

Conservation Division  
266 N. Main St., Ste. 220  
Wichita, KS 67202-1513



2016-11-01 14:49:01  
Kansas Corporation Commission  
/s/ Amy L. Green

Phone: 316-337-6200  
Fax: 316-337-6211  
<http://kcc.ks.gov/>

Jay Scott Emler, Chairman  
Shari Feist Albrecht, Commissioner  
Pat Apple, Commissioner

Sam Brownback, Governor

## NOTICE OF PENALTY ASSESSMENT 17-CONS-3336-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 \$1,000. 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 266 N. Main St., Suite 220, 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, at 266 N. Main St., Suite 220, 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:                      Jay Scott Emler, Chairman  
   Shari Feist Albrecht  
   Pat Apple

In the matter of the failure of Larry	)	Docket No.: 17-CONS-3336-CPEN
McClelland dba McClelland Oil ("Operator")	)	
to comply with K.A.R. 82-3-407 at the Borst	)	CONSERVATION DIVISION
#11 in Greenwood County, Kansas.	)	
<hr/>		License No.: 6980

**PENALTY ORDER**

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:

**I. JURISDICTION**

1. K.S.A. 74-623 provides that the Commission has the exclusive jurisdiction and authority to regulate oil and gas activities. 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. The Commission has licensing authority pursuant to K.S.A. 55-155.

2. 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.

3. K.A.R. 82-3-407(a) provides each injection well shall be completed, equipped, operated, and maintained in a manner that will prevent pollution of fresh and usable water, prevent damage to sources of oil or gas, and confine fluids to the intervals approved for injection.

An injection well shall be considered to have mechanical integrity if there are no significant leaks in the tubing, casing, or packer, and no fluid movement into fresh or usable water. An injection well's mechanical integrity shall be established at least once every five years.

4. K.A.R. 82-3-407(c) provides that the operator of any well failing to demonstrate mechanical integrity shall have no more than 90 days from the date of initial failure to repair and retest the well to demonstrate mechanical integrity, plug the well, or isolate any leaks to demonstrate the well will not pose a threat to fresh or usable water or endanger correlative rights.

5. K.A.R. 82-3-407(d) provides that mechanical failures or other conditions indicating that a well may not be directing injected fluid into the permitted or authorized zone shall be cause to shut in a well, and that the operator shall orally notify the Conservation Division of any failures or conditions within 24 hours of knowledge. The operator shall submit written notice of a well failure within five days, with a plan for testing and repairing the well.

6. K.A.R. 82-3-407(g) provides that no injection well shall be operated before passing a mechanical integrity test ("MIT"). Failure to test a well to show mechanical integrity shall be punishable by a \$1,000 penalty, and the well shall be shut-in until the test is passed.

## **II. FINDINGS OF FACT**

7. Operator conducts oil and gas activities in Kansas under license number 6980.

8. Operator is responsible for the care and control of the Borst #11 ("the subject well"), API #15-073-22883-00-00, Underground Injection Control Permit #D-22152, located in Section 23, Township 26 South, Range 9 East, Greenwood County, Kansas.

9. District Staff determined that the subject well has not been successfully tested for mechanical integrity as required by K.A.R. 82-3-407.

10. District Staff sent a Notice of Violation letter to the Operator, requiring the Operator to bring the subject well into compliance with K.A.R. 82-3-407 by a specified deadline.

11. District Staff collected evidence and submitted it to the Legal Department with a recommendation that the Commission issue this Order. The recommendation sheet submitted by District Staff is attached to this Order as Exhibit A, incorporated into this Order, and shall serve as the concise and explicit statement of facts required by K.S.A. 77-526.

### **III. CONCLUSIONS OF LAW**

12. The Commission concludes that it has jurisdiction over Operator and this matter under K.S.A. 55-152 and K.S.A. 74-623.

13. The above findings of fact are sufficient evidence to support the conclusion that Operator committed one violation of K.A.R. 82-3-407 because a current, successful MIT has not been performed on the subject well.

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

- A. Operator shall pay a \$1,000 penalty.
- B. Operator shall perform a successful MIT on the Borst #11 or plug the well.
- C. Operator shall shut-in and disconnect the Borst #11 until such time as a successful MIT has been performed.
- D. If no party requests a hearing, and Operator is not in compliance with this Order within 30 days, then Operator's license shall be suspended without further notice. The notice and opportunity for a hearing on this order shall constitute the notice required by K.S.A. 77-512 regarding license suspension. The Commission may impose further sanctions, including additional monetary penalties and any other remedies available to the Commission by law, without further notice.

E. 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 266 N. Main St., Suite 220, Wichita, Kansas 67202. The payment must include a reference to the docket number of this proceeding.

F. Any party may request a hearing on the above issues by submitting a written request, pursuant to K.S.A. 55-164, K.S.A. 77-537, and K.S.A. 77-542, setting forth the specific grounds upon which relief is sought, to the Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202, within 30 days from the date of service of this Order. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Operator's right to a hearing.

G. If a party requests a hearing, a corporation or similar entity shall not be permitted to enter an appearance except by its attorney. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record.

H. 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: NOV 01 2016

  
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Amy L. Green  
Secretary to the Commission


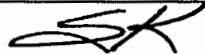
Mailed Date: November 1, 2016

JRM

## **PENALTY ORDER RECOMMENDATION**

### **\*\*\*ROUTINE MECHANICAL INTEGRITY TEST VIOLATION\*\*\***

*Note: this sheet will be attached to the Order that is mailed to the operator.*

<b>Date of Recommendation:</b>	10/25/2016
<b>District/Department:</b>	District #3
<b>Person Recommending Penalty:</b>	John Almond, Compliance Officer 
<b>Operator Name:</b>	McClelland, Larry
<b>Operator License Number:</b>	6980
<b>Well/Lease Name &amp; Well Number:</b>	BORST #11
<b>Well/Lease Location, and County:</b>	Sec. 23-26S-9E, GREENWOOD County
<b>Well API Number:</b>	15-073-22883-00-00
<b>UIC Docket Number:</b>	D-22152.0
<b>Regulation Number:</b>	82-3-407
<b>Description of Violation:</b>	Failure to conduct successful MIT
<b>Date Reminder Letter Sent:</b>	N/A
<b>MIT Due Date:</b>	N/A
<b>Date NOV letter Sent, and Deadline:</b>	N/A
<b>Extension Requested in Writing?</b>	NO
<b>Extended Compliance Deadline, if Extension was Granted:</b>	N/A
<b>Failed MIT Date:</b>	7/14/2016
<b>Date Repair or Plug Letter Sent, and Deadline:</b>	8/25/2016 letter sent with deadline of 10/12/2016
<b>Requested Monetary Penalty:</b>	\$1,000
<b>Requested Operator Activity:</b>	Conduct successful MIT. Shut-in and disconnect well until successful MIT has been performed.
<b>Supervisor Initials</b>	SK 

**CERTIFICATE OF SERVICE**

I certify that on 11/1/16, 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:

Larry McClelland dba McClelland Oil  
2600 N. Chase  
El Dorado, KS 67042

and delivered by e-mail to:

John Almond  
KCC District #3

Rene Stucky  
KCC Central Office

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