

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

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

In the matter of the failure of Gus & Annie) Docket No: 20-CONS-3239-CPEN
Myers (“Operator”) to comply with K.A.R.)
82-3-120.) CONSERVATION DIVISION
)
_____) License No: 33354

ORDER APPROVING SETTLEMENT AGREEMENT

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds the following:

1. On March 3, 2020, the Commission issued a *Penalty Order* against Operator, finding one violation of K.A.R. 82-3-120 because unplugged wells remained on Operator’s expired license.¹ The *Penalty Order* directed Operator to pay a \$500 penalty and to renew Operator’s license, transfer the wells to another operator, or plug the wells.²

2. On March 19, 2020, Operator requested a hearing.³

3. On June 1, 2020, Commission Staff filed a *Motion to Approve Settlement Agreement*, attaching the Settlement Agreement and stating that “Staff believes the Agreement constitutes a reasonable resolution of all issues in this docket.”⁴ By signing the proposed Settlement Agreement, Staff and Operator concurred that the Settlement Agreement constitutes “a fair and reasonable resolution of the issues addressed.”⁵

¹ See Penalty Order, ¶ 10, Exhibit A (Mar. 3, 2020).

² See *id.* at Ordering Clauses A and B.

³ See Letter Requesting Hearing (Mar. 19, 2020).

⁴ Motion to Approve Settlement Agreement, ¶ 5 (June 1, 2020).

⁵ *Id.* at attached Settlement Agreement, ¶ 10.

4. In relevant part, the Settlement Agreement notes Operator has renewed Operator's license, and gives Operator until July 1, 2020, to pay a fine of \$250. Failure to timely pay would result in license suspension and reinstatement of the originally-assessed \$500 penalty.⁶

5. The law encourages settlements.⁷ The Commission finds the Settlement Agreement attached to Staff's *Motion to Approve Settlement Agreement* constitutes a fair and reasonable resolution of this proceeding. The Settlement Agreement is attached to and made part of this Order.

THEREFORE, THE COMMISSION ORDERS:

A. Staff's motion to approve the attached Settlement Agreement is granted; the Settlement Agreement is approved.

B. The June 11, 2020, status conference is cancelled.⁸


C. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).⁹

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

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Albrecht, Commissioner; Keen, Commissioner

Dated: 06092020



Lynn M. Retz
Executive Director

Mailed Date: 06/09/2020

JRM

⁶ See *id.* at attached Settlement Agreement, ¶¶ 7, 9.

⁷ *Bright v. LSI Corp.*, 254 Kan. 853, 858 (1994).

⁸ See Prehearing Officer Order Setting Status Conference (May 28, 2020).

⁹ K.S.A. 55-162; K.S.A. 55-606; K.S.A. 55-707; K.S.A. 77-503(c); K.S.A. 77-531(b).

**BEFORE THE STATE CORPORATION COMMISSION
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In the matter of the failure of Gus & Annie)	Docket No.: 20-CONS-3239-CPEN
Myers ("Operator") to comply with K.A.R.)	
82-3-120.)	CONSERVATION DIVISION
)	
)	License No.: 33354

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by and between the Staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission," respectively) and Operator (collectively referred to herein as "the Parties"). The effective date of this Agreement will be the date the Commission enters an order approving or amending the terms of the Agreement.

I. BACKGROUND

1. On March 3, 2020, the Commission issued a Penalty Order against Operator for one violation of K.A.R. 82-3-120 finding that an unplugged well or unplugged wells for which Operator is responsible, remained on Operator's expired license. The Penalty Order assessed a \$500 penalty, and directed Operator to renew its license, obtain a new license and transfer the well(s) to that license, transfer the well(s) to another operator by filing the appropriate form(s) with the Commission, or plug the well(s).

2. On March 13, 2020, Operator's license was renewed.

3. On March 19, 2020, Operator timely filed a request for hearing, wherein its representative noted that the license renewal was filed late, but that an underlying health issue contributed to the delay.

4. On May 21, 2020, a prehearing conference was held and a status conference was set for June 11, 2020. The June 11th date was set in order to provide the Parties the opportunity to

resolve the underlying issues in this docket, if possible. Subsequent to the prehearing conference, the Parties discussed resolution of the underlying issues in this docket, and reached a settlement in this matter. As part of the settlement, Staff agreed to reduce the terms to writing and submit the same for Commission approval. The terms of the settlement are set forth below.

II. TERMS OF THE SETTLEMENT AGREEMENT

5. 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 terms as set forth below.

6. Operator stipulates that it committed one violation of K.A.R. 82-3-120.

7. Based on the content of Operator's letter contesting the penalty and the fact that Operator has renewed its license, as described above, the Parties agree to seek Commission approval to reduce the \$500 monetary penalty imposed in the docket to \$250 ("Reduced Penalty"). The Reduced Penalty will be due July 1, 2020. Failure to pay the Reduced Penalty by the deadline will result in reinstatement of the \$500 monetary penalty.

8. Staff 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.

9. Failure to timely pay will result in the suspension of Operator's license. Operator agrees and understands that if its license is suspended for the failure to meet the deadline above, the license shall remain suspended until a total of \$500 in monetary penalties has been paid in this docket.

III. RESERVATIONS

10. This Settlement Agreement fully resolves the issues specifically addressed between the Parties in this docket. The terms of this Agreement constitute a fair and reasonable resolution of the issues addressed herein.

11. The terms and provisions of this Agreement have resulted from negotiations between the Parties 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.

12. Unless otherwise specified in this Agreement, the Parties 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, even if the Commission decides to not 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.

13. Further this Agreement does not waive any party's legal rights, positions, claims, assertions or arguments in this docket, or any other proceeding before the Commission or in any court.

14. If the Commission approves this Agreement in its entirety and incorporates the same into a final order in this docket, the Parties agree not to appeal the Commission's order.

15. This Agreement shall be binding on all Parties upon signing.

ATTACHMENT A

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

Commission Staff

By: Kelcey Marsh

Printed Name: Kelcey Marsh

Title: Litigation Counsel

Date: 6/1/2020

Gus & Annie Myers

By: Annie Myers

Printed Name: Annie Myers

Title: Co- Owner

Date: 05-31-2020

CERTIFICATE OF SERVICE

20-CONS-3239-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
electronic service on 06/09/2020.

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/S/ DeeAnn Shupe

DeeAnn Shupe