

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



Phone: 316-337-6200  
Fax: 346-337-6211  
<http://kcc.ks.gov/>

Dwight D. Keen, Chair  
Shari Feist Albrecht, Commissioner  
Susan K. Duffy, Commissioner

Laura Kelly, Governor

**NOTICE OF PENALTY ASSESSMENT**  
**20-CONS-3137-CPEN**

November 7, 2019

Jim Byers  
Apollo Energies, Inc.  
10378 N 281 Highway  
Pratt, KS 67124

This is a notice of a penalty assessment for violation(s) 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:**

You have been assessed a \$100 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 and mailed to the Conservation Division of 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. Payment by credit card may be made by calling the Conservation Division at 316-337-6200.

**IF YOU CONTEST THE PENALTY:**

You have the right to request a hearing. A written request for hearing must be made within 30 days after service of the Penalty Order setting forth the specific grounds upon which relief is sought. Respondent must submit the request to the Commission, at 266 N. Main St., Suite 220, Wichita, Kansas 67202. The Commission shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act within 30 days after receipt of such request. K.S.A. 55-164; K.S.A. 77-542; K.A.R. 82-1-215.

**IF YOU FAIL TO ACT:**

Failure to pay the fine amount, or in the alternative, provide a written request for a hearing, within thirty (30) days of service of the Penalty Order, will result in the attached Penalty Order becoming a Final Order and 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. K.S.A. 55-164; K.S.A. 77-537.

Respectfully,

Michael Glamann  
Litigation Counsel  
316-337-6200

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

Before Commissioners:           Dwight D. Keen, Chair  
  Shari Feist Albrecht  
  Susan K. Duffy

In the matter of the failure of Apollo Energies, Inc. (“Operator”) to comply with K.A.R. 82-3-111 at the Noah #1 in Graham County, Kansas.	)	Docket No.: 20-CONS-3137-CPEN
	)	
	)	CONSERVATION DIVISION
	)	
	)	License No.: 30481

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**PENALTY ORDER**

The above captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined the files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

**I. JURISDICTION**

1.       The Commission has the exclusive jurisdiction and authority to regulate oil and gas activities in Kansas.<sup>1</sup> 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.”<sup>2</sup> Every operator conducting oil and gas activity in Kansas must be licensed by the Commission.<sup>3</sup>

2.       The Commission has the authority to issue a Penalty Order for violation of any provision of K.S.A. 55-101 *et seq.*, rule, regulation, or order of the Commission.<sup>4</sup> The Commission shall take appropriate action which may include, but not be limited to, imposing a monetary penalty “not to exceed \$10,000, which shall constitute an actual and substantial

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<sup>1</sup> K.S.A. 74-623.

<sup>2</sup> K.S.A. 55-152.

<sup>3</sup> K.S.A. 55-155.

<sup>4</sup> K.S.A. 55-162; K.S.A. 55-164.

economic deterrent to the violation for which the penalty is assessed.”<sup>5</sup> “In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.”<sup>6</sup>

3. Within 90 days after operations cease on any well drilled for the purpose of exploration, discovery, service, or production of oil, gas, or other minerals, the operator of that well shall: (1) plug the well, (2) return the well to service, or (3) file an application with the Conservation Division requesting temporary abandonment (“TA”) authority, on a form prescribed by the Conservation Division.<sup>7</sup> No well shall be temporarily abandoned unless first approved by the Conservation Division.<sup>8</sup> A well shall not be eligible for TA status if the well has been shut in for 10 years or more without an application for an exception pursuant to K.A.R. 82-3-100 and approval by the Commission.<sup>9</sup> The failure to file a notice of temporary abandonment shall be punishable by a \$100 penalty,<sup>10</sup> and the failure to obtain approval of temporary abandonment status shall subject the operator to additional administrative action.<sup>11</sup>

4. K.A.R. 82-3-111(e) provides an exemption for certain wells that are (1) fully equipped for production of oil or gas or for injection; (2) capable of immediately resuming production of oil or gas or of injection; (3) subject to a valid continuing oil and gas lease; when (4) the cessation period for the well is less than 365 days; and (5) the well is otherwise in full compliance with all of the Commission’s regulations.

## **II. FINDINGS OF FACT**

5. Operator conducts oil and gas activities in Kansas under active license number 30481.

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<sup>5</sup> K.S.A. 55-164.

<sup>6</sup> *Id.*

<sup>7</sup> *See* K.A.R. 82-3-111(a).

<sup>8</sup> K.A.R. 82-3-111(b).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> K.S.A. 55-164; K.A.R. 82-3-111(b).

6. Operator is responsible for the care and control of the Noah #1, (“the subject well”), API #15-065-22672-00-00, Section 2, Township 10 South, Range 21 West, Graham County, Kansas.

7. On September 04, 2019, Commission records indicated that the subject well had been inactive and unplugged for longer than the 90 days allowed by K.A.R. 82-3-111 and that the well was not exempt pursuant to K.A.R. 82-3-111(e). The well had also not been approved for temporary abandonment status. Thus, District Staff sent a letter to Operator, requiring Operator to bring the subject well into compliance with K.A.R. 82-3-111 by October 2, 2019.<sup>12</sup>

8. On October 29, 2019, District Staff inspected the subject well, because the deadline in the letter passed and the violations had not been resolved, verifying that the well continued to be inactive and unplugged.<sup>13</sup>

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

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

10. The Commission concludes Operator committed one violation of K.A.R. 82-3-111 because the subject well has been inactive in excess of the time allowed by regulation without being plugged, returned to service, or approved for TA status.<sup>14</sup>

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

A. Operator shall pay a \$100 penalty.

B. Operator shall plug the subject well, or return the well to service, or obtain TA status for the well if eligible. Obtaining TA status shall include application for an exception to the 10-year limit on TA status, if applicable.

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<sup>12</sup> Exhibit A.

<sup>13</sup> Exhibit B.

<sup>14</sup> K.S.A. 55-164; K.A.R. 82-3-111(b).

C. If no party requests a hearing, and Operator is not in compliance with this Order within 30 days from the date of service of this Order, 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.

D. Checks and money orders shall be payable to the Kansas Corporation Commission. 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. Credit card payments may be made by calling the Conservation Division at 316-337-6200.

E. 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.

F. A corporation shall appear before the Commission by a Kansas licensed attorney.<sup>15</sup>

G. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary.

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<sup>15</sup> K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

**BY THE COMMISSION IT IS SO ORDERED.**

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 11/07/2019



Lynn M. Retz  
Executive Director

Mailed Date: 11/07/2019

JMG



Dwight D. Keen, Chair  
Shari Feist Albrecht, Commissioner  
Susan K. Duffy, Commissioner

Corporation Commission

Laura Kelly, Governor

## **NOTICE OF VIOLATION**

JIM BYERS  
APOLLO ENERGIES, INC.  
10378 N 281 HWY  
PRATT KS 67124-7920

September 04, 2019  
KCC Lic.-30481

RE: **TEMPORARY ABANDONMENT**  
API Well No. 15-065-22672-00-00  
NOAH 1  
2-10S-21W, SWSWNW  
GRAHAM County, Kansas

Operator:

On September 03, 2019, a lease inspection documented a probable violation of the following regulation at the referenced well:

- K.A.R. 82-3-111. Within 90 days after operations cease on a well, the operator must return the well to service, plug the well, or obtain approval for temporary abandonment status.

**Failure to remedy this violation  
by OCTOBER 02, 2019  
shall be punishable by a \$100 penalty.**

You may contact me if you have any questions.

Sincerely,

RICHARD WILLIAMS  
KCC District # 4

## UPDATE REPORT

**Date:** October 29, 2019

**Operator:** Apollo Energies Inc.

**License:** 30481

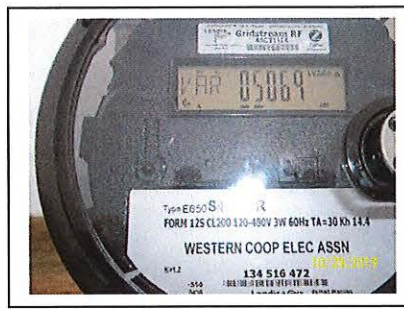
**Location:** NW/4 2-10S-21W

**Lease:** Noah

**County:** Graham

**Findings:**

- **10/29/19: Noah #1 API# 15-065-22672-0000**, located SW SW NW/4 2-10-21W Graham County Kansas is currently shut down. (GPS LOC: LAT. 39.23156, LONG. 099.64135 Footages 2988' F.S.L. & 4949' F.E.L.).



Pat Bedore      E.C.R.S.  
\_\_\_\_\_  
(agent)

*Pat Bedore*  
\_\_\_\_\_  
(signature)

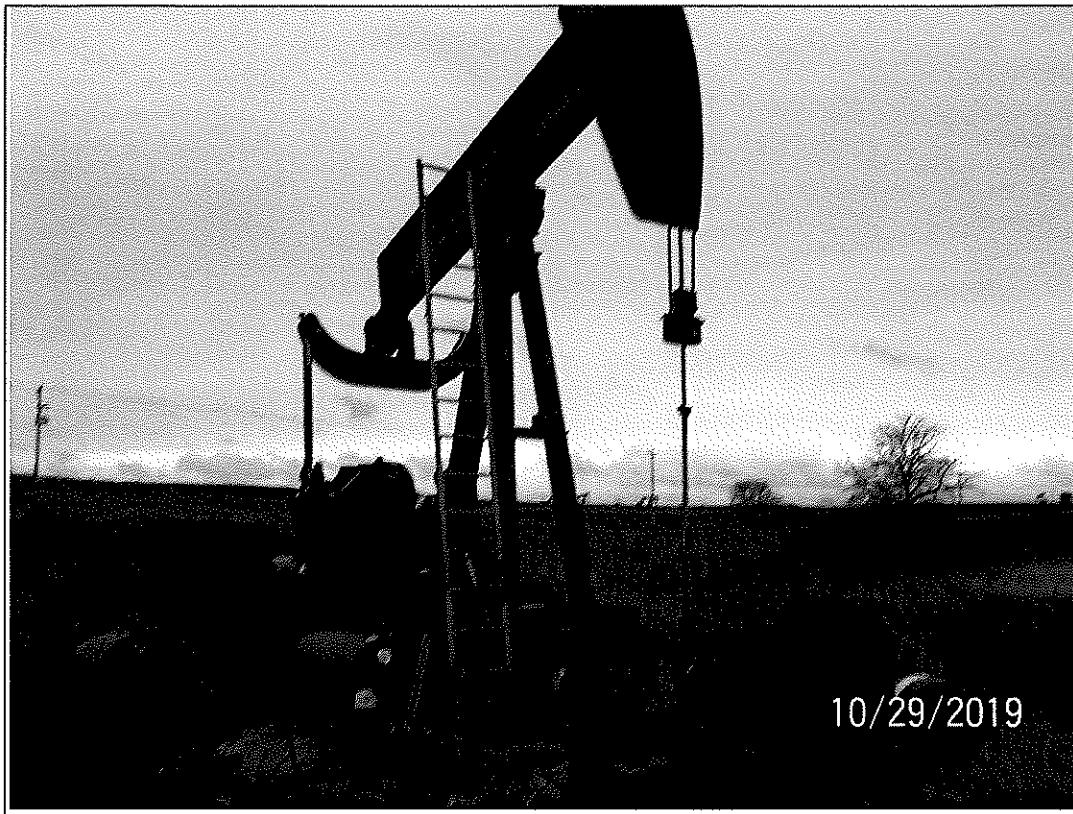
cc: file



Date: October 29, 2019

Apollo Energies Inc.  
Noah  
Graham County, Kansas

- < Lease inspection on October 29, 2019 to check for compliance with State Rules & Regulations regarding the Conservation of Crude Oil & Natural Gas.



Noah #1 API# 15-065-22672-00-00  
GPS LOC: LAT. 39.21356, LONG. 099.64135

## **CERTIFICATE OF SERVICE**

20-CONS-3137-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 11/07/2019.

JIM BYERS  
APOLLO ENERGIES, INC.  
10378 N 281 HWY  
PRATT, KS 67124-7920

MICHAEL GLAMANN, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
CENTRAL OFFICE  
266 N. MAIN ST, STE 220  
WICHITA, KS 67202-1513  
Fax: 785-271-3354  
m.glamann@kcc.ks.gov

RICHARD WILLIAMS  
KANSAS CORPORATION COMMISSION  
DISTRICT OFFICE NO. 4  
2301 E. 13TH STREET  
HAYS, KS 67601-2654  
Fax: 785-271-3354  
r.williams@kcc.ks.gov

/S/ DeeAnn Shupe  
\_\_\_\_\_  
DeeAnn Shupe