

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

Before Commissioners:                    Andrew J. French, Chairperson  
   Dwight D. Keen  
   Annie Kuether

In the matter of the failure of David Smith    )    Docket No.: 25-CONS-3344-CPEN  
(Operator) to comply with K.A.R. 82-3-111 at    )  
the Diell #Diel17 and Diell #Diel27 wells in    )    CONSERVATION DIVISION  
Crawford County, Kansas.                            )  
\_\_\_\_\_)    License No.: 33431

**PENALTY ORDER**

The Commission finds Operator has violated K.A.R. 82-3-111 regarding the captioned wells, assesses a \$200 penalty, directs Operator to come into compliance, and further rules as more fully described below.

**I. JURISDICTION**

1.        K.S.A. 74-623 provides the Commission exclusive jurisdiction and authority to regulate oil and gas activities in Kansas. K.S.A. 55-152 provides the Commission with jurisdiction to regulate the construction, operation, and abandonment of any well, and also the protection of the usable water of this state from any actual or potential pollution from any well. The Commission has licensing authority under K.S.A. 55-155.

2.        K.S.A. 55-162 and K.S.A. 55-164 provide the Commission authority to issue penalty orders for violations of Chapter 55 of the Kansas Statutes Annotated, or of any rule, regulation, or order of the Commission. Under K.S.A. 55-164, a penalty order may include a monetary penalty of up to \$10,000, the penalty must constitute a substantial and actual economic deterrent to the violation, 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. If not plugged or returned to service, the operator must obtain TA approval; TA status may be denied by the Conservation Division if necessary to prevent pollution. A well shut-in for 10 years or more cannot be granted TA status without the operator filing an application for an exception pursuant to K.A.R. 82-3-100 and approval from the Commission. K.A.R. 82-3-111(e) provides a TA exemption for certain wells fully equipped and capable of production.

## **II. FINDINGS OF FACT**

4. Operator is licensed to conduct oil and gas activities in Kansas and is responsible for the following wells (Subject Wells), located in Section 3, Township 31 South, Range 22 East, Crawford County, Kansas:

- a. Diell #Diel17, API #15-037-01782-00-00; and
- b. Diell #Diel27, API #15-037-01786-00-00.

5. Prior to the issuance of this Penalty Order, Commission Staff reviewed Commission records for the Subject Wells. The records indicated the Subject Wells had been inactive and unplugged for longer than the 90 days allowed by K.A.R. 82-3-111, that the wells were not exempt pursuant to K.A.R. 82-3-111(e), and that the wells were not approved for TA status. Thus, Commission Staff sent letters to Operator, requiring Operator to bring the Subject Wells into compliance with K.A.R. 82-3-111 by a date certain.<sup>1</sup> Such date has elapsed, and no evidence in the possession of the Commission indicates Operator has brought the Subject Wells into compliance.

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<sup>1</sup> Exhibit A.

### **III. CONCLUSIONS OF LAW**

6. The Commission has jurisdiction over Operator and this matter under K.S.A. 74-623 and K.S.A. 55-152.

7. Operator has committed two violations of K.A.R. 82-3-111 because the Subject Wells have been inactive in excess of the time allowed by regulation without being plugged, returned to service, or approved for TA status.<sup>2</sup>

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

A. Operator shall pay a \$200 penalty.

B. Operator shall plug the Subject Wells, or return the wells to service, or obtain TA status for the wells if eligible.

C. Commission Staff may require Staff-witnessed static fluid level measurements before a Subject Well is returned to service. A Subject Well may not be returned to service if (1) any measurement has shown fluid in the wellbore at or above the appropriate minimum surface casing requirement described in Table I of the Commission's August 1, 1991, Order in Docket 34,780, (2) any measurement has shown fluid in the wellbore at or above any salt formation or other corrosive formation, or (3) in the opinion of Staff, variation in measurements indicates the possibility of a casing leak. Provided, however, a Subject Well may be returned to service upon (a) passing a casing integrity test after issuance of this Penalty Order to the satisfaction of Staff, or (b) Staff providing written, well-specific authorization after issuance of this Penalty Order.

D. Operator 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, to the Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202, within 30 days from the date of service of this Order. A request for hearing must comply with K.A.R. 82-1-219.

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<sup>2</sup> K.S.A. 55-164; K.A.R. 82-3-111(b).

E. Failure to timely request a hearing will result in a waiver of Operator's right to a hearing. If no party timely requests a hearing, then this Order shall become final.

F. If Operator is not in compliance with this Order and the Order is final, then Operator's license shall be suspended without further notice and shall remain suspended until Operator complies. If a Subject Well has been inactive for more than 10 years and Operator applies for an exception to the 10-year limit on TA status for the Subject Well prior to this Order becoming final, and Operator would be in compliance with this Order if the application were approved, then suspension shall not be enforced unless: (1) the application is denied, and (2) 30 days have elapsed since the denial. The notice and opportunity for a hearing on this Order shall constitute the notice required by K.S.A. 77-512 regarding license suspension.

G. A party may petition for reconsideration of a final order pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).<sup>3</sup>

H. Credit card payments may be made by calling the Conservation Division at 316-337-6200. Checks and money orders shall be payable to the Kansas Corporation Commission. Payments shall be mailed to the Kansas Corporation Commission at 266 N. Main St., Suite 220, Wichita, Kansas 67202. Payments must reference the docket number of this proceeding.

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

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 05/01/2025



Celeste Chaney-Tucker  
Executive Director

Mailed Date: 05/01/2025

TSK

<sup>3</sup> See K.S.A. 55-162; K.S.A. 55-164; K.S.A. 55-606; K.S.A. 55-707; K.S.A. 77-503(c); K.S.A. 77-531(b).



Andrew J. French, Chairperson  
Dwight D. Keen, Commissioner  
Annie Kuether, Commissioner

Corporation Commission

Laura Kelly, Governor

## **NOTICE OF VIOLATION**

DAVID M SMITH  
SMITH, DAVID  
10974 NW 3RD DR  
CHEROKEE KS 66724-9629

March 11, 2025  
KCC Lic.-33431

RE: API Well No. 15-037-01782-00-00  
DIELL DIEL17  
3-31S-22E, SENENW  
CRAWFORD County, Kansas

Dear Operator:

According to KCC records, the temporary abandonment (TA) status for this well expired on August 26, 2024 , and you are in probable violation of K.A.R. 82-3-111. An operator may apply to the Conservation Division for a TA status extension prior to the expiration of its TA approval period.

If you file a TA application with the District Office by MARCH 25, 2025 , we will process the application. If you do not file an application by this date, or advise the District Office in writing the date the well returned to service, I will refer the matter to our legal department with a recommendation that the Commission take formal enforcement action including a monetary penalty and an order for you to plug the well.

You may contact me at the number below if you have any questions.

Sincerely,

BRAD BOHRER  
KCC District # 3



Andrew J. French, Chairperson  
Dwight D. Keen, Commissioner  
Annie Kuether, Commissioner

Corporation Commission

Laura Kelly, Governor

## **NOTICE OF VIOLATION**

DAVID M SMITH  
SMITH, DAVID  
10974 NW 3RD DR  
CHEROKEE KS 66724-9629

March 11, 2025  
KCC Lic.-33431

RE: API Well No. 15-037-01786-00-00  
DIELL DIEL27  
3-31S-22E, SENENW  
CRAWFORD County, Kansas

Dear Operator:

According to KCC records, the temporary abandonment (TA) status for this well expired on August 20, 2022 , and you are in probable violation of K.A.R. 82-3-111. An operator may apply to the Conservation Division for a TA status extension prior to the expiration of its TA approval period.

If you file a TA application with the District Office by MARCH 25, 2025 , we will process the application. If you do not file an application by this date, or advise the District Office in writing the date the well returned to service, I will refer the matter to our legal department with a recommendation that the Commission take formal enforcement action including a monetary penalty and an order for you to plug the well.

You may contact me at the number below if you have any questions.

Sincerely,

BRAD BOHRER  
KCC District # 3

## **CERTIFICATE OF SERVICE**

25-CONS-3344-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 05/01/2025.

RYAN DULING  
KANSAS CORPORATION COMMISSION  
DISTRICT OFFICE NO. 3  
137 E. 21ST STREET  
CHANUTE, KS 66720  
ryan.duling@ks.gov

TRISTAN KIMBRELL, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
CENTRAL OFFICE  
266 N. MAIN ST, STE 220  
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DISTRICT OFFICE NO. 3  
137 E. 21ST STREET  
CHANUTE, KS 66720  
troy.russell@ks.gov

DAVID SMITH  
10974 NW 3RD DR  
CHEROKEE, KS 66724-9629

/S/ KCC Docket Room  
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KCC Docket Room