

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



20190806121105  
Kansas Corporation Commission

Phone: 316-337-6200  
Fax: 346-337-6211  
<http://kcc.ks.gov/>

Dwight D. Keen, Chair  
Shari Feist Albrecht, Commissioner  
Susan K. Duffy, Commissioner

Laura Kelly, Governor

**NOTICE OF PENALTY ASSESSMENT**  
**20-CONS-3039-CPEN**

August 6, 2019

Benjamin M. Giles  
821 High Street  
Towanda, KS 67144-9047

This is a notice of a penalty assessment for violation(s) 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:**

You have been assessed a \$1,000 penalty. You have 30 days from the service date of this Penalty Order to pay the fine amount. Check or money order must be made payable to the Kansas Corporation Commission and mailed to the Conservation Division of 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. Payment by credit card may be made by calling the Conservation Division at 316-337-6200.

**IF YOU CONTEST THE PENALTY:**

You have the right to request a hearing. A written request for hearing must be made within 30 days after service of the Penalty Order setting forth the specific grounds upon which relief is sought. Respondent must submit the request to the Commission, at 266 N. Main St., Suite 220, Wichita, Kansas 67202. The Commission shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act within 30 days after receipt of such request. K.S.A. 55-164; K.S.A. 77-542; K.A.R. 82-1-215.

**IF YOU FAIL TO ACT:**

Failure to pay the fine amount, or in the alternative, provide a written request for a hearing, within thirty (30) days of service of the Penalty Order, will result in the attached Penalty Order becoming a Final Order and 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. K.S.A. 55-164; K.S.A. 77-537.

Respectfully,

Carly R. Masenthin  
Litigation Counsel  
785-271-3110

**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 Benjamin M. Giles (“Operator”) to comply with K.A.R. 82-3-407 at the Paulsen #8B in Butler County, Kansas.	)	Docket No.: 20-CONS-3039-CPEN
	)	
	)	CONSERVATION DIVISION
	)	
	)	License No.: 5446

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**PENALTY ORDER**

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:

**I. JURISDICTION**

1. The Commission has the exclusive jurisdiction and authority to regulate oil and gas activities in Kansas.<sup>1</sup> 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.”<sup>2</sup> Every operator conducting oil and gas activity in Kansas must be licensed by the Commission.<sup>3</sup>

2. The Commission has the authority to issue a Penalty Order for violation of any provision of K.S.A. 55-101 *et seq.*, rule, regulation, or order of the Commission.<sup>4</sup> The Commission shall take appropriate action which may include, but not be limited to, imposing a monetary penalty “not to exceed \$10,000, which shall constitute an actual and substantial

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<sup>1</sup> K.S.A. 74-623.

<sup>2</sup> K.S.A. 55-152.

<sup>3</sup> K.S.A. 55-155.

<sup>4</sup> K.S.A. 55-162; K.S.A. 55-164.

economic deterrent to the violation for which the penalty is assessed.”<sup>5</sup> “In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.”<sup>6</sup>

3. Each injection well shall be completed, equipped, operated, and maintained in a manner that will prevent pollution of fresh and usable water, prevent damage to sources of oil or gas, and confine fluids to the intervals approved for injection. 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.<sup>7</sup>

4. 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.<sup>8</sup>

5. 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 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.<sup>9</sup>

6. 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.<sup>10</sup>

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<sup>5</sup> K.S.A. 55-164.

<sup>6</sup> *Id.*

<sup>7</sup> K.A.R. 82-3-407(a).

<sup>8</sup> K.A.R. 82-3-407(c).

<sup>9</sup> K.A.R. 82-3-407(d).

<sup>10</sup> K.A.R. 82-3-407(g).

## **II. FINDINGS OF FACT**

7. The Operator conducts oil and gas activities in Kansas under active license number 5446.

8. The Operator is responsible for the care and control of the Paulsen #8B (“the subject well”) API #15-015-21486-00-01, authorized for injection pursuant to Underground Injection Control Permit #D-25278, and located in Section 2, Township 26 South, Range 4 East, Butler County, Kansas.

9. The Commission has no evidence that the subject well has been subjected to a current and successful MIT as required by K.A.R. 82-3-407. Staff witnessed no such test and the Operator did not inform Staff that such a test had been conducted.

10. On April 04, 2019, Commission Staff sent a letter to the Operator, requiring Operator to bring the subject well into compliance with K.A.R. 82-3-407 by June 25, 2019.<sup>11</sup>

11. To date, Operator has not conducted a current and successful MIT at the subject well in accordance with Commission regulations.

## **III. CONCLUSIONS OF LAW**

12. The Commission finds and concludes that it has jurisdiction over the Operator and this matter under K.S.A. 55-152 and K.S.A. 74-623.

13. The Commission finds and concludes the Operator committed one violation of K.A.R. 82-3-407 because a current and successful MIT has not been performed on the subject well.

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

A. The Operator shall pay a \$1,000 penalty.

B. The Operator shall perform a successful MIT on the subject well or plug the well.

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<sup>11</sup> Exhibit A.

C. The Operator shall shut-in and disconnect the subject well until such time as a successful MIT has been performed or the well has been plugged.

D. If no party requests a hearing, and the Operator is not in compliance with this Order within 30 days, then the 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 the Operator's right to a hearing.

G. A corporation shall appear before the Commission by a Kansas licensed attorney.<sup>12</sup>

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.

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<sup>12</sup> K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

**BY THE COMMISSION IT IS SO ORDERED.**

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 08/06/2019



Lynn M. Retz  
Executive Director

Mailed Date: 08/06/2019

CRM



Dwight D. Keen, Chair  
Shari Feist Albrecht, Commissioner  
Jay Scott Emler, Commissioner

Corporation Commission

Laura Kelly, Governor

**FAILED MECHANICAL INTEGRITY TEST (MIT)**  
**\*DEADLINE FOR COMPLIANCE\***

LICENSE 5446  
GILES, BENJAMIN M.  
821 HIGH ST  
TOWANDA KS 67144-9047

April 04, 2019

**Re: API No. 15-015-21486-00-01**  
DOCKET No. D25278.0  
PAULSEN 8B  
2-26S-4E, SWSWSW  
BUTLER County, Kansas

Operator:

On March 27, 2019, the referenced well failed a mechanical integrity test. Under K.A.R. 82-3-407(c), you have 90 days to:

- 1) repair and retest the well to show mechanical integrity,
- 2) plug the well, or
- 3) isolate all leaks to demonstrate the well does not pose a threat to fresh or usable water or endanger correlative rights.

The well must be shut-in and disconnected until it complies with K.A.R. 82-3-407(c).

**Failure to comply with K.A.R. 82-3-407(c)**  
**by June 25, 2019**  
**shall be punishable by a \$1,000 penalty.**

Please contact this office as soon as possible to let us know your plans for this well.

Sincerely,

STEVE VANGIESON  
KCC District # 2

## **CERTIFICATE OF SERVICE**

20-CONS-3039-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 08/06/2019.

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

BENJAMIN M. GILES  
BENJAMIN J. GILES  
821 HIGH STREET  
TOWANDA, KS 67144-9047

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KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
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KANSAS CORPORATION COMMISSION  
266 N. Main St., Ste. 220  
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Fax: 785-271-3354  
r.stucky@kcc.ks.gov

/S/ DeeAnn Shupe  
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DeeAnn Shupe