

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



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-3082-CPEN

October 17, 2019

Benjamin M. Giles
821 High St.
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 \$500 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,

Kelcey Marsh
Litigation Counsel
316-337-6200

**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. 82-3-120.)
)
)
)
_____) License No.: 5446

Docket No.: 20-CONS-3082-CPEN

CONSERVATION DIVISION

License No.: 5446

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.¹ 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."² Every operator conducting oil and gas activities in Kansas must be licensed by the Commission.³

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.⁴ 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

¹ K.S.A. 74-623.

² K.S.A. 55-152.

³ K.S.A. 55-155.

⁴ K.S.A. 55-162; K.S.A. 55-164.

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

3. No operator shall drill, complete, service, plug, or operate any oil or gas well without first obtaining or renewing an operator license.⁷ Each operator in physical control of any such well shall maintain a current license even if the well is shut-in or idle.⁸

4. Each licensee shall annually submit a completed license renewal form on or before the expiration date of the current license.⁹

5. Failure to obtain or renew an operator license before operating shall be punishable by a \$500 penalty.¹⁰

II. FINDINGS OF FACT

6. Operator is responsible for the care and control of the well(s) listed in Exhibit A (“the subject well(s)”). Operator’s license expired on July 30, 2019.

7. On August 02, 2019, Commission Staff sent a Notice of Violation letter to Operator, requiring Operator to renew the license, or transfer the subject well(s) to another operator, or plug the well(s), by August 16, 2019.¹¹

8. To date, Operator has not complied with K.A.R. 82-3-120 by the deadline set out in Staff’s Notice of Violation letter. Wells listed on Operator’s expired license continue to operate.¹²

⁵ K.S.A. 55-164.

⁶ *Id.*

⁷ K.A.R. 82-3-120(a)(1).

⁸ *Id.*

⁹ K.A.R. 82-3-120(a)(2).

¹⁰ K.A.R. 82-3-120(k).

¹¹ *See* Exhibit A.

¹² *See* Exhibit B.

III. CONCLUSIONS OF LAW

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

10. The Commission concludes Operator has committed one violation of K.A.R. 82-3-120(a) because an unplugged well or unplugged wells, for which Operator is responsible, remain on Operator's expired license and wells listed on Operator's expired license continue to operate.

THEREFORE, THE COMMISSION ORDERS:

- A. Operator shall pay a \$500 penalty.
- B. Operator shall immediately shut-in all unplugged wells on its license and cease oil and gas operations until Operator is in compliance with this Order. Staff may seal the wells until Operator is in compliance with this Order.
- C. Operator has 60 days from the date of this Order to:
 - a. Renew its license or obtain a new license and transfer the well(s) to that license; or
 - b. Transfer the well(s) to another operator by filing the appropriate form(s) with the Commission; or
 - c. Plug the well(s).
- D. If any unplugged well(s) remain on Operator's expired license after 60 days from the date of this Order, then:
 - a. Operator shall pay an additional \$5,000 penalty;
 - b. Staff shall revoke any injection authorizations applicable to operator; and

- c. Staff is directed to place the well(s) on the appropriate state plugging list, to plug according to priority and as funds allow, and to assess the plugging costs to Operator. This shall not preclude Staff from investigating additional potentially-responsible parties.

E. If no party requests a hearing, and Operator is not in compliance with this Order within 30 days from the date of service of this Order, 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.

F. 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.

G. 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.

H. A corporation shall appear before the Commission by a Kansas licensed attorney.¹³

I. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 10/17/2019 _____



Lynn M. Retz
Executive Director

Mailed Date: 10/17/2019 _____

KAM

¹³ K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

NOTICE OF VIOLATION

August 2, 2019

Giles, Benjamin M.
821 HIGH ST
TOWANDA, KS 67144-9047

Re: Unplugged Well(s) on Expired License #5446

Operator:

Unplugged well(s) are on your expired license, **which violates K.A.R. 82-3-120**. Attached is a list of the unplugged well(s). Please do one of the following:

- Renew your license, or obtain a new license and transfer the well(s) to that license,
- Transfer the well(s) to another operator by filing T-1 forms with the Commission, or
- File Well Plugging Application (CP-1) form(s) and plug the well(s).

Your deadline is August 16, 2019.

If you do not correct this violation, I will recommend a Commission Order with a \$500 penalty. The Order would also require you to plug the well(s) within 60 days. Failure to comply with the Order would automatically result in the Commission levying additional penalties against you, directing Staff to plug the wells, and assessing plugging costs to you.

You must immediately shut-in all wells and cease oil and gas operations until compliance is achieved.

For help renewing or obtaining a license, contact Nancy Borst at 316-337-6194.

For help transferring wells, contact Deanna Garrison at 316-337-6209.

For help with CP-1 forms, contact Rick Hestermann at 316-337-6193.

If you have further questions, you may contact me by calling our main number at the top of this letter.

Sincerely,

Nancy Borst
Administrative Specialist

Exhibit A

Giles, Benjamin M. License: 5446

<u>Unplugged Wells on Operator's License</u>				
API Well #	Lease Name / Well #		Well Location	County
15-015-01016-00-01	RALSTON	2	10-26S-4E, SENWSE	BUTLER
15-015-01020-00-02	PAULSEN	1	2-26S-4E, NENENWSW	BUTLER
15-015-01211-00-02	WRIGHT	1 OWWO	32-25S-4E, NENESW	BUTLER
15-015-01496-00-00	MCCULLOCH	5	32-25S-4E, NESWNW	BUTLER
15-015-01498-00-00	MCCULLOCH	7	32-25S-4E, NWSWNW	BUTLER
15-015-01501-00-02	MCCULLOCH	10X	32-25S-4E, SWSWNW	BUTLER
15-015-01503-00-00	JONES	2	33-25S-4E, N2NWNW	BUTLER
15-015-19224-00-00	HILDRETH	2	3-26S-4E, SESESE	BUTLER
15-015-20014-00-00	BUSENITZ	1	26-25S-3E, NESWSW	BUTLER
15-015-20093-00-01	CLEARWATER	1	33-25S-3E, SWSWSE	BUTLER
15-015-20125-00-00	CLEARWATER	2	33-25S-3E, NENWSE	BUTLER
15-015-20132-00-00	REED	1	32-25S-3E, SESENE	BUTLER
15-015-20134-00-01	SCHAUF	1	35-25S-3E, SESWNW	BUTLER
15-015-20239-00-00	RAMSEY	2	4-26S-3E, SWNENE	BUTLER
15-015-20276-00-00	RAMSEY	3	4-26S-3E, NWSENE	BUTLER
15-015-20510-00-01	MELVILLE	1A OWWO	10-26S-4E, SWNWNE	BUTLER
15-015-20620-00-00	CLEARWATER	5	33-25S-3E, N2N2N2S2	BUTLER
15-015-20714-00-00	CLEARWATER	6	33-25S-3E, SENESW	BUTLER
15-015-20749-00-00	CLEARWATER	7	33-25S-3E, NWNESW	BUTLER
15-015-20750-00-00	CLEARWATER	8	33-25S-3E, SWNESE	BUTLER
15-015-20784-00-00	RAY	A-1	34-25S-3E, NWNWSW	BUTLER
15-015-20800-00-01	RAY B	1	34-25S-3E, SWSWNW	BUTLER
15-015-20803-00-00	RAY B	2	34-25S-3E, SESWNW	BUTLER
15-015-20867-00-00	RAY A	2	34-25S-3E, NENWSW	BUTLER
15-015-20881-00-00	RAY B	4	34-25S-3E, NWNESW	BUTLER
15-015-20944-00-00	RAY C	1	34-25S-3E, SWNENW	BUTLER
15-015-20995-00-00	RAY B	6	34-25S-3E, NWSENW	BUTLER

15-015-21144-00-02	RAY	B-7	34-25S-3E, NESWNW	BUTLER
15-015-21219-00-00	HILDRETH	3-A	3-26S-4E, SENESE	BUTLER
15-015-21467-00-00	GILES	1	18-26S-3E, SWNENW	BUTLER
15-015-21486-00-01	PAULSEN	8B	2-26S-4E, NESWSWSW	BUTLER
15-015-21497-00-00	TILGNER	1	7-26S-3E, SWNENE	BUTLER
15-015-21575-00-00	ABLAH	1-11	11-26S-4E, NWNWSW	BUTLER
15-015-21608-00-00	RAY A	3	34-25S-3E, S2NWSW	BUTLER
15-015-21893-00-01	HILDRETH A	A-5	3-26S-4E, SENWSE	BUTLER
15-015-22116-00-00	HILDRETH	6-A	3-26S-4E, SESENWSE	BUTLER
15-015-22171-00-00	JONES	4	33-25S-4E, NWNW	BUTLER
15-015-22572-00-00	RALSTON	9	10-26S-4E, E2NESE	BUTLER
15-015-23150-00-00	HINNENKAMP	1	7-26S-3E, SWSENE	BUTLER
15-015-23296-00-00	HINNENKAMP	2	7-26S-3E, NWSWNE	BUTLER
15-015-23320-00-00	MCCULLOCH	11	32-25S-4E, SWNW	BUTLER
15-015-23667-00-00	RALSTON	10	10-26S-4E, SENESE	BUTLER
15-015-23788-00-00	HILDRETH	7	3-26S-4E, SWSWSESE	BUTLER
15-015-24061-00-00	MCCULLOCH	2A	32-25S-4E, NWSWSENW	BUTLER
15-015-24091-00-00	MELVILLE	B-1	10-26S-4E, SESENE	BUTLER
15-015-24092-00-00	RALSTON	11	10-26S-4E, SWSWNESE	BUTLER
15-015-30089-00-01	ABLAH	1A SWD	11-26S-4E, NWNWSW	BUTLER
15-015-30332-00-02	MELVILLE	5 OWWO	10-26S-4E, NWNENE	BUTLER
15-015-40043-00-00	PAULSEN	2	2-26S-4E, SWSESWSW	BUTLER
15-015-40044-00-00	PAULSEN	3	2-26S-4E, SENWSWSW	BUTLER
15-015-40045-00-01	RALSTON OWWO	5	10-26S-4E, SWSESE	BUTLER
15-015-40140-00-00	RALSTON	1	10-26S-4E, NENWSE	BUTLER
15-015-40142-00-00	RALSTON	4	10-26S-4E, NESWSE	BUTLER
15-015-40144-00-00	RALSTON	6	10-26S-4E, NWSESE	BUTLER
15-015-40321-00-01	RALSTON OWWO	11	10-26S-4E, NENWNESE	BUTLER
15-015-40467-00-01	MCCULLOCH	12 SWD	32-25S-4E, SWNENW	BUTLER
15-167-00209-00-00	MACHIN	1	4-13S-14W, NWNWSE	RUSSELL
15-167-21731-00-02	MACHIN A	1	4-13S-14W, S2SWNE	RUSSELL
15-173-00089-00-01	NEWCOMER	1B	35-25S-1E, SWSWNW	SEDGWICK
15-173-00262-00-01	BUTTWICK SWD	1	12-26S-2E, NENWNW	SEDGWICK
15-173-00787-00-03	H. ERDWIEN	2	11-26S-2E, NESWSW	SEDGWICK
15-173-01905-00-00	EDSON	3	1-26S-2E, SWSWSE	SEDGWICK
15-173-01906-00-00	EDSON	4	1-26S-2E, SWNWSE	SEDGWICK
15-173-03521-00-00	LYGRISSE	1	12-26S-2E, SWSWNE	SEDGWICK
15-173-03589-00-01	I K LYGRISSE	2B	12-26S-2E, NWSWNE	SEDGWICK
15-173-20033-00-00	NEWCOMER	1	35-25S-1E, SWNWNW	SEDGWICK
15-173-20077-00-00	LYGRISSE	B-2	12-26S-2E, NWSENE	SEDGWICK

15-173-20082-00-01	NEWCOMER	A	35-25S-1E, NWNWNW	SEDGWICK
15-173-20738-00-00	GLEN LYGRISSE	1	12-26S-2E, NENWSE	SEDGWICK
15-173-20805-00-00	DEMOSS	1	12-26S-2E, NWSENW	SEDGWICK
15-173-20833-00-01	HLADIK	1	12-26S-2E, SWNENW	SEDGWICK
15-173-21021-00-00	ERDWIEN	1A	11-26S-2E, W2SESWSW	SEDGWICK
15-173-21023-00-00	M & L LAND STOLLEI	1A	11-26S-2E, N2SWSESW	SEDGWICK

KCC OIL/GAS REGULATORY OFFICES

Date: 09/19/19

District: 02

Case #: _____

- ☐ New Situation
☐ Response to Request
☒ Follow-Up

- ☒ Lease Inspection
☐ Complaint
☒ Field Report

Operator License No: 5446

API Well Number: _____

Op Name: Giles, Benjamin M.

Spot: _____ Sec 11 Twp 26 S Rng 2 ☒ E ☐ W

Address 1: 821 High St.

Feet from ☐ N ☒ S Line of Section

Address 2: _____

Feet from ☒ E ☐ W Line of Section

City: Towanda

GPS: Lat: _____ Long: _____ Date: _____

State: KS Zip Code: 67144 -9047

Lease Name: M&L Land Stollei / Erdwien Well #: _____

Operator Phone #: (316) 265-1992

County: Sedgwick

Reason for Investigation:

Follow up to lease evaluations

Problem:

Wells were discovered in production while operator has an expired KCC license.

Persons Contacted:

None

Findings:

9/19/2019-Found the M&L Land Stollei and the Erdwien #1A in production.

Action/Recommendations:

Follow Up Required ☒ Yes ☐ No ☐

Date: 10/1/19

9/20/2019-Will report findings to District 2 Supervisor and Wichita Legal department.
Recommend a shut in order by the commission.

Verification Sources:

Photos Taken: Yes

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> RBDMS | <input type="checkbox"/> KGS | <input checked="" type="checkbox"/> TA Program |
| <input type="checkbox"/> T-I Database | <input type="checkbox"/> District Files | <input type="checkbox"/> Courthouse |
| <input type="checkbox"/> Other: _____ | | |

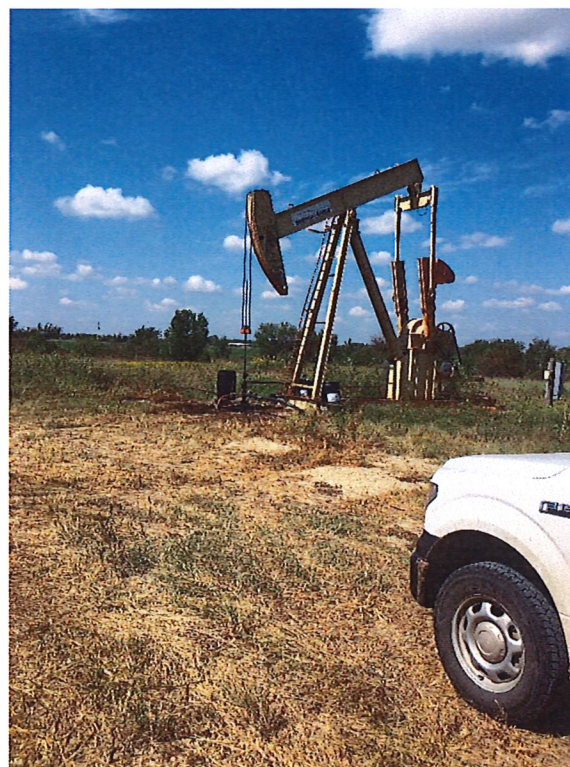
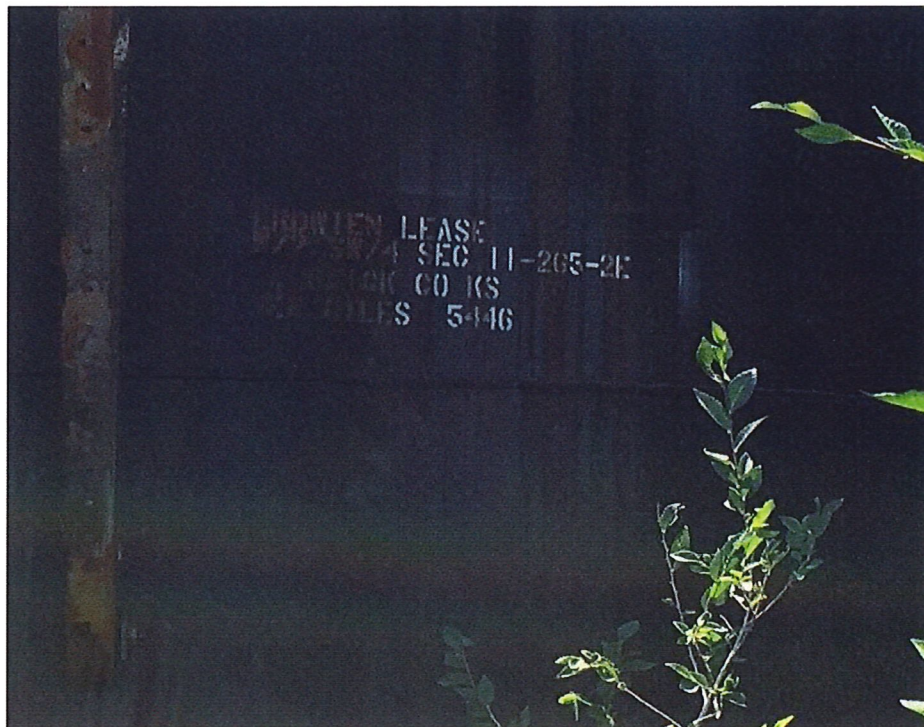
By: Daniel K. Fox-Compliance Officer

Daniel K. Fox

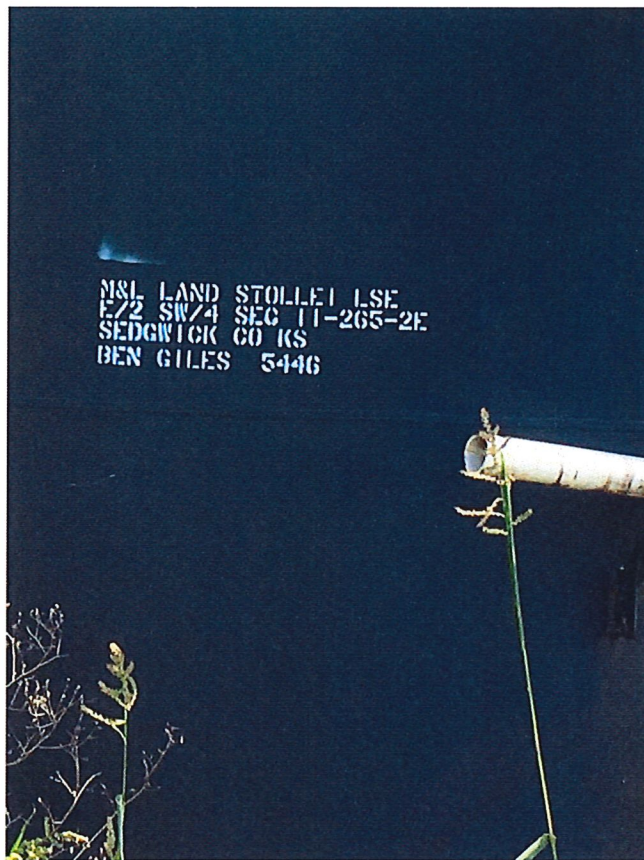
Retain 1 Copy District Office
Send 1 Copy to Conservation Division

Form: _____

Giles, Benjamin M. Lic. #5446 (Expired) Erdwien #1A located in the SW/4 of 11-26S-2E, SG. Co. Well found in production. Photos taken on 9/19/2019 by Dan Fox-Compliance Officer.



Giles, Benjamin M. Lic.#5446 (Expired) M&L Land Stollei #1A located in the SW/4 of 11-26-2E. SG. Co. Well found in production. Photos taken on 9/19/2019. By Dan Fox-Compliance Officer.



KCC OIL/GAS REGULATORY OFFICES

Date: 09/19/19

District: 02

Case #: _____

☐ New Situation
☐ Response to Request
☒ Follow-Up

☒ Lease Inspection
☐ Complaint
☒ Field Report

Operator License No: 5446

API Well Number: _____

Op Name: Giles, Benjamin

Spot: _____ Sec _____ Twp _____ S Rng _____ ☐ E / ☐ W

Address 1: 821 High St

_____ Feet from ☐ N / ☐ S Line of Section

Address 2: _____

_____ Feet from ☐ E / ☐ W Line of Section

City: Towanda

GPS: Lat: _____ Long: _____ Date: _____

State: KS Zip Code: 67144 -

Lease Name: _____ Well #: _____

Operator Phone #: (316) 265-1992

County: Butler

Reason for Investigation:

Inactive/Suspended operator license

Problem:

- Operator conducting oilfield operations and producing wells on a suspended license

Persons Contacted:

N/A

Findings:

- Operator's license was suspended on 7/31/2019
- Operator was provided 10 days from date of suspension letter (deadline 8/10/2019) to shut-in all oil and gas operations
- On 8/19/2019, Staff discovered the following 3 wells producing on operator's license:
 - Ralston 11 OWWO -- 15-015-40321-00-01
 - McCulloch 7 -- 15-015-01498-00-00
 - Busenitz 1 -- 15-015-20014-00-00
- On 9/6/2019, Staff found the following 3 wells producing on operator's license:
 - Ralston 2 OWWO -- 15-015-01016-00-01
 - Ralston 11 OWWO -- 15-015-40321-00-01
 - Melville B-1 -- 15-015-24091-00-00
- On 9/10/2019, Staff found the following 2 wells producing on operator's license:
 - Ralston 2 OWWO -- 15-015-01016-00-01
 - Ralston 11 OWWO -- 15-015-40321-00-01
- On 9/19/2019, staff found the following 4 wells producing on operator's license:
 - Ralston 2 OWWO -- 15-015-01016-00-01
 - Ralston 11 OWWO -- 15-015-40321-00-01
 - Melville B-1 -- 15-015-24091-00-00
 - Busenitz 1 -- 15-015-20014-00-00

Action/Recommendations:

Follow Up Required ☒ Yes ☐ No ☐

Date: _____

- Submit field report to District Supervisor and Legal Department

Verification Sources:

Photos Taken: Yes

☒ RBDMS ☐ KGS ☐ TA Program
☐ T-I Database ☐ District Files ☐ Courthouse
☐ Other: _____

By: Jonathan Hill
ECRS

Retain 1 Copy District Office
 Send 1 Copy to Conservation Division

Form: _____

CERTIFICATE OF SERVICE

20-CONS-3082-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 10/17/2019.

NANCY BORST
KANSAS CORPORATION COMMISSION
CENTRAL OFFICE
266 N. MAIN ST, STE 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
n.borst@kcc.ks.gov

BENJAMIN M. GILES, CHARLENE A. GILES
BENJAMIN J. GILES
821 HIGH STREET
TOWANDA, KS 67144-9047
charlene121965@att.net

KELCEY MARSH, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
CENTRAL OFFICE
266 N. MAIN ST, STE 220
WICHITA, KS 67202-1513
Fax: 785-271-3354
k.marsh@kcc.ks.gov

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

DONALD KLOCK
KANSAS CORPORATION COMMISSION
DISTRICT OFFICE NO. 2
3450 N. ROCK RD BLDG 600 STE 601
WICHITA, KS 67226
Fax: 785-271-3354
j.klock@kcc.ks.gov

/S/ DeeAnn Shupe

DeeAnn Shupe