

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 & GAS	)	
CONSERVATION COMMISSION BY BEREN CORPORATION,	)	DOCKET NO. 1205-OV-05
WASHINGTON COUNTY, COLORADO	)	

WRITTEN RESPONSE TO REQUESTS FOR ADMISSION

COMES NOW the Beren Corporation ("Beren"), by and through its attorney, Burleson LLP, and hereby submits its written response to requests for admission made by the Colorado Oil and Gas Conservation Commission ("COGCC" or "Commission") staff which relate to alleged rule violations at production facilities associated with the Cook #1-X Well, API #05-121-09791. In response to the following requests for admission, Beren states and alleges as follows:

*1. Rule 324A.a., which requires an operator to take precautions to prevent significant adverse environmental impacts to air, water, soil, or biological resources to the extent necessary to protect public health, safety and welfare, including the environment and wildlife resources, taking into consideration cost-effectiveness and technical feasibility to prevent the unauthorized discharge or disposal of oil, gas, E&P waste, chemical substances, trash, discarded equipment or other oil field waste.*

Denied.

Beren took precautions to prevent significant adverse impacts by conducting its operations at the Cook tank battery in a manner which contained E&P waste from the November 27, 2011, upset at the heater treater and restricted the environmental impact from the spill/release to the area around the treater. A mechanical failure in the treater caused the release; fluids released were contained within the dike. The treater was subsequently repaired. The fact that the fluids were contained within the diked area around the treater supports Beren's contention that it took necessary precautions to prevent significant adverse environmental impacts.

*2. Rule 902.a., which requires pits used for exploration and production of oil and gas to be constructed and operated to protect public health, safety, and welfare and the environment, including soil, waters of the state, and wildlife, from significant adverse environmental, public health, or welfare impacts from E&P waste, except as permitted by applicable laws and regulations.*

Denied.

For providing a response, it is assumed that this alleged rule violation relates to the unlined skim pit at the Cook tank battery. The skim pit was constructed in 1952 to protect public health safety and welfare, and subsequently operated, in accordance with applicable laws and COGCC regulations, with no significant adverse environmental impacts. Beren is in the process of plugging and abandoning the lease, which includes closing the unlined skim pit. Beren is also presently implementing a plan using alternate skimming equipment at other area leases which will eliminate its use of unlined skim pits.

*3. Rule 902.b., which requires pits to be constructed, monitored, and operated to provide for a minimum of two (2) feet of freeboard at all times between the top of the pit wall at its point of lowest elevation and the fluid level of the pit. A method of monitoring and maintaining freeboard is to be employed, and any unauthorized release of fluids from a pit shall be subject to the reporting requirements of Rule 906.*

Denied.

For providing a response, it is assumed that this alleged rule violation relates to the unlined skim pit at the Cook tank battery. The skim pit was constructed in 1952 and has been operated over the years without any incidents of significant adverse environmental impact.

Beren is in the process of closing the unlined skim pit at the Cook tank battery, and plugging and abandoning the lease.

*4. Rule 904.a., which requires skim pits to be lined.*

Denied.

The relevant portion of Rule 904.a. provides that pits constructed before April 1, 2009 on non-federal lands are to comply with the rules in effect at the time of their construction. Skim pits are to be lined if they are constructed on or after April 1, 2009, on non-federal land. The skim pit used at the Cook tank battery was constructed and placed in operation in 1952. Rules in effect at the time of its construction required operators to take necessary precautions to avoid polluting streams and underground water, and *did not* require skim pits to be lined.

On February 28, 2012, Beren, by and through its attorney, submitted a written response to Notice of Alleged Violation ("NOAV") #200337810, which more thoroughly describes its rationale as to why Rule 904.a. does not require the skim pit, when used at the Cook tank battery, to be lined, and incorporates certain portions of that response into this statement by reference.

In July, Beren, in the spirit of cooperation, chose to unilaterally go above and beyond what was required under the rules by presenting an aggressive field work schedule which calls for the plugging of the Cook #1-X Well and subsequent abandonment of the lease and the renovation of other unlined skim pits at Beren leases. Beren has incurred substantial costs to-date on implementing work associated with the work schedule.

*5. Rule 906.a., which requires an operator to control and contain spills/releases of E&P waste, including produced fluids, immediately upon discovery to protect the environment, public health, safety, and welfare and wildlife resources. Impacts resulting from spills/releases are to be investigated and cleaned up as soon as practicable, and the Director may require additional activities to prevent or mitigate threatened or actual significant adverse environmental impacts on any air, water, soil or biological resources, or to the extent necessary to ensure compliance with the concentration levels in Table 910-1, with consideration to WQCC ground water standards and classifications.*

Denied.

The heater treater at the Cook tank battery was upset on November 27, 2011, which led to the spill/release of approximately 70 barrels of E&P waste which was contained within the dike associated with the treater. On discovery, Beren dispatched a vacuum truck to the location which removed approximately 55 barrels of liquid from the impacted area. Beren's pumper then brought fresh dirt to location to soak up any remaining E&P waste and, subsequently, removed any contaminated soil for disposal at an authorized facility. Beren was able to control and contain the spill/release, thereby protecting the environment, public health, safety, and welfare and wildlife resources.

*6. Rule 906.b., which requires an operator to report spills/releases which exceed twenty (20) barrels of E&P waste on COGCC Spill/Release Report, Form 19, and also verbally report to the Director as soon as practicable, but not more than twenty-four (24) hours after discovery. This Rule also requires the operator to include an 8½ x 11 inch topographic map showing the spill location, and*

*any information related to initial mitigation, site investigation, and remediation. The Director may require additional information.*

Admitted with explanation.

Beren took immediate action to begin remediation of the area impacted by the November 27, 2011, spill/release at the Cook tank battery; however, failed to timely report the spill/release within the requisite twenty-four (24) hours of discovery. On December 12, 2011 (five days after the December 7, 2011, ten-day reporting deadline), Beren filed a Spill/Release Report, Form 19, describing the incident. It is unreasonable for the COGCC staff to seek the assessment of a large penalty under the rules for failing to file a Form 19 by five days when the impacted area was subsequently remediated successfully.

*7. Rule 906.d., which requires an operator, upon request to submit a Site Investigation and Remediation Workplan, Form 27, when there exists threatened or actual significant adverse environmental impacts on any air, water, soil or other environmental resource due to a spill/release or when necessary to ensure compliance with the concentration levels in Table 910-1. This Rule also requires spills/releases to be remediated in accordance with Rules 909. and 910.*

Denied.

On or about April 17, 2012, Beren submitted a Site Investigation and Remediation Workplan, Form 27, which was subsequently approved by COGCC staff with certain conditions of approval, to remediate impacts from the November 27, 2011, spill/release at the Cook tank battery. Beren asserts that the area impacted by the spill/release has been successfully remediated in accordance with Rules 909. and 910.

*8. Rule 907.a., which requires an operator to ensure E&P waste is properly stored, handles, transported, treated, recycled, or disposed to prevent threatened or actual significant adverse environmental impacts to air, water, soil or biological resources, or to the extent necessary to ensure compliance with the concentration levels in Table 910-1.*

Denied.

Any and all contaminated soil identified and removed pursuant to the remediation of the impacted area of the spill/release at the Cook tank battery has been disposed of at an authorized disposal facility (specifically, the Waste Management at Buffalo Ridge Landfill in Keenesburg). Records of transporting the E&P waste are maintained by Beren, and it has disclosed those records to the COGCC staff.

*9. Rule 907.b., which requires an operator, when transporting E&P waste off-site within Colorado for treatment or disposal, to transport the E&P waste to facilities authorized by the Director or waste disposal facilities authorized to receive E&P waste by the Colorado Department of Public Health and Environment. Certain records for transporting E&P waste off-site are to be maintained for not less than five (5) years.*

Denied.

Any and all contaminated soil identified and removed pursuant to the remediation of the impacted area of the spill/release at the Cook tank battery has been disposed of at an authorized disposal facility (specifically, the Waste Management at Buffalo Ridge Landfill in Keenesburg). Records of transporting the E&P waste are maintained by Beren, and it has disclosed those records to the COGCC staff.

*10. Rule 907.e., provides that oily waste from oil and gas operations is to be disposed of at a commercial solid waste disposal facility or onsite land treatment.*

Denied.

Any and all contaminated soil identified and removed pursuant to the remediation of the impacted area of the spill/release at the Cook tank battery has been disposed of at an authorized disposal facility (specifically, the Waste Management at Buffalo Ridge Landfill in Keenesburg).

DATED this 4<sup>th</sup> day of September, 2012.

Respectfully submitted,

BEREN CORPORATION

By: 

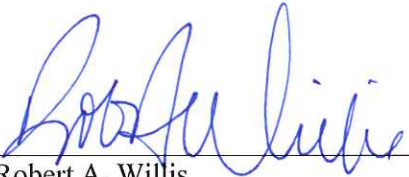
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CERTIFICATE OF SERVICE

I hereby certify that on September 4, 2012, I caused a true and correct copy of the Written Response to Requests for Admission to be served via email to the following:

Peter Gowen ([Peter.Gowen@state.co.us](mailto:Peter.Gowen@state.co.us))

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Robert A. Willis