

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

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



2017-01-24 14:19:07  
Kansas Corporation Commission  
/s/ Amy L. Green

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

Sam Brownback, Governor

**NOTICE OF PENALTY ASSESSMENT**  
17-CONS-3450-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 \$2,000. 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.



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 5556.

8. Operator is responsible for the care and control of the following wells ("the subject wells"):

- a. Canon #7, API #15-015-20872-00-00, Underground Injection Control Permit #D-18585, located in Section 15, Township 28 South, Range 7 East, Butler County, Kansas; and

b. Howard #5B, API #15-035-19206-00-01, Underground Injection Control Permit #D-28872, located in Section 12, Township 30 South, Range 5 East, Cowley County, Kansas.

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

10. District Staff sent Notice of Violation letters to the Operator, requiring Operator to bring the subject wells 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 sheets submitted by District Staff are 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 two violations of K.A.R. 82-3-407 because current, successful MIT's have not been performed on the subject wells.

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

- A. Operator shall pay a \$2,000 penalty.
- B. Operator shall perform a successful MIT on the subject wells, or plug them.
- C. Operator shall shut-in and disconnect the subject wells until such time as successful MIT's have 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.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: JAN 24 2017



Amy L. Green  
Secretary to the Commission

Mailed Date: January 24, 2017

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>	January 18, 2017
<b>District/Department:</b>	District 2
<b>Person Recommending Penalty:</b>	Duane Krueger-ECRS
<b>Operator Name:</b>	Viva International, Inc.
<b>Operator License Number:</b>	5556
<b>Well/Lease Name &amp; Well Number:</b>	Canon #7
<b>Well/Lease Location, and County:</b>	NW/4 of 15-28-7E, Butler County
<b>Well API Number:</b>	15-015-20872-00-00
<b>UIC Docket Number:</b>	D-18585.0
<b>Regulation Number:</b>	82-3-407
<b>Description of Violation:</b>	Failure to conduct successful MIT
<b>Date Reminder Letter Sent:</b>	NA
<b>MIT Due Date:</b>	December 7, 2016
<b>Date NOV letter Sent, and Deadline:</b>	December 12, 2016, Deadline was December 26, 2016
<b>Extension Requested in Writing?</b>	No
<b>Extended Compliance Deadline, if Extension was Granted:</b>	N/A
<b>Failed MIT Date:</b>	N/A
<b>Date Repair or Plug Letter Sent, and Deadline:</b>	NA
<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>	JK

**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>	January 18, 2017
<b>District/Department:</b>	District 2
<b>Person Recommending Penalty:</b>	Duane Krueger-ECRS
<b>Operator Name:</b>	Viva International, Inc.
<b>Operator License Number:</b>	5556
<b>Well/Lease Name &amp; Well Number:</b>	Howard 5B
<b>Well/Lease Location, and County:</b>	NW/4 of 12-30-5E, Cowley County
<b>Well API Number:</b>	15-035-19206-00-01
<b>UIC Docket Number:</b>	D-28872.0
<b>Regulation Number:</b>	82-3-407
<b>Description of Violation:</b>	Failure to conduct successful MIT
<b>Date Reminder Letter Sent:</b>	NA
<b>MIT Due Date:</b>	December 7, 2016
<b>Date NOV letter Sent, and Deadline:</b>	December 12, 2016, Deadline was December 26, 2016
<b>Extension Requested in Writing?</b>	No
<b>Extended Compliance Deadline, if Extension was Granted:</b>	N/A
<b>Failed MIT Date:</b>	N/A
<b>Date Repair or Plug Letter Sent, and Deadline:</b>	NA
<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>	



**CERTIFICATE OF SERVICE**

I certify that on 1/24/17, 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:

Robert P. Bukaty  
Viva International, Inc.  
13200 Metcalf Avenue, Suite 200  
Overland Park, KS 66213-2821

and delivered by e-mail to:

Dan Fox  
KCC District #2

Rene Stucky  
KCC Central Office

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