



BEFORE THE OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF ALLEGED VIOLATIONS OF THE RULES)	CAUSE NO. 1V
AND REGULATIONS OF THE COLORADO OIL AND GAS)	
CONSERVATION COMMISSION BY PROVIDE ENERGY, LLC,)	ORDER NO. 1V-364
JEFFERSON COUNTY, COLORADO)	

ORDER FINDING VIOLATIONS

FINDINGS

1. According to the Colorado Secretary of State, Provide Energy, LLC ("Provide Energy") (Operator No. 100900) is a foreign limited liability company, located in Nevada. On February 25, 2008, Provide Energy submitted a Form 1A, Designation of Agent, which lists Allen Stout and Melvin Richards as Managers for Provide Energy.

2. On July 18, 2007, Provide Energy, the successor and current operator of the State 16-4 #1 Well (API No. 05-059-06024) (the "Well"), located in the NW¼ NW¼ of Section 16, Township 2 South, Range 70 West, 6th P.M., completed the Well in the Niobrara Formation with a total depth of 9,439 feet. Provide Energy has posted a \$5,000 Individual Plugging Financial Assurance for the Well.

3. On May 4, 2009, Staff issued NOAV #1769054 for alleged violations of COGCC rules, including:

a. Rule 301., which requires operators to file with the Director a written notice of intention to do work or to change plans previously approved;

b. Rule 1002.d., which requires operators to design and construct a safe working area for drilling activities while reasonably minimizing the total surface area disturbed;

c. Rule 1002.e.(1), which requires operators to reasonably minimize land disturbances and facilitate future reclamation by locating, constructing, and maintaining well sites, production facilities, gathering pipelines, and access roads so as to reasonably control dust and minimize erosion, alteration of natural features, removal of surface materials, and degradation due to contamination;

d. Rule 1003.b., which provides that all disturbed areas affected by drilling or subsequent operations to be reclaimed as early and as nearly as practicable to their original condition or their final land use as designated by the surface owner and shall be maintained to control dust and minimize erosion to the extent practicable. Interim reclamation shall occur no later than six (6) months on non-crop land after such operations;

e. Rule 1003.e.(2), which provides that when a well is completed for production, all disturbed areas no longer needed will be restored and revegetated as soon as practicable. Interim reclamation of all disturbed areas no longer in use shall be considered complete when all ground surface disturbing activities at the site have been completed, and all disturbed areas have been either built on, compacted, covered, paved, or otherwise stabilized in such a way as to minimize erosion to the extent practicable, or a uniform vegetative cover has been established that reflects pre-disturbance or reference area forbs, shrubs, and grasses with total percent plant cover of at least eighty percent (80%) of pre-disturbance levels or reference areas, excluding noxious weeds. Re-seeding alone is not sufficient; and

e. Rule 1003.f., which provides that during drilling, production, and reclamation operations, all disturbed areas shall be kept as free of all undesirable plant species designated to be noxious weeds as practicable. Weed control measures shall be conducted in compliance with the Colorado Noxious Weed Act, C.R.S. §35-5.5-115 and the current rules pertaining to the administration and enforcement of the Colorado Noxious Weed Act.

The NOAV required Provide Energy to perform the following abatement or corrective actions by June 15, 2009: minimize the Well pad, contour the surface of the unused portion of the Well site, install BMPs, control weeds, plant desirable species, and notify COGCC Staff prior to surface activities to facilitate oversight. Further, Provide Energy was required to submit a detailed timeline outlining planned surface reclamation by May 15, 2009.

4. On December 28, 2009, Staff issued NOAV #1769739 for alleged violations of COGCC rules, including:

a. Rule 205.a., which requires all operators to make and keep appropriate books and records covering their operations in the State of Colorado, including natural gas meter calibration reports, from which they may be able to make and substantiate the reports required by the Commission or the Director;

b. Rule 206., which requires operators from time to time to file accurate and complete reports containing such information and covering such geographic areas or periods as the Commission or Director shall require;

c. Rule 309., which requires operators to file with the Commission, within forty-five (45) days after the month in which production occurs, a report on Operator's Monthly Production Report, Form 7, containing all information required by said form; and

d. Rule 706., which requires an operator, prior to commencing the drilling of a well, to provide financial assurance to the Commission to ensure the protection of the soil, the proper plugging and abandonment of the well, and the reclamation of the site in accordance with COGCC regulations.

The NOAV required certain abatement or corrective actions to be taken by the operator by February 1, 2010. The actions required Provide Energy to submit missing and corrected production reports, provide adequate financial surety, and provide meter calibration records.

5. As of November 30, 2010, Provide Energy has failed to meet financial assurance requirements set forth under the Colorado Oil and Gas Conservation Commission ("Commission" or "COGCC") Rules, amended December 2008 and effective on non-federal lands on April 1, 2009. The financial assurance required for the Well is Twenty Thousand dollars (\$20,000). On October 27, 2009, COGCC Staff (the "Staff") issued an advisement letter to Provide Energy which requested the operator to comply with Rule 706., by posting an additional \$15,000 Individual Plugging Financial Assurance for the Well, and that its failure to do so would result in the issuance of a Notice of Alleged Violation ("NOAV"). The letter was sent in the United States Mail, first class postage prepaid, and the letter was not returned. Follow-up phone calls have been made to Provide Energy regarding financial assurance, without avail. Further, as of November 30, 2010, Provide Energy is delinquent in submitting production records.

6. As of November 30, 2010, the site for the Well has not been minimized and no substantive interim reclamation has begun. The Application for Permit to Drill ("APD") for the Well required Provide Energy to restore the tallgrass prairie in which the site is located, and this reclamation measure has not occurred. Additionally, there have been no Best Management Practices ("BMPs") postings on-site for the Well to control significant precipitation run-on/run-off potential from land West of the wellsite and potential discharge of stormwater East off the wellsite. The wellsite also has significant infestation of noxious weeds.

7. On November 29, 2010 and January 13, 2011, this matter came before the Commission for an Order Finding Violation hearing. Provide Energy failed to appear and defend against the allegations made by the COGCC Staff.

8. Rule 523. specifies a base fine of Five Hundred dollars (\$500) for each day of violation of Rules 205.a., 206., and 309.; and a base fine of One Thousand dollars (\$1,000) for each day of violation of Rules 301., 706., 1002.d., 1002.e.(1), 1003.b., 1003.e., and 1003.f. Rule 523.a.(3) specifies that "the maximum penalty for any single violation shall not exceed Ten Thousand dollars (\$10,000) regardless of the number of days of such violation," unless the violation results in significant waste of oil and gas resources, damage to correlative rights, or a significant adverse impact on public health, safety or welfare or the environment.

9. Rule 525.b. provides that whenever the Commission or the Director has evidence that an operator is responsible for a pattern of violation of any provision of the Oil and Gas Conservation Act (§34-60-101, *et seq.*) (the "Act"), or of any rule, permit or order of the Commission, the Director shall issue a notice to the operator to appear for a hearing before the Commission. If the Commission finds after such hearing, that a knowing and willful pattern of violation exists, it may issue an order which shall prohibit the issuance of any new permits to the operator.

10. Provide Energy should be found in violation of Rules 205.a., 206., 301., 309., 706., 1002.e.(1), 1003.b., 1003.e.(2), and 1003.f., for its oil and gas operations at the Well and pay a fine as prescribed by Rule 523. Further, Provide Energy should be ordered to complete abatement or corrective actions set forth in the NOAVs, as may be amended or modified by Staff.

11. The Commission should authorize the Staff to foreclose the existing \$5,000 plugging bond, supplemented as may be necessary by funds from the Oil and Gas Conservation and Environmental Response Fund, to plug and abandon the Well and reclaim the Well site and associated facilities.

12. The Commission should find that a knowing and willful pattern of violation exists because Provide Energy has violated a number of separate bonding, reporting, and maintenance requirements under the Rules; failed, for more than one year, to perform the abatement and corrective actions required by the NOAVs; and failed to respond to repeated communications from the COGCC Staff during this enforcement action. Until any fine assessed under this action is paid in full and all required abatement and corrective actions are performed by Provide Energy for the Well, the Director should not approve any application for permit-to-drill, any Certificate of Clearance and/or Change of Operator, Form

10, or other permit for conducting oil and gas operations for Provide Energy or any entity of which Allen Stout or Melvin Richards are principals, majority owners, operational or general managers, or in which Mr. Stout or Mr. Richards otherwise exercise control.

13. The Commission should assess the following fines based on the associated rule violations for Provide Energy's operations at the Well:

Violation	Base Fine
Rule 205.a.	\$10,000
Rule 206.	\$5,000
Rule 301.	\$10,000
Rule 309.	\$10,000
Rule 706.	\$10,000
Rule 1002.d.	\$10,000
Rule 1003.b.	\$10,000
Rule 1003.e.(2)	\$10,000
1003.f.	\$10,000
Total Fines	\$85,000

14. Payment of the fine pursuant to this Order should not relieve the operator from its obligations to complete corrective actions set forth in the NOAV, as may be amended or modified by COGCC Staff.

15. Provide Energy, or its successors or assigns, should be required to remain responsible for complying with this Order, in the event of any subsequent sale of property.

16. On January 13, 2011, this matter was considered by the Commission.

17. Due notice of the time, place and purpose of the hearing has been given in all respects as required by law.

18. The Commission has jurisdiction over the subject matter embraced in said Notice, and of the parties interested therein, and jurisdiction to promulgate the hereinafter prescribed order pursuant to the Oil and Gas Conservation Act.

19. At hearing, COGCC Staff made an offer of proof in support of the proposed Order Finding Violation, summarizing the key factual findings described above, and proposing a total fine of Eighty Five Thousand dollars (\$85,000) payable within 30 days of the entry of the order.

20. The Commission should accept the recommendation of the COGCC Staff in this matter.

ORDER

NOW, THEREFORE, IT IS ORDERED, that Provide Energy is in violation of Rules 205.a., 206., 301., 309., 706., 1002.e.(1), 1003.b., 1003.e.(2), and 1003.f., for its oil and gas operations at the State 16-4 #1 Well, located in the NW¼ NW¼ of Section 16, Township 2 South, Range 70 West, 6th P.M., for those acts alleged in this Order.

IT IS FURTHER ORDERED, that Provide Energy shall be assessed a total fine of **Eighty Five Thousand dollars (\$85,000)** for the Rule violations set forth above, which shall be payable within thirty (30) days of the date the order is approved by the Commission.

IT IS FURTHER ORDERED, that a knowing and willful pattern of violation exists because Provide Energy has failed, for more than one year, to perform the abatement and corrective actions required by the NOAVs. Until any fine assessed under this action is paid in full and all required abatement and corrective actions are performed by Provide Energy for the Well, the Director shall not approve any application for permit-to-drill, any Certificate of Clearance and/or Change of Operator, Form 10, or other permit for conducting oil and gas operations for Provide Energy or any entity of which Allen Stout or Melvin Richards are principals, majority owners, operational or general managers, or in which Mr. Stout or Mr. Richards otherwise exercise control.

IT IS FURTHER ORDERED, that this Order does not relieve the operator from undertaking and completing abatement or corrective actions that may be required by the Notice of Alleged Violation described above, or any amendments or modifications thereto specified by the COGCC Staff.

IT IS FURTHER ORDERED, that the COGCC Staff is authorized to claim \$5,000 plugging/abandonment and reclamation bond posted by Provide Energy to defray the expenses associated with plugging, abandoning and reclaiming the Well and well site.

IT IS FURTHER ORDERED, that the COGCC Staff shall plug and abandon the Well and perform any necessary reclamation of the well site, and supplement those costs associated with the plugging with funds from the Oil and Gas Conservation and Environmental Response Fund as may be necessary.

IT IS FURTHER ORDERED, that under the State Administrative Procedure Act the Commission considers this order to be final agency action for purposes of judicial review within 30 days after the date this order is mailed by the Commission.


IT IS FURTHER ORDERED, that an application for reconsideration by the Commission of this order is not required prior to the filing for judicial review.

IT IS FURTHER ORDERED, that the provisions contained in the above order shall become effective forthwith.

IT IS FURTHER ORDERED, that the Commission expressly reserves its right after notice and hearing, to alter, amend, or repeal any and/or all of the above orders.

ENTERED this 10th day of February, 2011, as of January 13, 2011.

OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

By 
Robert A. Willis, Acting Secretary

Dated at Suite 801
1120 Lincoln St.
Denver, Colorado 80203
February 10, 2011