

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

Jay Scott Emler, Chairman  
Shari Feist Albrecht, Commissioner  
Pat Apple, Commissioner



2016-12-06 13:50:20  
Kansas Corporation Commission  
/s/ Amy L. Green

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

Sam Brownback, Governor

## **NOTICE OF PENALTY ASSESSMENT**

### **17-CONS-3393-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 \$100. 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.

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

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

In the matter of the failure of Peak Energy,	)	Docket No.: 17-CONS-3393-CPEN
LLC ("Operator") to comply with K.A.R. 82-	)	
3-111 at the Bahruth #1 in Cowley County,	)	CONSERVATION DIVISION
Kansas.	)	
<hr/>		License No.: 32776

**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.      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. 82-3-111 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 ("TA") status. A well shall not be

eligible for TA status if the well has been shut-in for 10 years or more without an application for an exception pursuant to K.A.R. 82-3-100 and approval by the Commission. The failure to file an application for TA status shall be punishable by a \$100 penalty. K.A.R. 82-3-111(e) provides an exemption for certain wells for 365 days if they are fully equipped and capable of production.

## **II. FINDINGS OF FACT**

4. Operator conducts oil and gas activities in Kansas under license number 32776.

5. Operator is responsible for the care and control of the Bahruth #1 (“the subject well”), API #15-035-24143-00-00, located in Section 8, Township 34 South, Range 3 East, Cowley County, Kansas.

6. District Staff inspected the subject well and collected evidence indicating it has been inactive and unplugged for longer than the 90 days allowed by K.A.R. 82-3-111. The well did not appear to be exempt pursuant to K.A.R. 82-3-111(e). Operator either did not file a TA application or did not bring the well into compliance after a TA application was denied.

7. District Staff sent a letter to Operator, requiring Operator to bring the subject well into compliance with K.A.R. 82-3-111 by a deadline.

8. District Staff inspected the subject well after the deadline in the letter passed, verifying that the well continued to be inactive and unplugged.

9. District Staff collected evidence and submitted it to the Legal Department with a recommendation that the Commission issue this Order. The recommendation sheet submitted by District Staff is attached to this Order as Exhibit A, incorporated into this Order, and shall serve as the concise and explicit statement of facts required by K.S.A. 77-526.

### III. CONCLUSIONS OF LAW

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

11. The above findings of fact are sufficient evidence to support the conclusion that Operator committed one violation of K.A.R. 82-3-111 because the subject well has been inactive in excess of the time allowed by regulation without being plugged, returned to service, or approved for TA status.

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

A. Operator shall pay a \$100 penalty.

B. Operator shall plug the subject well, return the well to service, or obtain TA status for the well if eligible. Obtaining TA status shall include application for, and Commission approval of, an exception to the 10-year limit on TA status if applicable.

C. 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.

D. 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.

E. 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.


F. 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.

G. 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: DEC 06 2016

  
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Amy L. Green  
Secretary to the Commission

Mailed Date: December 6, 2016

JRM

## **PENALTY ORDER RECOMMENDATION**

### **\*\*\*ROUTINE TEMPORARY ABANDONMENT VIOLATION\*\*\***

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

<b>Date of Recommendation:</b>	November 30, 2016
<b>District/Department:</b>	District #2
<b>Person Recommending Penalty:</b>	Duane Krueger, ECRS
<b>Operator Name:</b>	Peak Energy, LLC
<b>Operator License Number:</b>	32776
<b>Well/Lease Name &amp; Well Number:</b>	Bahruth #1
<b>Well/Lease Location, and County:</b>	NE/4 of 8-34-3E, Cowley County
<b>Well API Number:</b>	15-035-24143-00-00
<b>UIC Docket Number:</b>	N/A
<b>Regulation Number:</b>	K.A.R. 82-3-111
<b>Description of Violation:</b>	Failure to plug, produce, or obtain TA status (including after a TA application is filed and denied).
<b>Date of NOV / TA Denied letter.</b>	Date of TA Denied Letter. 10/19/2016
<b>Deadline in NOV / TA Denied letter.</b>	Deadline in TA Denied Letter. 11/16/2016
<b>Date of follow-up lease inspection.</b>	11/21/2016
<b>Requested Monetary Penalty:</b>	\$100
<b>Requested Operator Activity:</b>	Plug, produce, or obtain TA status if eligible (including a 10-year TA application if required).
<b>Supervisor Initials</b>	<i>Dee K. K.</i>

**CERTIFICATE OF SERVICE**

I certify that on 12/6/16, 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:

Henry Boots  
Peak Energy, LLC  
2649 CR 2300  
Independence, KS 67301

and delivered by e-mail to:

Dan Fox  
KCC District #2

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