

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

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

In the matter of the failure of Butler)	Docket No: 17-CONS-3442-CPEN
Petroleum LLC ("Operator") to comply with)	
K.A.R. 82-3-407 at the Voights #20 A, Burks)	CONSERVATION DIVISION
#1 W, Andenberg-Skaggs #2-W and)	
Andenberg-Skaggs #1-W in Johnson County,)	License No. 34869
Kansas.)	

ORDER RESCINDING DEFAULT ORDER AND AMENDED DEFAULT ORDER

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds and concludes as follows:

I. Jurisdiction

1. K.S.A. 77-520 provides that if a party fails to attend any stage of an adjudicative proceeding, the agency may issue a default order with a statement of the grounds. The party has seven days to file a written motion to vacate, which shall state the grounds relied upon.

II. Findings of Fact

2. On January 19, 2017, the Commission issued a *Penalty Order* which stated the Operator is responsible for the care and control of the following wells, all located in Johnson County, Kansas:

- a. Voights #20 A, API #15-091-21264-00-01, Underground Injection Control Permit #E-24435, located in Section 8, Township 14 South, Range 22 East;
- b. Burks #1 W, API #15-091-22145-00-00, Underground Injection Control Permit #E-26033, located in Section 27, Township 14 South, Range 22 East;
- c. Andenberg-Skaggs #2-W, API #15-091-22363-00-01, Underground Injection Control Permit #E-29007, located in Section 32, Township 14 South, Range 22 East; and

- d. Andenberg-Skaggs #1-W, API #15-091-22364-00-01, Underground Injection Control Permit #E-29007, located in Section 32, Township 14 South, Range 22 East.¹

3. Staff determined the subject wells have not been successfully tested for mechanical integrity as required by K.A.R. 82-3-407; Notice of Violation letters were sent to the Operator by Staff, requiring Operator to bring the subject wells into compliance with K.A.R. 82-3-407 by a specified deadline; and Staff collected evidence and submitted it to the Legal Department to recommend the issuance of the *Penalty Order*.²

4. On February 17, 2017, the Operator filed a letter requesting a hearing.³

5. On March 16, 2017, the Commission issued an *Order Designating Prehearing Officer and Setting Prehearing Conference* requiring Operator's attendance at an April 6, 2017, Prehearing Conference in anticipation of an evidentiary hearing.

6. On April 6, 2017, the Prehearing Conference was held. Operator failed to attend, and Staff verbally moved that the Commission issue a Default Order.

7. On April 25, 2017, the Commission issued a *Default Order* in this proceeding. The *Default Order* contained several errors and omissions, particularly in Paragraphs 2-3, 7 and Ordering Clauses A-D. Therefore, the Commission rescinds its *Default Order* and issues this *Amended Default Order*.

III. Conclusions of Law

8. Pursuant to K.S.A. 77-520(a), the Commission finds Operator's failure to attend the Prehearing Conference constitutes default. Staff's verbal motion for a Default Order should be granted. The Commission also finds that Operator's request for a hearing to contest the

¹ Docket No. 17-CONS-3442-CPEN, *Penalty Order*, ¶ 8 (Jan. 19, 2017).

² *Id.*, ¶¶ 9-11.

³ Letter Requesting Hearing (Feb. 17, 2017).

Penalty Order in this docket, and subsequent failure to appear at the Prehearing Conference, affirms the *Penalty Order's* findings against Operator as issued.

THEREFORE, THE COMMISSION ORDERS:

A. Staff's verbal motion for a Default Order is granted, and the findings of the Commission's January 19, 2017, *Penalty Order* issued in this docket are affirmed.

B. Pursuant to K.S.A. 77-520(b), any party may file a written motion requesting that this Default Order be vacated and stating the grounds relied upon, within seven calendar days after service of this Order, with three additional days added to account for service by mail.

C. If a motion to vacate is not filed by the deadline, any party may then file a petition for reconsideration within 15 days.⁴ The petition shall be addressed to the Commission and sent to 266 N. Main, Suite 220, Wichita, Kansas 67202. Reconsideration is a prerequisite for judicial review.

D. The Commission retains jurisdiction over the subject matter and the parties and may enter additional orders as it deems appropriate.

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: APR 27 2017



Amy L. Green
Secretary to the Commission

Mailed Date: April 27, 2017

MJD/sc

⁴ See K.S.A. 77-529(a).

CERTIFICATE OF SERVICE

I certify that on 4/27/17, 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:

Brad Butler
Butler Petroleum LLC
PO Box 1385
Van Alstyne, TX 75495

and delivered by e-mail to:

John Almond
KCC District #3

Rene Stucky
KCC Central Office

Jonathan R. Myers, Litigation Counsel
KCC Wichita Central Office

Michael J. Duenes, Assistant General Counsel
KCC Topeka Office

/s/ Paula J. Murray
Paula J. Murray
Legal Assistant
Kansas Corporation Commission