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April 28, 2016

Kansas Corporation Commission, Conservation Division
Attn: Jon Myers, Litigation Counsel
266 N Main Street, Suite 220
Wichita, Kansas 67202-1513

Re: 16-CONS-3895-CPEN
In the matter of the failure of Rama Operating Co., Inc., to comply with K.A.R. 82-3-111 at the Buckbee B #3 in Barton County, Kansas

Dear Mr. Myers,

Our Firm serves as counsel to Rama Operating Co., Inc. ("RAMA"). RAMA received the above-referenced Penalty Order for allegedly failing to comply with K.A.R. 82-3-111 at the Buckbee B #3 SWD ("Subject Well") located in the SE4 NE4 SE4 of Section 15-20S-12W, Barton County, Kansas. As you know, K.A.R. 82-3-111 provides that within 90 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. On the following bases, RAMA objects to the Penalty Order and requests a hearing on the matter.

The alleged factual basis Commission Staff ("Staff") relied upon in issuing the Penalty Order is incomplete and omits material information demonstrating why RAMA was not in violation of K.A.R. 82-3-111. Further, the factual basis upon which Staff alleges RAMA violated K.A.R. 82-3-111 largely resulted from actions taken by District Office #4 personnel ("District 4") that placed RAMA into a position where it could not possibly comply with Commission rules and regulations as interpreted by Staff. As such, RAMA believes the Penalty Order was either issued in error, or upon an unjust and inequitable basis.

RAMA asserts the following additional relevant and material facts:

- 1) RAMA received a notice of violation from Commission Staff on or about September 22, 2015, alleging that the Subject Well was non-compliant with K.A.R. 82-3-111.
- 2) On or about September 22, 2015, RAMA filed a CP-1 Well Plugging Application for the Subject Well in compliance with K.A.R. 82-3-113.
- 3) RAMA obtained plugging instructions from District 4 and, on October 8, 2015, RAMA moved a pulling unit over the Subject Well with the intent to plug and abandon it.
- 4) Bruce Rodie from District 4 was onsite to witness the plugging of the Subject Well.
- 5) When RAMA unhooked the Subject Well to begin plugging operations, saltwater began flowing back through the tubing of the Subject Well. The flow back of saltwater made it impossible to set a downhole cement plug as required by District 4.
- 6) RAMA proposed setting a cast iron bridge plug downhole with a cement over the top as an alternative plugging method. RAMA and Mr. Brodie contacted District 4 to obtain approval for the alternative plugging procedure proposed by RAMA. District 4 refused to approve the alternative plugging procedure and insisted that RAMA set a downhole cement plug.
- 7) The flow back of saltwater made it impossible to set a downhole cement plug as required by District 4. As such, RAMA and Mr. Brodie agreed the most appropriate course of action was to hook the Subject Well back up and allow it to flow back into the leasehold water tank until flow back ceased. Once the Subject Well stopped flowing back, it would then be possible to set a downhole cement plug as required by District 4. RAMA hooked the Subject Well back up, rigged down, and all parties left the wellsite.
- 8) RAMA instructed its contract pumper, Randy Ginest, to perform periodic evaluations of the Subject Well to assess the flow back of saltwater, and such evaluations were performed weekly thereafter.
- 9) On March 18, 2016, RAMA filed a new CP-1 Well Plugging Application for the Subject Well. RAMA filed the new application because the September 22, 2015 CP-1 was near expiration, and, at that time, the pumper's weekly evaluations indicated the flow back of saltwater from the Subject Well was still too great to set a downhole cement plug in accordance with District 4 instructions.
- 10) Finally, on March 28, 2016, the flow back of saltwater from the Subject Well had slowed to a rate at which a downhole cement plug could be set in accordance with District 4 plugging instructions.
- 11) On April 5, 2016, RAMA plugged and abandoned the Subject Well in compliance with Commission rules and regulations, and according to the plugging instructions prescribed by District 4. RAMA timely filed a CP-4 Well Plugging Record as required by K.A.R. 82-3-117.
- 12) Upon information and belief, on March 22, 2016, District 4 inspected the lease water tank to determine whether the Subject Well was still flowing back. Despite the fact that the Subject Well and two other producing wells were flowing saltwater into the tank, Commission Staff claims it could not hear any water running into the tank and concluded the Subject Well had ceased flowing back.

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- 13) On that same day Staff issued the above-referenced Penalty Order to RAMA, despite the fact District 4 could only believe the Subject Well had ceased flowing back for a single day.

Based upon the foregoing facts, RAMA maintains that the Subject Well was at all times compliant with 82-3-111.¹ At no relevant time did operations ever cease at the Subject Well, and it remained hooked up until it was plugged and abandoned on April 5, 2016. Allowing the Subject Well to flow back until it could be plugged and abandoned was necessary and prudent to take the Subject Well to the conclusion of its useful life so it could be plugged and abandoned, and constitutes operations under K.A.R. 82-3-111 and -404. At no time was the well abandoned.

Further, Staff should not be permitted to allege RAMA violated Commission rules and regulations, because it was District 4's actions that forced RAMA to allegedly not comply with K.A.R. 82-3-111. In a civil context, this could be characterized as bad faith. Saltwater flow back at the Subject Well made it impossible for RAMA to comply with the plugging instructions prescribed by District 4. RAMA proposed an alternative plugging procedure that would have allowed it to plug the Subject Well on October 8, 2015 when it was onsite with a pulling unit. Although the procedure proposed by RAMA was consistent with the requirements of K.A.R. 82-3-114, District 4 refused to authorize the alternative plugging procedure. At that point, the only way RAMA could plug and abandon the Subject Well as required by District 4 was to wait until it stopped flowing back saltwater. RAMA could not "produce" the Subject Well, because it was no longer taking saltwater. Likewise, RAMA could not temporarily abandon the Subject Well, because fluid levels were not only at surface, but fluid was in fact flowing back. As such, District 4's actions made it impossible for RAMA to comply with K.A.R. 82-3-111 as interpreted by Staff. That is unfair and inequitable to RAMA.

RAMA's actions to plug and abandon the Subject Well were prudent under the circumstances, complied with Commission rules and regulations, and operated to prevent the pollution of fresh and usable waters. By refusing to authorize RAMA's alternative plugging procedure, Staff caused economic waste in the form of wasted rig charges and personnel time. This waste has been compounded by Staff's issuance of the Penalty Order on incomplete facts and/or in disregard of District 4's actions prejudicing RAMA. RAMA respectfully requests that the Commission rescind the above-referenced Penalty Order, waive the \$100 fine, order and adjudge that RAMA did not violate K.A.R. 82-3-111 as alleged by Staff, and to provide such other relief as it deems just and proper.

Sincerely,



Jonathan A. Schlatter
For the Firm

JAS/cda

cc: Rama Operating Co., Inc., attn. Robin Austin

¹ RAMA notes that the Subject Well passed a mechanical integrity test on February 11, 2013.