

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

In the matter of the failure of Tailwater, Inc.     )  
("Operator") to comply with K.A.R. 82-3-407     )  
at the Finkenbinder #6-IW in Anderson     )  
County, Kansas.     )  
\_\_\_\_\_ ) License No. 32461

**MOTION TO APPROVE SETTLEMENT AGREEMENT**

Staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission", respectively) hereby files this Motion to Approve Settlement Agreement. In support of its Motion, Staff states as follows:

1. On March 5, 2020, the Commission issued a *Penalty Order* against Operator for one violation of K.A.R. 82-3-407 because Operator failed to conduct a current and successful MIT on the Finkenbinder #6-IW ("Subject Well"), API #15-003-24743.<sup>1</sup> The Penalty Order assessed a \$1,000 penalty, and directed Operator to conduct a successful MIT on the Subject Well or plug the well.<sup>2</sup>

2. On April 6, 2020, Operator filed a Request for Hearing, wherein its representative noted Operator was notified to bring the Subject Well into compliance by February 6, 2020, but that weather conditions contributed to the delay.<sup>3</sup>

3. On May 20, 2020, the Subject Well was plugged.

4. On August 27, 2020, a Prehearing Officer Order Setting Evidentiary Hearing was issued and a hearing was scheduled for Wednesday, September 30, 2020, at 2:00 p.m.<sup>4</sup> Subsequent to the hearing being set, Staff and Operator discussed resolution of the underlying issues in this

<sup>1</sup> *Penalty Order*, ¶¶ 8, 13 (Mar. 5, 2020).

<sup>2</sup> *Id.* at Ordering Clause A, B.

<sup>3</sup> Request for Hearing (Apr. 6, 2020).

<sup>4</sup> Prehearing Officer Order Setting Evidentiary Hearing (Aug. 27, 2020).

docket, and reached a settlement in this matter. The settlement has been reduced to writing and is attached hereto as **Attachment A**, and incorporated herein by reference (“Agreement”).

5. The Agreement requires Operator to pay the penalty of \$1,000 by making scheduled payments by October 31, 2020, November 30, 2020, and January 5, 2021. Failure to pay the scheduled deadlines as described in the Agreement shall result in the immediate suspension of Operator’s license and full remaining balance becoming due. Staff believes the Agreement constitutes a reasonable resolution of all issues in this docket. Further the Agreement will allow Staff and Operator to avoid potential litigation costs, and it should foster administrative efficiency.

WHEREFORE, Staff respectfully requests the Commission grant this motion, thereby approving the Settlement Agreement attached hereto as Attachment A.

Respectfully submitted,

/s/ Kelcey A. Marsh  
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SEP 29 2020

CONSERVATION DIVISION  
WICHITA, KS

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

In the matter of the failure of Tailwater, Inc.	)	Docket No.: 20-CONS-3234-CPEN
("Operator") to comply with K.A.R. 82-3-407	)	
at the Finkenbinder #6-IW in Anderson	)	CONSERVATION DIVISION
County, Kansas.	)	
_____	)	License No.: 32461

**SETTLEMENT AGREEMENT**

This Settlement Agreement (Agreement) is entered into by and between the Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) and Operator (collectively referred to herein as the Parties). The effective date of this Agreement will be the date the Commission enters an order approving or amending the terms of the Agreement.

**I. BACKGROUND**

1. On March 5, 2020, the Commission issued a Penalty Order against Operator for one violation of K.A.R. 82-3-407 because Operator failed to conduct a current and successful MIT on the Finkenbinder #6-IW (Subject Well), API #15-003-24743. The Penalty Order assessed a \$1,000 penalty, and directed Operator to conduct a successful MIT on the Subject Well or plug the well.

2. On April 6, 2020, Operator timely filed a request for hearing, wherein its representative noted Operator was notified to bring the Subject Well into compliance by February 6, 2020, but that weather conditions contributed to the delay.

3. On May 20, 2020, the Subject Well was plugged.

4. On August 27, 2020, a Prehearing Officer Order Setting Evidentiary Hearing was issued and a Hearing was scheduled for Wednesday, September 30, 2020, at 2:00 p.m. Subsequent to the hearing being set, the Parties discussed resolution of the underlying issues in this docket, and reached a settlement in this matter. As part of the settlement, Staff agreed to reduce the terms

to writing and submit the same for Commission approval. The terms of the settlement are set forth below.

## II. TERMS OF THE SETTLEMENT AGREEMENT

5. The Parties agree that the Commission has jurisdiction and authority over this matter. The Parties also agree that adoption of this Agreement is in the public interest and that the Commission should approve the terms as set forth below.

6. Operator stipulates that it committed one violation of K.A.R. 82-3-407.

7. Based on the fact that Operator has plugged the Subject Well, as described above, the Parties agree to seek Commission approval to schedule a payment plan for the \$1,000 monetary penalty imposed in the docket. Operator shall make payments according to the following payment schedule to pay the entire monetary penalty:

- a. \$200 shall be due by October 31, 2020.
- b. An additional \$200 shall be due by November 30, 2020.
- c. An additional \$600 shall be due by January 5, 2021.

8. Failure to meet any deadline shall result in the full remaining balance becoming immediately due.

9. Staff agrees that upon approval by the Commission, and barring default proceedings pursuant to K.S.A. 77-520, this Agreement shall constitute a final resolution of this matter.

10. Failure to timely pay shall result in the immediate suspension of Operator's license. Operator agrees and understands that if its license is suspended for the failure to meet the deadlines above, the license shall remain suspended until a total of \$1,000 in monetary penalties has been paid in this docket.



### III. RESERVATIONS

11. This Settlement Agreement fully resolves the issues specifically addressed between the Parties in this docket. The terms of this Agreement constitute a fair and reasonable resolution of the issues addressed herein.

12. The terms and provisions of this Agreement have resulted from negotiations between the Parties and are interdependent. In the event the Commission does not approve the terms of the Agreement in total, any Party has the option to terminate this Agreement.

13. Unless otherwise specified in this Agreement, the Parties shall not be prejudiced, bound by, or affected in any way by the terms of this Agreement: (1) in any future Commission or court proceeding; (2) in any proceeding currently pending before the Commission under a separate docket; and/or (3) in this proceeding, even if the Commission decides to not approve this Agreement in total or in any way conditions its approval of the same. This paragraph is not meant to limit future enforcement of this Agreement, should either Party fail to fulfill all terms and provisions.

14. Further this Agreement does not waive any party's legal rights, positions, claims, assertions or arguments in this docket, or any other proceeding before the Commission or in any court.

15. If the Commission approves this Agreement in its entirety and incorporates the same into a final order in this docket, the Parties agree not to appeal the Commission's order.

16. This Agreement shall be binding on all Parties upon signing.

ATTACHMENT A

IN WITNESS WHERETO, the Parties hereby execute and approve this Settlement Agreement by subscribing their signatures below.

Commission Staff

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

*Kelcey Marsh*

*Kelcey Marsh*

*Litigation Counsel*

*9/29/2020*

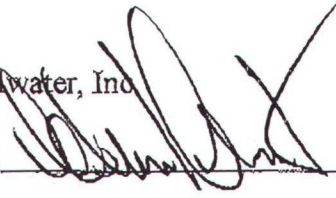
Tailwater, Inc.

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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



*CHRISTIAN L. MARTIN*

*CEO*

*9/29/20*

## **CERTIFICATE OF SERVICE**

20-CONS-3234-CPEN

I, the undersigned, certify that a true copy of the attached Motion to Approve Settlement Agreement has been served to the following by means of electronic service on September 30, 2020.

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/S/ Paula J. Murray  
\_\_\_\_\_  
Paula J. Murray