

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



2016-11-01 16:20:37  
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-3353-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 \$500. 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.

Before Commissioners: Jay Scott Emler, Chairman  
Shari Feist Albrecht  
Pat Apple

In the matter of the failure of Larry J. Bitner ) Docket No.: 17-CONS-3353-CPEN  
 (“Operator”) to comply with K.A.R. 82-3-120. )  
 ) CONSERVATION DIVISION  
 )  
 ) License No.: 35241

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:

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. 82-3-120(a)(1) provides, in part, that no operator shall drill, complete, service, plug, or operate any oil or gas well without first obtaining or renewing an operator

license. K.A.R. 82-3-120(a)(1) further provides that each operator in physical control of any such well shall maintain a current license even if the well is shut in or idle.

4. K.A.R. 82-3-120(a)(2) provides that each licensee shall annually submit a completed license renewal form on or before the expiration date of the current license.

5. K.A.R. 82-3-120(k) provides that the failure to obtain or renew an operator license before operating shall be punishable by a \$500 penalty.

## **II. FINDINGS OF FACT**

6. Operator is responsible for the care and control of the well(s) listed in Exhibit A. Exhibit A is attached and incorporated into this Order, includes Staff's penalty recommendation and the list of wells, and shall serve as part of the concise and explicit statement of facts required by K.S.A. 77-526.

7. As described in Exhibit A, Commission records indicate that Operator was licensed to conduct oil and gas activities in Kansas under K.S.A. 55-155, but that Operator's license has expired. Commission records indicate that an unplugged well, or unplugged wells, remain on Operator's expired license, in violation of K.A.R. 82-3-120.

8. Commission Staff sent notices to Operator, requiring compliance with K.A.R. 82-3-120 by a specific deadline. Operator has not complied.

## **III. CONCLUSIONS OF LAW**

9. The above findings of fact are sufficient evidence to support the conclusion that Operator committed one violation of K.A.R. 82-3-120 because an unplugged well, or unplugged wells, remain on Operator's expired license.

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

A. Operator shall pay a \$500 penalty.

B. Operator shall immediately shut-in-all unplugged wells on its license and cease oil and gas operations until Operator is in compliance with this Order. Staff may seal the wells until Operator is in compliance with this Order.

C. Operator has 60 days to:

- a. Renew its license or obtain a new license and transfer the well(s) to that license;
- b. Transfer the well(s) to another operator by filing the appropriate form(s) with the Commission; or
- c. Plug the well(s).

D. If any unplugged well(s) remain on Operator's expired license after 60 days, then:

- a. Operator shall pay an additional \$5,000 penalty;
- b. Staff shall revoke any injection authorizations applicable to the subject well(s); and
- c. Staff is directed to place the well(s) on the appropriate state plugging list, to plug according to priority and as funds allow, and to assess the plugging costs to Operator. This shall not preclude Staff from investigating additional potentially-responsible parties.

E. 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.

F. 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.

G. 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.

H. 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.

I. 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

  
Amy L. Green  
Secretary to the Commission

Mailed Date: November 1, 2016

JRM

## **PENALTY RECOMMENDATION**

### **\*\*\*ROUTINE EXPIRED LICENSE VIOLATION\*\*\***

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

<b>Date of Recommendation:</b>	October 27, 2016
<b>Person Recommending Penalty:</b>	John McCannon
<b>Operator Name:</b>	Bitner, Larry J.(Residential)
<b>Operator License Number:</b>	35241
<b>Regulation Number:</b>	82-3-120
<b>Description of Violation:</b>	Unplugged wells on an expired license.
<b>Date License Expired:</b>	9/30/2016
<b>List of Wells:</b>	See following page (Exhibit A)
<b>Notices Sent to Operator:</b>	<ul style="list-style-type: none"><li>• Notice 45 days before license expiration</li><li>• Notice 15 days before license expiration</li><li>• Notice immediately after license expiration</li></ul>
<b>Date of Notice of Violation Letter:</b>	10/3/16
<b>Deadline in Notice of Violation Letter:</b>	10/17/16
<b>Requested Monetary Penalty:</b>	\$500
<b>Requested Operator Activity:</b>	Renew license, or transfer wells, or plug wells.

# **Exhibit A**

**Bitner, Larry J.(Residential)**  
**License: 35241**

<b><u>Unplugged Wells on Operator's License</u></b>			
<b>API Well #</b>	<b>Lease Name / Well #</b>	<b>Well Location</b>	<b>County</b>
15-129-10014-00-00	BITNER 1	29-31S-42W, SE	MORTON

**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 Bitner  
HC R1, Box 57B  
Manter, KS 67862

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