

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Shari Feist Albrecht, Chair
Jay Scott Emler
Dwight D. Keen

In the matter of the failure of VEEM Jade)
Oil & Gas LLC ("Operator") to comply with) Docket No. 18-CONS-3221-CPEN
K.A.R. 82-3-111 at the Daves #21, Smith A) CONSERVATION DIVISION
#2, Smith B #10 and Smith B #12 in Elk) License No. 32874
County, Kansas.)

REPLY TO STAFF'S RESPONSE
TO SECOND MOTION FOR ORDER LIFTING LICENSE SUSPENSION

COMES NOW Veem Jade Oil & Gas LLC ("Operator"), and submits this limited Reply to the Staff's June 4, 2018, Response to Operator's Second Motion for Order Lifting License Suspension. For its Reply, Operator states the following:

1. Operator filed its Second Motion on May 25, 2018, to inform the Commission of the material change in status of the four wells, and to ask that its license suspension be lifted and its full operating authority be restored. As of this June 14, 2018 filing, the status of the four wells is:
 - a. Smith B 10—plugged
 - b. Smith B 12—plugged
 - c. Daves D 21—plugged
 - d. Smith A 2—The well was tested, equipped and readied for production. But this past week, during a switching out of the packer, the well was damaged and lost. Operator has submitted a plugging application for the well, and has scheduled the well to be plugged June 14, 2018, or as soon thereafter as the plugging contractor can plug the well.

2. Operator has been in compliance with the November 21, 2018 Penalty Order since January 2, 2018; first by filing its temporary abandonment rule exception application on that date, and subsequently by performing every act required by the Commission, whether or not required in the Penalty Order.
3. Notwithstanding the material changes accomplished by Operator in the status of the wells, the Commission's Conservation legal staff have alleged in their Response that nothing has changed, and expressed their wish for the suspension to continue. They do not provide a basis for a continued suspension. There is no basis. The requirements of the Penalty Order have been met. The Penalty Order was issued as a summary proceeding, K.S.A. 77-537. Any further requirements would exceed the findings and conclusions in the Penalty Order, and thus would run afoul of K.S.A. 77-537. Further enforcement actions, if warranted, must be based on evidence, with proper findings and conclusions by the Commission, and an opportunity for hearing.
4. Conservation legal staff further argues that the Commission should not issue an order lifting the suspension at all; but instead should delegate that agency discretion and adjudicative authority to the staff. Such a delegation to staff would be an unlawful delegation of the Commission's licensing and adjudicative authority.
5. At this point, Operator believes the suspension can only be lifted by a Commission order. While it was and is Operator's position that on January 2, a Commission Order was *not* needed, the Conservation legal staff called the matter into question on January 3, by sending a threat of further enforcement action if Operator resumed operating. The

paragraph¹ in Operator's January 2 application properly recited the license status, and initiated the proper docket for the further oversight of those four wells. Absent specific statutes or regulations on license suspensions, including proper notice and hearing opportunities on the suspension, Operator believes it was correct in concluding that the lifting of the suspension was automatic upon Operator's filing of the TA application, that complied with the Penalty Order, thereby subjecting the assessment and further review of those wells in a docket initiated by Operator for that purpose. However, at this point, only the Commission can declare the license to be fully restored.

The Conservation legal staff refers to a 'standard practice' in which they determine compliance and lift suspensions, but there is no such standard practice that would legally endow the staff with the Commission's adjudicative powers to suspend a license or reinstate a suspended license.

6. Staff argues that the March 8, 2018 Order is clear as to what operations Operator is allowed to conduct. Staff may feel it knows what the order says, but as an example of the confusion, Operator's license in the Commission's online licensing database is listed as 'Inactive'. The Commission has not issued an order declaring the license to be 'Inactive'; and has not defined what 'Inactive' means. The Inactive designation has contributed to the confusion for Operator's contractors, in their determination of whether they can legally perform work on Operator's wells subject to the Penalty Order.

¹ Said paragraph said:

"14. Operator received a letter from KCC staff that its license was suspended, pursuant to the language in the Commission's November 21, 2017, Order. The filing of this Application cures the matter, and complies with the November 21, 2017, Order, pending the outcome of this Application. Operator's wells are currently shut in as a precaution during these few days of extreme cold weather, but when the cold weather threat subsides, it is Operator's belief that the matter now cured, does not prohibit Operator from resuming production in accordance with lease and regulatory rights and responsibilities."

7. In this Reply, Operator has again updated the status of the four wells, and has disputed several of the Conservation legal staff's arguments Operator believes to be incorrect. However, it is Operator's belief that the appropriate Commission order need only state what is in the proposed order, *i.e.*, find, conclude, and confirm that Operator's license and full operating authority should be and is reinstated.
8. Operator incorporates and reasserts its Second Motion for license reinstatement. Staff's position is arbitrary, capricious, unreasonable, and not supported by law. Operator is in compliance with the November 21, 2018, Penalty Order. To further hold this Operator's license in a suspended status would be unlawful in multiple ways—being arbitrary, capricious, unreasonable and unduly punitive, discriminatory, a violation of Operator's property rights, and counter to the Kansas Administrative Procedures Act, and the Commission's statutory duty to prevent waste.

WHEREFORE, Operator requests that the Commission issue an order confirming that Operator's license suspension has been lifted; that Operator's full operating authority is restored, and for such other relief as the Commission deems necessary and appropriate.

Respectfully Submitted,

EDMISTON LAW OFFICE, LLC

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Attorney for Veem Jade Oil & Gas LLC

VERIFICATION

STATE OF OKLAHOMA)
COUNTY OF Tulsa) SS:

Mahesh Chhabra, of lawful age, being first duly sworn, upon oath states that he is the Managing Member of Veem Jade Oil & Gas LLC; and that he has read the foregoing, is familiar with the contents thereof, and that the statements contained therein are true and correct according to his knowledge, information and belief.

Subscribed and sworn to before me, a notary public.

Mahesh Chhabra

My appointment expires:

8.10.21

Tressie Wetzel
Name Tressie Wetzel
Notary Public



CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this **14th** day of **June, 2018**, she caused the above and foregoing **Reply** to be electronically delivered, to the following person at the addresses shown:

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/s/ Diana Edmiston