

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

In the matter of resolving various regulatory)	Docket Nos: 21-CONS-3193-CPEN
violations associated with Haas Petroleum,)	21-CONS-3201-CPEN
LLC (Operator).)	22-CONS-3031-CPEN
)	22-CONS-3034-CPEN
)	
)	CONSERVATION DIVISION
)	
)	License No: 33640

In the matter of the application of Haas)	Docket No: 22-CONS-3099-CMSC
Petroleum, LLC (Operator) for an Operator's)	
License Renewal.)	CONSERVATION DIVISION
)	
)	License No: 33640

FINAL ORDER

This order resolves multiple dockets. Four are penalty matters, the other is a licensing matter. In the four penalty dockets, the Commission issued penalty orders finding Operator in violation of K.A.R. 82-3-407 at thirty-two wells and in violation of K.A.R. 82-3-111 at seventy-seven wells. Penalties totaling \$144,000 were assessed for the K.A.R. 82-3-407 violations; a penalty of \$7,700 was assessed for the K.A.R. 82-3-111 violations. In the licensing matter, Operator seeks renewal of its oil and gas operator's license. For the reasons described below, this order affirms the penalty orders and denies Operator's license renewal application.

I. Procedural Background & Jurisdiction

1. There are five dockets at issue in these proceedings:
 - a. Docket 21-3193. On March 16, 2021, the Commission issued a Penalty Order finding four violations of K.A.R. 82-3-407 and assessing a \$4,000 penalty.
 - b. Docket 21-3201. On April 27, 2021, the Commission issued a Penalty Order finding eighteen violations of K.A.R. 82-3-407 and assessing a \$90,000 penalty.

- c. Docket 22-3031. On August 3, 2021, the Commission issued a Penalty Order finding ten violations of K.A.R. 82-3-407 and assessing a \$50,000 penalty.
 - d. Docket 22-3034. On August 3, 2021, the Commission issued a Penalty Order finding seventy-seven violations of K.A.R. 82-3-111 and assessing a \$7,700 penalty.
 - e. Docket 22-3099. On August 25, 2021, Commission Staff motioned for the designation of a presiding officer regarding Operator's pending July 1, 2021, license renewal application, resulting in the docket being opened to consider the application.
2. Operator timely requested hearings on the penalty matters. On August 10, 2021, the penalty matters were consolidated for a hearing on a common record. Commission Staff and Operator submitted pre-filed testimony on the penalty matters between November 8, 2021, and January 7, 2022.
 3. Meanwhile, on December 20, 2022, Staff submitted its pre-filed direct testimony in the licensing matter. On February 10, 2022, Operator motioned for the licensing matter to be consolidated with the penalty dockets, and for Operator to have until July 29, 2022, to submit its pre-filed direct and rebuttal testimony in the licensing matter. On March 10, 2022, the motion was granted.
 4. On July 29, 2022, Operator submitted its pre-filed testimony in the licensing matter; on September 16, 2022, Staff submitted its pre-filed rebuttal testimony in the licensing matter.
 5. On October 6, 2022, the Commission held its evidentiary hearing. Commission Staff was represented by its Litigation Counsel Kelcey Marsh; Operator was represented by Keith Brock of Anderson & Byrd, L.L.P.¹ Parties acknowledge notice was proper.²
 6. At hearing, the Commission heard and accepted testimony from the following Staff witnesses, each of whom had previously submitted pre-filed testimony: Commission District #3

¹ See K.A.R. 82-1-232(a)(2); Tr. 2:21 to 3:3.

² Tr. 3:4 to 4:1.

Supervisor Troy Russell, and Commission District #3 employees Duane Sims, Rodney Breeze, Taylor Herman, Dallas Logan, Keith Carswell, and Ryan Duling.

7. Further, the Commission heard and accepted testimony from Operator witness Rhonda Epps, president and chief executive officer of Operator, who likewise submitted pre-filed testimony. In addition, upon Operator's motion, the Commission allowed Epps to adopt the pre-filed testimony of Mark Haas as her own.³ Operator witness Barber did not testify, and her pre-filed testimony was not admitted into the record.⁴

8. Under K.S.A. 74-623, the Commission has exclusive jurisdiction and authority to regulate oil and gas activities. Further, the Commission has licensing authority under K.S.A. 55-155. No party contests, and Commission records indicate, that Operator was a Commission-licensed operator pursuant to K.S.A. 55-155, seeking a license renewal, and that the wells at issue exist for the production of hydrocarbons. Accordingly, the Commission has jurisdiction over these matters.

II. Findings of Fact and Conclusions of Law

Penalty Matters, K.A.R. 82-3-407 (Dockets 21-3193, 21-3201, and 22-3031)

9. To begin, it is important to outline the nature of these violations. Under K.A.R. 82-3-407, each injection well must be maintained in a manner that will: (1) prevent pollution of fresh and usable water, (2) prevent damage to sources of oil or gas, and (3) confine fluids to the intervals approved for injection.⁵ Accordingly, an injection well's mechanical integrity must be established through testing at least once every five years.⁶

10. In Docket 21-3193, the Commission found Operator failed to demonstrate mechanical integrity at four wells. In Dockets 21-3201 and 22-3031, the Commission found something more –

³ Tr. 5:2 to 9:8.

⁴ Tr. 310:14-24.

⁵ See K.A.R. 82-3-407.

⁶ See *id.*

that at an additional twenty-eight wells, Operator had not only failed to demonstrate mechanical integrity, but had altered its wells in a manner that had provided false mechanical integrity results. The orders found, essentially, that Operator was purposely, falsely reporting wells as having mechanical integrity. It is somewhat difficult to overstate the seriousness of this offense; Operator itself characterizes the violations as horrendous, disappointing, disgusting, egregious, and embarrassing.⁷ In all three dockets, in addition to the monetary penalties, the Commission directed Operator to plug the wells or perform (accurate) successful mechanical integrity tests upon them.

11. Operator admits to the violations and admits that penalties are warranted.⁸ What Operator seeks is a reduction of the total penalty. Generally, Operator alleges that it has made significant progress toward bringing its wells into compliance with Commission regulations and that it is a dramatically different company than it was at the time of the violations.⁹ The Commission is not persuaded by Operator's arguments. In regard to bringing its wells into compliance with Commission regulations, Operator admits that at least eleven of the thirty-two wells found in violation of K.A.R. 82-3-407 are still out of compliance, well over a year after the penalty orders were issued.¹⁰ Staff posits even more of the thirty-two wells are still in violation.¹¹ Regardless, Operator has not resolved the admitted violations that initiated these matters. That Operator has met some of its

⁷ See Tr. 240:1-12; 255:2-12 (Epps testifying).

⁸ See, e.g., Pre-Filed [Penalty Dockets] Testimony of Epps, 12:231-234 ("Haas Petroleum recognizes the error of its ways...Haas Petroleum is not contending that penalties are not warranted.") (Dec. 10, 2021); Pre-Filed [License Docket] Testimony of Epps, 13:1-5 "Haas Petroleum takes full responsibility for what transpired...and acknowledges that penalties are warranted..." (Jul. 29, 2022); Tr. 15: 22-23 ("[E]veryone acknowledges that a penalty is warranted. We're not claiming that it isn't.") (Opening Statement, Operator's counsel).

⁹ See, e.g., Tr. 15:9-10 ("We've laid out a lot of steps that have been taken by Haas since...those events occurred.") (Opening Statement, Operator's counsel); Tr. 311:17-21 ("We're, in essence, arguing against the death penalty. We're asking for an opportunity of redemption...We've tried to lay out the steps that Haas Petroleum has taken to change the methods of its operation...") (Closing Statement, Operator's counsel).

¹⁰ See, e.g., Tr. 184:8 to 187:12 (Epps testifying).

¹¹ See, e.g., Tr. 187:5-7 (Staff counsel questioning regarding Docket 22-3031).

regulatory obligations, many of which it was explicitly ordered to meet over a year ago after purposely falsifying information, is not adequate grounds for a reduction in the penalty assessed.¹²

12. In regard to the company being dramatically different, such does not appear to be the case. Mark Haas was president of Operator until May 2022; afterwards his wife, Epps, became president of Operator.¹³ Haas previously owned 100% of Operator; now, Haas owns 49% of Operator and Epps owns 51%.¹⁴ Haas transferring some ownership to his wife, and his wife now being the only senior leadership running day-to-day operations¹⁵ (rather than Haas and his children)¹⁶ – even if true, does not exactly constitute a clean break from the past, and certainly not “enormous changes in the company structure.”¹⁷ Epps has worked for Operator since 2019.¹⁸ Randy Bishop, the Operator employee who apparently cut into pieces some of the equipment used to falsify the mechanical integrity tests and disposed of it into the Verdigris River,¹⁹ is still employed by Operator.²⁰ Julie Barber, who “did do the compliance...mainly from a paperwork administrative support position,” is still employed by Operator.²¹ There is little indication that much has changed.²²

13. Further, in some major respects, Epps did not come across as a particularly credible witness. Her answers under examination were repeatedly evasive. And despite Operator’s small

¹² See also, e.g., KCC Docket 22-3202, Final Order, ¶ 7 (Jul. 26, 2022) (“The Commission is generally disinclined to credit an operator for doing what it has been explicitly order to do, especially when such orders were required because the operator already failed to satisfy its regulatory obligations.”).

¹³ See, e.g., Tr. 195:8-22 (Epps testifying).

¹⁴ See, e.g., Tr. 201:13-23 (Epps testifying). Epps did not pay anything for the 51% interest. See Tr. 202:5-18.

¹⁵ See Tr. 250:12-15 (Epps testifying).

¹⁶ See Tr. 249:13-21 (Epps testifying).

¹⁷ Tr. 319:2-3 (Closing Statement, Operator’s counsel).

¹⁸ See, e.g., Tr. 247:6-14.

¹⁹ See Tr. 103:8 to 105:16 (Sims testifying); see also Tr. 191:6-24 (Epps testifying) The Commission credits Sims’ testimony.

²⁰ See Tr. 191:6-24; 258:14-17 (Epps testifying).

²¹ See Tr. 249:22 to 250:11 (Epps testifying).

²² The Commission notes the new contract work of long-time Operator employee Griffin, (Tr. 250:23 to 251:15, Epps testifying) the existence of an advisory board (Tr. 197:14 to 198:1, Epps testifying), and other identified changes; the Commission is simply unconvinced these reflect serious changes regarding how Operator operates.

staff,²³ despite Haas being president of the company and then his wife Epps being president, despite various Haas children previously being the only other senior management,²⁴ despite the penalties and license on the line, Epps stated she did not know who within the company was responsible for fabricating the tool used to falsify mechanical integrity tests.²⁵ The Commission believes this to be either false, or deliberate ignorance. If Epps does not know, it speaks poorly to present accountability within Operator's organization for the mechanical integrity violations, and the Commission agrees with Staff witnesses that multiple Operator employees may have been involved in the scheme.²⁶ Since Epps has made no serious effort to identify the perpetrator(s), it is evident Epps has no assurance the perpetrator(s) do not remain employed by Operator.

14. Just as concerning, at the beginning of the hearing, Operator requested that Epps be allowed to incorporate Haas' pre-filed testimony as her own, on the grounds that "Haas is no longer with the company at all"²⁷ and "is not affiliated with Haas Petroleum, and he's not here today either."²⁸ It was not until cross-examination of Epps that it was revealed that Haas and Epps are married, and that Haas still owns 49% of the company. Further, when admitting to her marriage,²⁹ Epps testified she "saw [Haas] this morning actually,"³⁰ and "probably discussed this hearing with him this morning,"³¹ and indicated it was possible he was watching the hearing.³² And when further questioned, the apparent reason Haas was unavailable to testify at the evidentiary hearing, held exclusively via Zoom, was that:

²³ See, e.g., Tr. 269:24 to 270:3 (Epps testifying).

²⁴ See, e.g., Tr. 198:2-15 (Epps testifying).

²⁵ Tr. 278:16-17 ("I do not have an answer for you, sir. I do not know. I do not know that, that answer.").

²⁶ See, e.g., Tr. 69:4-11 (Russell testifying).

²⁷ Tr. 5:8-9 (Operator's counsel speaking).

²⁸ Tr. 5:23-24 (Operator's counsel speaking).

²⁹ Epps was very evasive about this, see, e.g., Tr. 203, 259-261.

³⁰ Tr. 203:2.

³¹ Tr. 203:3-6. The Commission finds it remarkable that Epps was apparently uncertain on this point.

³² See Tr. 261:3-4 ("I hope he's not looking right now.").

Yes. So when I told you that I spoke to him this morning, we have phones. And when I – I think I may have even said I saw him this morning. FaceTime. So, yes. And no, he is – he’s not here on property where I am ... [he’s in Cincinnati] ... [p]robably trying to decompress, probably – yeah. Trying to decompress. So I don’t think it was business in any – it was probably more pleasure... So if I were to guess, he’s probably at a horse farm with a trainer decompressing with some horses.³³

In short, it appears Operator misled the Commission regarding Haas’ availability and interest in the company, resulting in Haas’ pre-filed testimony being admitted into the record but denying Staff and the Commission the ability to examine Haas. Such deception is reminiscent of Operator’s falsification of the mechanical integrity tests, not of a dramatically different company seeking “an opportunity for redemption.”^{34, 35}

Penalty Matters, K.A.R. 82-3-111 (Docket 22-3034)

15. Under K.A.R. 82-3-111, within ninety days after operations cease on any well, the operator of that well shall plug the well, return the well to service, or file an application with the Conservation Division requesting temporary abandonment status.³⁶ If a well is not plugged or returned to service, the operator must obtain temporary abandonment approval; such status may be denied by the Conservation Division if necessary to prevent pollution.³⁷

16. In Docket 22-3034, the Commission found Operator in violation of K.A.R. 82-3-111 at seventy-seven wells, directed Operator, essentially, to bring the wells into compliance with K.A.R.

³³ Tr. 264:18 to 265:10.

³⁴ See Tr. 311:18-19 (Closing Statement, Operator’s counsel); *see also* Pre-Filed [Penalty Dockets] Testimony of Epps, 12:237.

³⁵ There is one more small matter to dispose of regarding the K.A.R. 82-3-407 violations. In her December 10, 2021, pre-filed testimony on the penalty matters, at page 13, lines 250-252, Epps states “Haas Petroleum had transferred the Switzer #W4 Well, API No 15-207-19817 before such well failed its mechanical integrity test and was not responsible for the care and control of such well at the time that applicable regulatory violation occurred.” Operator makes no other specific reference to the well in the record; Operator does not indicate when it purports to have transferred the well, or when the well failed its mechanical integrity test. Regardless, the Commission credits Sims’ testimony (Pre-Filed [Penalty Dockets] Testimony of Sims, 12:4-15 (Nov. 8, 2021)) that on May 6, 2021, Operator reported a pre-test mechanical integrity failure at the well (which indicates claimed ownership of the well), finds the evidence indicates that more likely than not, Operator falsified the mechanical integrity test it conducted on the well in 2016 – which would be when the K.A.R. 82-3-407 violation initially occurred – and that the Penalty Order in Docket 22-3031 appropriately found a violation at that well.

³⁶ K.A.R. 82-3-111(a).

³⁷ See K.A.R. 82-3-111(b), (c).

82-3-111, and assessed a \$7,700 penalty. Here again Operator admits to the violations.³⁸ But Operator complains that Commission Staff was apparently unwilling to work out a compliance agreement or settlement agreement with Operator, which, if approved by the Commission, could have theoretically given Operator more time to bring the seventy-seven wells into compliance.³⁹

17. The Commission is not persuaded such arguments merit revision of the Penalty Order in this docket. Staff has no obligation to offer operators a mechanism by which to delay regulatory requirements; nor does the record indicate Operator has been treated differently than other operators in regard to the K.A.R. 82-3-111 violations.⁴⁰ Obviously – although the record does not demonstrate such – the Commission has approved some compliance agreements or settlement agreements in other dockets. It is just as obvious that the Commission has issued penalties for violations of K.A.R. 82-3-111 in other dockets, with no compliance agreement or settlement agreement forthcoming. In other words, the record simply does not support the proposition that Operator is being treated uniquely or unfairly in this matter; and if anything; the record in the K.A.R. 82-3-407 dockets herein indicates Operator can be distinguished from other operators for recently falsifying data, however earnestly Operator may now seek to remedy matters.

License Matter (Docket 22-3099)

18. Under K.S.A. 55-155(c), in order to obtain approval of a license or license renewal, the applicant must “demonstrate to the commission’s satisfaction” that the applicant complies “with

³⁸ See, e.g., Pre-Filed [Penalty Docket] Testimony of Haas, 19:367-372 (Dec. 10, 2021) (“If KCC staff had simply responded...that Haas Petroleum needed to go ahead and comply...Haas Petroleum would have shifted its efforts back to complying”).

³⁹ See, e.g., Tr. 16:13 to 17:8 (Opening Statement, Operator’s counsel); Tr. 312:25 to 314:1 (Closing Statement, Operator’s counsel); Pre-Filed [Penalty Dockets] Testimony of Haas, 19:373 to 20:416 (Dec. 10, 2021).

⁴⁰ Ironically, in Haas’ pre-filed testimony, he characterizes the situation as Staff having “blacklisted” Operator and used its “historical weapon” of a “continual barrage of notice of violations and penalties.” See Pre-Filed [Penalty Dockets] Testimony of Haas, 18:359 to 19:360. In other words, Haas alleges Staff’s actions were consistent with what it has done historically, which cuts against Operator’s argument. To be clear, the evidence does not support Haas’ characterization.

all requirements of Chapter 55 of the Kansas Statutes Annotated, and amendments thereto, all rules and regulations adopted thereunder and all commission order and enforcement agreements.”⁴¹

19. In Epps’ pre-filed testimony, she posits, without evidence, that:

The Commission has consistently interpreted [K.S.A. 55-155] to mean that an operator has not been determined to violate any such rules or laws by a final Commission order after affording the applicant due process of law. The Commission issues numerous penalty orders each year, and I have never seen the Commission deny an operator’s application for renewal of its operator license while the operator’s request for hearing is pending. It is only once a final order is issued on the operator’s request for hearing and the operator fails to comply with said order within the time period prescribed therein that the Commission suspends/refuses to renew such operator’s license.⁴²

20. The Commission notes Epps has limited Kansas oil and gas experience and seems unqualified to opine on past Commission practice.⁴³ The Commission need not untangle the implications of such matters because at hearing Epps testified as follows:

Q: So after acknowledging all the violations that we’ve discussed previously this afternoon...are you still trying to claim that Haas is in compliance with all the requirements of Chapter 55 of the Kansas statutes annotated, all rules and regulations adopted thereunder, and the Commission penalty orders in these...dockets?

A. Well, I – no. What I’m saying is that there’s certainly still wells that we are working on, actively working on, to bring those into compliance. That is what I’m saying.

21. In the present matters, Operator has explicitly admitted that at least eleven of its wells are presently in violation of K.A.R. 82-3-407 (and have been for more than a year). The evidence of these violations is overwhelming. Under K.S.A. 55-155, an applicant must demonstrate to the Commission’s satisfaction that the applicant complies with all Commission regulations. Operator has not satisfactorily demonstrated compliance with all Commission regulations. By Operator’s own

⁴¹ See K.S.A. 55-155(c); see also K.A.R. 82-3-120(g).

⁴² Pre-Filed [License Docket] Testimony of Epps, 21:8-20. See also Docket 22-3099, Operator’s Statement Required by Order Requesting More Information (Mar. 18, 2022).

⁴³ See, e.g., Pre-Filed [Penalty Dockets] Testimony of Epps, 2:9-19.

admission, it does not comply – it is not in compliance. By statute, the result is denial of Operator’s license.⁴⁴

THEREFORE, THE COMMISSION ORDERS:

A. The Penalty Orders in Dockets 21-CONS-3193-CPEN, 21-CONS-3201-CPEN, 22-CONS-3031-CPEN and 22-CONS-3034-CPEN are affirmed.⁴⁵

B. Operator’s July 1, 2021, license renewal application, at issue in Docket 22-CONS-3099-CMSC, is denied.

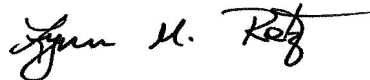
C. Under K.S.A. 55-164(d), the Commission may order an operator to pay any costs and reasonable attorney fees incurred by the Commission in imposing and collecting any penalty. The Commission is not inclined to pursue such costs and fees in these matters.

D. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).⁴⁶

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Duffy, Commissioner; French, Commissioner

Dated: 11/22/2022



Lynn M. Retz
Secretary to the Commission

Mailed Date: 11/22/2022

JRM

⁴⁴ There many disputes in evidence about alleged violations outside those addressed in the penalty orders considered herein, whether Staff should process transfer forms, and other matters. Given the analysis above, it is unnecessary for the Commission to render an opinion on such issues.

⁴⁵ Although Operator’s license has expired upon the denial of its license renewal application, the thirty day deadline described in each of the penalty orders for avoiding the additional consequence of license suspension shall run from the date of this Final Order, and not the date the penalty orders were issued.

⁴⁶ K.S.A. 55-162; K.S.A. 55-606; K.S.A. 55-707; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

21-CONS-3193-CPEN, 21-CONS-3201-CPEN, 22-CONS-3031-CPEN

22-CONS-3034-CPEN, 22-CONS-3099-CMSC

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
11/22/2022
electronic service on _____.

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