 Staff conducted a follow-up inspection and noted that there was an old Army-truck tank-wagon near the well. Staff went to a nearby homestead to investigate. At the homestead, Dwaine Grubb introduced himself to Staff as the landowner. Mr. Grubb said the rig belonged to a local. Staff asked if the rig was Larry Dolechek's, and Mr. Grubb said that it was. Staff drove down the road and saw Mr. Dolechek at a nearby lease. Staff asked Mr. Dolechek if the rig at the subject well was his. Mr. Dolechek said no. Staff stated that Mr. Grubb had said Mr. Dolechek owned the rig. Mr. Dolechek then admitted it was his rig. Staff stated that Mr. Dolechek would need to file an intent to drill form for the well and would need to renew the tag on his rig.

15. On November 26, 2012, District #2 Staff conducted a follow-up inspection and took photographs of the subject well site. The pit and drilled-out cement were still on site.

16. On February 5, 2013, District #2 Staff sent a letter to Mr. Grubb regarding the subject well. The letter stated Mr. Grubb needed to obtain a license, have a licensed operator take over the well, or plug the well. The letter gave Mr. Grubb a 20-day deadline.

17. On February 11, 2013, District #2 Staff spoke via telephone with Mr. Grubb regarding the subject well. Mr. Grubb stated that he was either going to obtain an operator's license or attempt to have a licensed operator take over the well.

18. To date, Mr. Grubb has not obtained an operator's license, the subject well has not been transferred to a licensed operator, and the well remains unplugged.

#### IV. CONCLUSIONS OF LAW

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

20. The above findings of fact demonstrate that the Operator committed one violation of K.A.R. 82-3-103, one violation of K.A.R. 82-3-120, and one violation of K.A.R. 82-3-600, because the Operator failed to obtain Commission approval of an intent to drill before spudding the subject well, drilled a well without an operator's license, and used a pit without a permit.

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

- A. The Operator shall pay a \$2,000 penalty.
- B. The Operator shall plug the subject well and close the pit. Compliance shall be obtained within 30 days of service of this Penalty Order.
- C. Pursuant to K.S.A. 55-164, K.S.A. 77-537, and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Commission's Executive Director, at 130 S. Market, Room 2078, Wichita, Kansas 67202, within 30 days from the date of service of this Penalty Order. If service is by mail, three days will be added to the Mailed Date listed at the end of this Penalty Order. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of the Operator's right to a hearing, and this Penalty Order will become a Final Order.
- D. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. A corporation or similar entity shall not be permitted to enter an appearance except by its attorney.

E. If you do not request a hearing, the payment of the monetary penalty is due within 30 days from the date of service of this Order. 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 130 S. Market, Wichita, Kansas 67202. The payment shall include a reference to the docket number of this proceeding.

F. Failure to pay any assessed monetary penalty within 30 days of service of this Penalty Order, and/or failure to comply with the provisions of this Order, may result in suspension of the Operator's oil and gas operating license without further notice. In addition, the Commission may impose further sanctions, including additional monetary penalties and any other remedies available to the Commission by law, without further notice.

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.**

Sievers, Chmn.; Wright, Com.; Albrecht, Com.

Dated: JUL 18 2013



Executive Director

Mailed Date: 7-19-2013

LRP

I CERTIFY THE ORIGINAL  
COPY IS ON FILE WITH  
The State Corporation Commission

JUL 18 2013



**CERTIFICATE OF SERVICE**

I certify that on 7-19-2013, 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:

Dwaine Grubb  
1366 3<sup>rd</sup> Road  
Holyrood, Kansas 67450-9007

Dan Fox  
KCC District #2

And delivered by hand to:

Steve Bond  
Conservation Division Central Office

Jonelle Rains  
Conservation Division Central Office

/s/ Lane R. Palmateer  
Lane R. Palmateer  
Litigation Counsel  
Kansas Corporation Commission