

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

In the matter of the failure of Bill and/or Penny) Docket No.: 19-CONS-3035-CPEN
M. McPherson dba McPherson Drilling Co.)
("Operator") to comply with K.A.R. 82-3-120.) CONSERVATION DIVISION
)
_____) License No.: 5495

MOTION TO APPROVE SETTLEMENT AGREEMENT

Commission Staff (Staff) of the State Corporation Commission of the State of Kansas (Commission) files this Motion to Approve Settlement Agreement. In support of its Motion, Staff states as follows:

1. On August 2, 2019, the Commission issued a Penalty Order against Operator for one violation of K.A.R. 82-3-120(a) because unplugged wells, for which the Operator is responsible, remained on the Operator's expired license. The Penalty Order assessed a \$500 penalty.
2. Staff and Operator have reached a settlement in this matter. Staff believes the attached Settlement Agreement constitutes a reasonable resolution of all issues in this docket and respectfully requests that it be approved.

WHEREFORE, Staff requests this motion be granted.

Respectfully submitted,



Carly R. Masenthin, #27944
Litigation Counsel,
Kansas Corporation Commission
1500 SW Arrowhead Rd Topeka, KS 66604
Phone: 785-271-3100; Fax: 785-271-3354

**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 Bill and/or) Docket No.: 19-CONS-3035-CPEN
Penny M. McPherson dba McPherson)
Drilling Co. ("Operator") to comply with) CONSERVATION DIVISION
K.A.R. 82-3-120.)
_____) License No.: 5495

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into by and between the Staff of the Corporation Commission of the State of Kansas ("Staff" and "Commission," respectively) and Bill and/or Penny M. McPherson dba McPherson Drilling Co. ("Operator"). Its effective date will be the date the Commission enters an order approving or amending the terms of the Agreement.

I. JURISDICTION

1. Pursuant to K.S.A. 74-623, the Commission shall have the exclusive jurisdiction and authority to regulate oil and gas activities.
2. Pursuant to K.S.A. 55-150 *et seq.*, the Commission has authority to regulate the construction, operation, and abandonment of any well and the protection of the useable water of this state from any actual or potential pollution from any well.
3. Pursuant to K.S.A. 55-155, operators and contractors, as defined in K.S.A. 55-150, shall be licensed by the Commission.
4. Pursuant to K.S.A. 55-162, if the Commission finds that such person violated any provisions of K.S.A. 55-150 *et seq.*, the Commission shall take any appropriate action necessary to prevent pollution and protect water supply.

5. Pursuant to K.A.R. 82-3-120, No operator shall drill, complete, service, plug, or operate any oil or gas well without first obtaining or renewing an operator license. Failure to obtain or renew an operator license before operating shall be punishable by a \$500 penalty.

II. BACKGROUND

6. On August 2, 2018, the Commission issued a Penalty Order against Operator for one (1) violation of K.A.R. 82-3-120 because unplugged wells, for which the Operator is responsible, remain on the Operator's expired license. The Penalty Order assessed a \$500 penalty.

7. Operator did not request a hearing in this matter.

8. Operator did not comply with the requirements of the Penalty Order within 30 days from the date of service of the Penalty Order. Operator's license was suspended pursuant to the terms of the Penalty Order.¹ Operator's license remains suspended to-date.

9. The Penalty Order gave the Operator 60 days to renew its license, transfer the wells to another operator, or plug the wells.² If unplugged wells remained on the Operator's expired license after 60 days from the date of the Penalty Order, (a) Operator shall pay an additional \$5,000 penalty; (b) Staff shall revoke any injection authorizations applicable to the subject wells; and (c) Staff is directed to place the wells on the appropriate state plugging list, to plug according to priority and as fund allow, and to assess the plugging costs to the Operator.³

10. Unplugged wells remained on the Operator's expired license beyond the 60 days from the date of the Commission's Penalty order; further, the same three unplugged wells remain

¹ Penalty Order, ¶E (August 2, 2018).

² Penalty Order, ¶C (August 2, 2018).

³ Penalty Order, ¶D (August 2, 2018).

on the Operator's expired license to-date. Therefore, the Operator is responsible for an additional \$5,000 penalty pursuant to the terms of the Penalty Order.⁴

11. Operator renewed its license on November 20, 2018; however Operator's license remains suspended due to the unpaid penalty from the Commission's Penalty Order in this docket.

12. Operator's license again expired on June 30, 2019.

13. To avoid potential litigation costs and to foster administrative efficiency, Operator and Staff have agreed to the following settlement terms.

III. TERMS OF THE SETTLEMENT AGREEMENT

14. The parties agree that the Commission has jurisdiction and authority over this matter. The parties also agree that adoption of this Agreement is in the public interest and that the Commission should approve the stipulations as set forth below.

15. Operator stipulates it is responsible for the penalty totaling \$5,500 from the Commission's August 2, 2018 Penalty Order.

16. Operator stipulates it is responsible for the following unplugged wells on its expired license:

API Well #	Lease Name/Well #	Well Location	County
15-035-20847-00-00	Wakefield 1	18-31S-6E, SESENW	Cowley
15-035-22198-00-00	Skewes 1	18-31S-6E, NWNESW	Cowley
15-035-22490-00-00	Skewes 2	18-31S-6E, NWNWSW	Cowley

⁴ Penalty Order, ¶D.a. (August 2, 2018).

17. Operator agrees to plug the wells listed in Paragraph 16 above by November 30, 2019.

18. The fine totaling \$5,500 from the Commission's August 2, 2018 Penalty Order shall be waived if:

- a. the wells listed in Paragraph 16 are plugged by November 30, 2019;
and
- b. Operator does not attempt to regain Operator status, as defined in K.S.A. 55-150(e).

19. Staff agrees not to recommend a penalty for Operator's current violation of K.A.R. 82-3-120 as it pertains to the wells listed in Paragraph 16 above relevant to the June 30, 2019 expiration of Operator's license.

20. Staff agrees to recommend to the Commission that this Agreement be approved. Staff further agrees that upon approval by the Commission, and barring default proceedings pursuant to K.S.A. 77-520, this Agreement shall constitute a final resolution of this matter.

IV. RESERVATIONS

21. This Settlement Agreement fully resolves the issues specifically addressed between the parties. The terms of this Agreement constitute a fair and reasonable resolution of the issues addressed herein.

22. The terms and provisions of this Agreement have resulted from negotiations between the signatories and are interdependent. In the event the Commission does not approve the terms of the Agreement in total, any party has the option to terminate this Agreement and, if so terminated, none of the signatories hereto shall be bound by, prejudiced, or in any way affected by any of the terms or provisions hereof, unless otherwise provided herein.

23. Unless (and only to the extent) otherwise specified in this Agreement, the signatories to this Agreement shall not be prejudiced, bound by, or affected in any way by the terms of this Agreement: (1) in any future Commission or court proceeding; (2) in any proceeding currently pending before the Commission under a separate docket; and/or (3) in this proceeding, if the Commission decides not to approve this Agreement in total or in any way conditions its approval of the same. This paragraph is not meant to limit future enforcement of this Agreement, should either party fail to fulfill all terms and provisions.

24. Unless (and only to the extent) otherwise specified in this Agreement, this Agreement does not prejudice or waive any party's legal rights, positions, claims, assertions or arguments in any proceedings in this docket, or any other proceeding before the Commission or in any court.

25. If the Commission approves this Agreement in its entirety and incorporates the same into a final order in this docket, the parties agree to be bound by its terms and the Commission's order incorporating its terms as to all issues addressed herein, and will not appeal the Commission's order.

26. This Settlement Agreement shall be binding on all parties upon signing.

IN WITNESS WHERETO, the parties hereby execute and approve this Settlement Agreement by subscribing their signatures below.

By: Carly Masenthin
Carly Masenthin #27944
Litigation Counsel
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

By: Bill & Penny M. McPherson
Bill and/or Penny M. McPherson
dba McPherson Drilling Co.
15256 112th Road
Winfield, KS 67156-7654

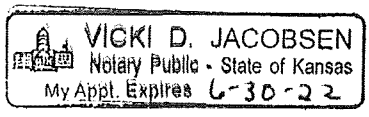
VERIFICATION

STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

Carly R. Masenthin, of lawful age, being duly sworn upon her oath deposes and states that she is Litigation Counsel for the State Corporation Commission of the State of Kansas; that she has read and is familiar with the foregoing *Motion*, and attests that the statements therein are true to the best of her knowledge, information and belief.

Carly R. Masenthin
Carly R. Masenthin, S. Ct. #27944
Litigation Counsel
State Corporation Commission
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 12th day of Sept., 2019.



Vicki D. Jacobsen
Notary Public

My Appointment Expires: 6-30-22

CERTIFICATE OF SERVICE

19-CONS-3035-CPEN

I, the undersigned, certify that a true copy of the attached Motion has been served to the following by means of first class mail and electronic service on September 12, 2019.

DANIEL FOX, COMPLIANCE OFFICER, KCC DISTRICT 2
KANSAS CORPORATION COMMISSION
DISTRICT OFFICE NO. 2
3450 N. ROCK RD BLDG 600 STE 601
WICHITA, KS 67226
Fax: 316-630-4005
d.fox@kcc.ks.gov

DONALD KLOCK
KANSAS CORPORATION COMMISSION
DISTRICT OFFICE NO. 2
3450 N. ROCK RD BLDG 600 STE 601
WICHITA, KS 67226
Fax: 785-271-3354
j.klock@kcc.ks.gov

CARLY MASENTHIN, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
c.masenthin@kcc.ks.gov

BILL MCPHERSON
BILL AND/OR PENNY M. MCPHERSON
D/B/A MCPHERSON DRILLING CO.
15256 112TH ROAD
WINFIELD, KS 67156-7654

JONATHAN R. MYERS, ASSISTANT GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
266 N. Main St., Ste. 220
WICHITA, KS 67202-1513
Fax: 316-337-6211
j.myers@kcc.ks.gov

/S/ Paula J. Murray

Paula J. Murray