

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

Before Commissioners:                    Mark Sievers, Chairman  
    Ward Loyd  
    Thomas E. Wright

In the matter of the failure of Robuck Petroleum,            ) Docket No.: 12-CONS-171-CPEN  
LLC, to comply with K.A.R. 82-3-407 at the                    )  
Bryan #4 well located in the Southwest Quarter of        ) CONSERVATION DIVISION  
the Northeast Quarter of the Northeast Quarter of        )  
Section 13, Township 5 South, Range 31 West,            )  
Rawlins County, Kansas.                                    ) License No.: 31100

**SHUT-IN ORDER**

Now, the above matter comes before the State Corporation Commission of the State of Kansas (“Commission” or “KCC”) on its own motion. The Commission, being fully advised in the premises, and giving due consideration to the statutes of Kansas and the regulations of this Commission, finds and concludes as follows:

1. Robuck Petroleum, LLC (“Robuck” or the “operator”), is a foreign limited liability company. KCC records indicate that the operator can be served through its resident agent, Steven W. Hirsch, at 124 South Penn, Oberlin, Kansas 67749. KCC records indicate the operator is currently licensed to conduct oil and gas activities in Kansas pursuant to K.S.A. 55-155.

2. KCC records indicate that the operator is responsible for the care and control of the Bryan #4 well, which is identified as API #15-153-20457-00-00 (“Bryan #4” or the “subject well”). The subject well is located in the Southwest Quarter of the Northeast Quarter of the Northeast Quarter of Section 13, Township 5 South, Range 31 West, Rawlins County, Kansas. KCC records indicate the subject well is authorized for injection activities pursuant to Underground Injection Control (“UIC”) Permit #D-21,455.

## I. JURISDICTION

1. K.S.A. 55-162(a) provides, in part, that whenever the Commission finds reasonable cause to believe that a person has violated any provision of K.S.A. 55-101 et seq., K.A.R. 82-3-100 et seq., or any Commission order, the Commission shall cause such person to come before it at a hearing held in accordance with the provisions of the Kansas Administrative Procedure Act ("KAPA"). Upon finding that a violation was committed, the Commission shall take any appropriate action necessary to prevent pollution and protect water quality.

2. Pursuant to K.S.A. 55-162(b) if it appears to the Commission that damage may result if immediate remedial action is not taken, the Commission, on the basis of emergency adjudicative proceedings, shall make such order as ... (a)(2) order the well or the lease to be shut down until the violation is corrected; ... or may authorize its agents to enter upon the land where the well is located and take such remedial action necessary pending the giving of notice and hearing in accordance with the provisions of the KAPA.

3. K.S.A. 55-162(e) provides that whenever a person is in violation of subsection (a) or (b), agents of the Commission may enter upon the lease or any other leases under the control of such operator and seal any well operated by the offending party. Removal of the seal without Commission approval will constitute a severity level 9, nonperson felony.

4. Pursuant to K.S.A. 55-164, the Commission may assess monetary penalties to operators or contractors who are in violation of Chapter 55 of the Kansas Statutes Annotated, or any rule, regulation, or order of the Commission. The maximum monetary penalty is \$10,000, and each day of a continuing violation constitutes a separate violation.

## II. FACTUAL FINDINGS

5. On December 21, 2011, the Commission issued the Penalty Order in this docket. The Commission found that the operator had committed one violation of K.A.R. 82-3-407 at the Bryan #4, and the operator was ordered to plug the well or perform a successful mechanical integrity test ("MIT") on it. The Penalty Order also assessed a monetary penalty of \$1,000. The Penalty Order was mailed on the same day, and it provided 30 days, plus three days to account for the mail, for the operator to comply with the Penalty Order or submit an appeal.

6. The Penalty Order included a finding that the Bryan #4 failed an MIT on November 3, 2009, and had not been repaired and retested or plugged. The Penalty Order also included a finding that the Bryan #4 was found to be in use during a lease inspection performed on April 19, 2011.

7. On January 27, 2012, the monetary penalty of \$1,000 was paid.

8. On January 30, 2012, KCC Legal Staff ("Legal Staff") sent a letter titled "Final Notice of Violation – Noncompliance with Commission Order" to Robuck. The letter stated that the operator was not in compliance with the Penalty Order, and that the deadline for compliance had passed. The letter further stated that if the operator did not obtain compliance within 20 days and notify the KCC Legal Department that compliance had been obtained, Legal Staff may recommend that the Commission issue an Order to: 1) shut-in and seal all of the operator's production until compliance is achieved; 2) suspend the operator's license; and 3) assess a monetary penalty of up to \$10,000. In addition, the letter warned that any monetary penalty assessed and not paid by the applicable deadline may be automatically sent to a collections agency.

9. On February 29, 2012, Legal Staff sent a second letter titled "Final Notice of Violation – Noncompliance with Commission Order" to Robuck. The letter stated that if the operator did not obtain compliance within 15 days and notify the KCC Legal Department that compliance had been obtained, Legal Staff may recommend that the Commission issue an Order to: 1) shut-in and seal all of the operator's production until compliance is achieved; 2) suspend the operator's license; and 3) assess a monetary penalty of up to \$10,000. In addition, the letter warned that any monetary penalty assessed and not paid by the applicable deadline may be automatically sent to a collections agency.

10. On March 13, 2012, Brett Robuck left a voicemail for Legal Staff stating that he was working on the well diligently and that it will be fixed. He also stated that the well is not in use. He said that he was keeping District #4 Staff informed of the progress.

11. On March 14, 2012, Legal Staff asked District #4 Staff about this well and was informed that nothing had been done to repair the well to date.

12. Also on March 14, 2012, Legal Staff telephoned Mr. Robuck and was informed that Prostem Chemical had been hired to perform a treatment on the well. Mr. Robuck informed Legal Staff that there is a hole in the well's casing between 780 to 800 feet, that the well had been injecting on a vacuum, and that the freshwater was located at 160 feet of depth. Mr. Robuck stated that he was talking with the District #4 Supervisor, and that he was on Prostem's waiting list. Legal Staff informed Mr. Robuck that a shut-in letter and large monetary penalty would usually be proposed at that point, but that if District #4 Staff was satisfied with his progress, then Legal Staff would not propose an order.

13. On March 16, 2012, after discussing the matter with the District #4 Supervisor, Legal Staff left a voicemail for Mr. Robuck stating that a shut-in order and monetary penalty

would be proposed. Legal Staff informed him that he was being notified to give him as much notice of the impending order as possible so he could start working to obtain compliance.

14. Also on March 16, 2012, Mr. Robuck called the District #4 Supervisor and informed him that he would have the well repaired and perform an MIT the following week.

15. On or around March 29, 2012, Robuck performed a chemical treatment on the Bryan #4. Robuck did not notify District #4 Staff as requested, and thus District #4 Staff was not able to witness the treatment and any MIT.

16. Sometime between March 29, 2012, and April 4, 2012, Robuck informed District #4 Staff that an additional treatment would be necessary before the well would pass an MIT. Robuck scheduled the additional treatment and MIT for April 6, 2012.

17. Robuck did not perform the additional treatment and MIT on April 6, 2012, and to date, the additional treatment and MIT have not been rescheduled with District #4 Staff.

18. To date, the subject well has not passed an MIT or been plugged.

### **III. STAFF'S RECOMMENDATIONS**

19. Based upon the above facts, Staff recommended the Commission find that Robuck has failed to comply with the Penalty Order by either plugging the subject well or performing a successful MIT on the well.

20. Staff recommended that the Commission should assess an additional \$5,000 monetary penalty against Robuck for the failure to comply with a Commission Order.

21. Staff recommended that the Commission should authorize Staff to shut-in and seal all of the operator's oil and gas operations in Kansas until such time as compliance with the Penalty Order and this Shut-In Order is obtained.

22. Staff recommended that, if the subject well is not plugged or successfully tested for mechanical integrity within 30 days, Staff should be authorized to plug the subject well with state funds and assess the plugging costs to Robuck.

#### **IV. CONCLUSIONS**

23. The Commission finds and concludes that it has jurisdiction over the operator and over this matter, pursuant to K.S.A. 55-100 et seq.

24. The Commission should find that Robuck has failed to comply with the Penalty Order by either plugging the subject well or performing a successful MIT on the well.

25. Staff recommended that the Commission should assess an additional \$5,000 monetary penalty against Robuck for the failure to comply with a Commission Order.

26. Staff recommended that the Commission should authorize Staff to shut-in and seal all of the operator's oil and gas operations in Kansas until such time as compliance with the Penalty Order and this Shut-In Order is obtained.

27. Staff recommended that, if the subject well is not plugged or successfully tested for mechanical integrity within 30 days, Staff should be authorized to plug the subject well with state funds and assess the plugging costs to Robuck.

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

- A. Robuck is assessed a monetary penalty of \$5,000.
- B. Staff is authorized to shut-in and seal all of the operator's oil and gas operations in Kansas until such time as compliance with the Penalty Order and this Shut-In Order is obtained.

C. If the well is not plugged or successfully tested for mechanical integrity within 30 days, Staff should be authorized to plug the subject well with state funds and assess the plugging costs against Robuck.

D. Any party affected by this Order may file with the Commission a petition for reconsideration pursuant to K.S.A. 77-529(a). Any petition shall be filed within 15 days after service of this Order and shall state the specific grounds upon which relief is requested. The petition for reconsideration shall be filed with the Executive Director of the Conservation Division, at the Finney State Office Building, 130 S. Market, Room 2078, Wichita, Kansas 67202-3802.

E. The Commission retains jurisdiction of the subject matter and the parties. The Commission may enter additional orders as it deems appropriate, and additional orders may include the imposition of additional requirements or monetary penalties.

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

Sievers, Chmn.; Loyd, Com.; Wright, Com.

Dated: APR 18 2012

  
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Patrice Petersen-Klein  
Executive Director

Mailed Date: 04-19-2012

LRP

I CERTIFY THE ORIGINAL  
COPY IS ON FILE WITH  
The State Corporation Commission

APR 18 2012



**CERTIFICATE OF SERVICE**

I hereby certify that on 04-19-2012, I caused a true and correct copy of the foregoing "Shut-In Order" to be served by placing the same in the United States mail, postage prepaid, and properly addressed to the following:

Brett D. Robuck  
Robuck Petroleum, LLC  
P.O. Box 345  
McCook, Nebraska 69001-0345

Steven W. Hirsch  
Resident Agent for Robuck Petroleum, LLC  
124 South Penn  
Oberlin, Kansas 67749

David Wann  
KCC District #4  
2301 E. 13th Street  
Hays, Kansas 67601-2651

And delivered by hand to:

Alan Snider  
KCC UIC Supervisor

/s/ Lane R. Palmateer  
Lane R. Palmateer  
Litigation Counsel  
Kansas Corporation Commission