



October 19, 2011

Coral Production Corporation  
Christiansen B-5 API #121-10711  
NOAV #200308970

COGCC Comments to Coral Production Response to NOAV dated October 13, 2011

**Note 1 (Regarding Paragraph 1 of Introduction)**

Coral Production Corporation (Coral) is the operator of record of the Christiansen B-5 well. As a result, Coral is responsible for complying with all applicable regulations governing oil & gas exploration, development and production in the state of Colorado. Coral is responsible for assuring that its' employees and subcontractors comply with the regulations.

Intentionally dumping E&P waste as a disposal method is not a widespread industry practice nor has it ever been condoned by COGCC. Coral is responsible for ensuring that all E&P waste generated from its operations is properly treated or disposed in accordance with the Series 900 Rules. COGCC Rule 907.f. allows four disposal options, none of which include intentional dumping of tank bottoms.

The NOAV was issued to Coral on May 2, 2011. It required Coral to immediately remove all impacted material from the lease roads. On August 2, 2011, Coral notified COGCC via email that the material from the Christiansen battery lease roads had been excavated and stockpiled on July 28, 2011. None of the oily waste from the Young lease road was ever removed. Oily waste from the turn-around at the Young tank battery was removed and added to the stockpiled material in August 2011.

**Note 2 (Regarding Paragraph 2 of Introduction)**

The NOAV makes a factual statement about E&P waste being dumped on the Young Well lease road. During the inspection on April 29, 2011, Colby Horton and John Axelson observed liquid oily waste and soils saturated with oil on the Young Lease road beginning at a point approximately 1100-feet east of County Road RR at the bottom of a slight hill. The oily waste appeared to be fresh. The oily waste extended approximately 1-mile where it terminated at the turn-around next to the Young Well 33-27350 Tank battery. Several pictures were taken on the date of the inspection that documents the observations – refer to Exhibit 1 attached.

On April 29, 2011, John Axelson contacted Sam Spears, contract pumper, for Coral. Mr. Spears stated that the oily material and fluids were generated from cleanout of the production tanks at the Christiansen B Tank Battery. He stated that Coral had directed him to dump the tank bottoms on the lease roads.

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

RECEIVED  
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IN THE MATTER OF ALLEGED VIOLATIONS OF ) CAUSE NO. IV  
THE RULES AND REGULATIONS OF THE COLORADO )  
OIL AND GAS CONSERVATION COMMISSION BY ) DOCKET NO. 1108-OV-22  
CORAL PRODUCTION CORPORATION, )  
WASHINGTON COUNTY, COLORADO )

ORIGINAL

CORAL PRODUCTION CORPORATION'S RESPONSE TO NOAV

Operator Coral Production Corporation ("Coral"), by and through its attorneys, McGloin, Davenport, Severson and Snow, Professional Corporation, hereby submits its Response to the May 2, 2011 Notice of Alleged Violation (NOAV #200308970), and in support of said Response, states as follows:

I. INTRODUCTION

The NOAV alleges a number of violations. Coral admits that its third party contractors landfarmed oil onto the road bed at the Christianson Lease Site (the "Site") but states that those contractors do so with the good faith belief that this historic industry practice was condoned by the Colorado Oil and Gas Conservation Commission (the "Commission") and that the practice was widespread in the industry. Coral submitted a Form 19, Spill/Release Report and removed the material from the roadways. Note 1

The NOAV makes material misstatements about the road on the Young Well site. Coral entered into an agreement with a third party for the sale of a Young Well, and the third party purchaser withdrew from the transaction and is claiming that the basis for the withdrawal is the NOAV. The specific allegation in the NOAV that the third party cited as the basis for its

withdrawal was subsequently withdrawn after Coral demonstrated that no E&D waste or tank bottoms were ever spread on the Young Well road, and extensive sampling and subsequent testing by COGCC confirmed that fact. Note 2

## II. Coral's Response to Alleged Violations

The NOAV provides a narrative description of the alleged violations and also lists fourteen different Rule citations in a separate section of the NOAV. For organizational purposes, this Response is organized by the Rules cited in the NOAV. Coral has undertaken substantial and continuing remediation efforts and all remediated items should be dismissed. The NOAV's narrative was not tied directly to a specific Rule and Coral was forced to assign portions of the narrative to a specific rule in some cases so that it could respond. Further, many of the alleged violations are duplicative. The allegations lack specificity, but Coral will attempt to respond to the allegations as best as possible:

1. **Alleged Violation of Rule 210.b.** Coral admits the signs required by Rule 210.b(2) were not in place near the tank battery. Without admitting any responsibility, Coral states it placed signs in compliance with the Rule.
2. **Alleged Violation of Rule 210.d(1).** Coral admits that the tank battery at the Site was not labeled properly. Without admitting any responsibility, Coral states it placed labels in compliance with the Rule.
3. **Alleged Violation of Rule 603.j.** Coral admits that scrap material and debris was present at the Site. Without admitting any responsibility, Coral states it removed all scrap material, unused equipment and debris from the Site.

4. Alleged Violation of Rule 604.a. Coral is uncertain as to the alleged violation of Rule 604.a as it was not specifically referenced in the NOAV narrative. As a result, Coral denies any violation of Rule 604.a. *Note 3*
5. Alleged Violation of Rule 604.d. The NOAV narrative provides that the Site shall be maintained in accordance with 604.d, which indicates that valves, pipes and fittings were not securely fastened or maintained properly. The NOAV did not state which equipment was leaking and Coral is therefore unable to respond to this alleged violation. Coral thus denies any violation exists. Without admitting any responsibility or any violation, Coral states it repaired a water injection pump that was leaking water. *Note 4*
6. Alleged Violation of Rule 902.a. Coral denies that the pits at the Site caused any significant adverse impacts to public health, public health, or the environment. Without admitting any responsibility or any violation, Coral states it is in the process of decommissioning the pits.
7. Alleged Violation of Rule 902.d. While Coral admits that the netting covering the skim pits had some minor holes, Coral denies that the netting was inappropriate. Without admitting any responsibility or any violation, Coral states it repaired minor holes in the netting covering the pits. Coral is also in the process of decommissioning the pits. *Note 5*
8. Alleged Violation of Rule 902.g. Coral admits the skim pits at the Site were unlined. Coral denies that it constructed the pits. Without admitting any responsibility or any violation, Coral states it is in the process of decommissioning the pits.

9. Alleged Violation of Rule 904. Coral admits the skim pits at the Site were unlined. Coral denies that it constructed the pits. Without admitting any responsibility or any violation, Coral states it is in the process of decommissioning the pits.
10. Alleged Violation of Rule 906.a. Coral admits that oily soil existed near the wellheads, skim pits and tank battery. Coral denies that it was responsible for oil reaching the soils. Without admitting any responsibility or any violation, Coral states it removed a substantial amount of the oily soil from the Site and placed it on a plastic sheets, to be disposed in an approved landfill. *Note 6.*
11. Alleged Violations of Rules 907.e and f. Coral admits that oily soil existed near the wellheads, skim pits and tank battery. Coral denies it was responsible for oil reaching the soil. Coral further denies it intended to violate Commission Rules when the subcontractor spread tank bottoms on the lease roadways. Without admitting any responsibility or any violation, Coral states it removed a substantial amount of the oily soil from the Site and placed it on a plastic sheets, to be disposed in an approved landfill. Coral also scraped lease roadways and stored impacted material on plastic sheets, to be disposed in an approved landfill. *Note 7.*

### III. Coral's Defenses

1. Pursuant to Rule 524, Coral is not the responsible party for many of the alleged violations. The pits and tank battery predate Coral's involvement by decades. The COGCC production records show that a Pit Permit was approved in August 1973. Basic industry practice dictates that the skim pits, water pits and tank battery were installed at the same time. The water disposal configuration of the Site is that lines are run from the tank battery to three successive skim pits. Water

is then transferred from the skim pits to a larger water pit. It would have been impossible to install the lines from the tanks to the skim pits after the tanks were set. Thus, the pits and tanks were installed by Gulf Oil Corp., the original operator of the Site.

2. The alleged violations were permitted by the Commission Rules at the time.
3. Fines issued by the Commission, if any, should be mitigated in accordance with Rule 523.
4. The alleged violations did not result in significant waste of oil and gas resources, damage to correlative rights, or a significant adverse impact on public health, safety or welfare, including the environment or wildlife resources. Coral's actions do not create any risk of adverse environmental impact.
5. The Commission is estopped from alleging violations.
6. Coral conducted an investigation with reasonable due diligence in accordance with Rule 524.e. prior to purchasing its interest in the Site.
7. Coral's actions were grandfathered by the prior COGCC rules.

WHEREFORE, Coral Production Corp. respectfully requests that the Commission find that Coral is not the responsible party for the alleged violations, that the Commission issue no fines, and for other and such findings as the Commission deems appropriate.

McGLOIN, DAVENPORT, SEVERSON AND SNOW  
Professional Corporation

  
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Michael J. Dommermuth  
Kyle W. Davenport  
Attorneys for Coral Production Corporation

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 13<sup>th</sup> day of October, 2011, a true and correct copy of the above and foregoing Coral Production Corporation's Response to NOAV was served upon Chevron USA and Republic Resources via United States Mail, postage prepaid, at the following addresses:

Mr. David A. Meiman, President  
Republic Resources, Inc.  
202 N. Avenue, #299  
Grand Junction, CO 81501

Chevron USA, Inc.  
6001 Bollinger Canyon Road  
San Ramon, CA 94583

Frank Cusimano, Esq.  
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John Axelson documented oily waste on the Young Lease road in inspections performed on April 29, 2011 (Doc #200308967) and a follow up inspection on August 18, 2011 (Doc #200319118).

The NOAV required Coral to immediately remove all oily waste from the lease roads in accordance with COGCC Rule 906.a. Coral failed to perform this corrective action. Because the material was never removed from the Young lease road, COGCC requested that a sufficient number of representative soil samples be collected from the lease road to demonstrate compliance with Table 910-1. On September 9, 2011, Coral submitted sample results for nine soil samples collected from the Young lease road and two control samples. Results for the samples were below the reporting limit for BTEX and TPH-GRO. Eight of the nine soil samples had detectable concentrations of TPH-DRO ranging between 14.3 mg/kg and 75.8 mg/kg.

The sample results reported to COGCC by Coral confirm that there is in fact residual hydrocarbon contamination remaining on the Young Lease road in concentrations below the Table 910-1 cleanup standard of 500 mg/kg.

The following statement made by Coral is untrue and inaccurate:

*The specific allegation in the NOAV that the third party cited as the basis for its withdrawal was subsequently withdrawn after Coral demonstrated that no E&D waste or tank bottoms were ever spread on the Young Well road, and extensive sampling and subsequent testing by COGCC confirmed that fact.*

The sampling performed by Coral confirmed there was residual TPH in the road. If they had complied with the NOAV all impacted material should have been removed immediately before it had a chance to migrate vertically into site soils and potentially contaminate stormwater. Further, COGCC performed no sampling or testing associated with the Young Lease road. The burden to verify compliance with Table 910-1 is Coral's. To date they have verified only that TPH GRO & DRO and BTEX do not exceed Table 910-1 standards. Analyses for oil range organics, polynuclear aromatic hydrocarbons, inorganics and metals were never performed on any of the samples.

**Note 3 (Item No. 4)**

Regarding Item No. 4 – Alleged Violation of Rule 604.a. Coral is uncertain as to the alleged violation of Rule 604.a. as it was not specifically referenced in the NOAV narrative.

The rule violation was specifically addressed in the narrative of the NOAV and the specific rule 604.a.(4) was cited. From the narrative of the NOAV, "Berms at the tank battery were in bad condition."

**Note 4 (Item No. 5)**

Coral denies a violation of Rule 604.d.

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During the inspection performed on April 29, 2011, COGCC observed accumulations of oil below several valves and the load out pipe at the tank battery. Fresh dirt had recently been applied to cover many of the areas where oil saturated soil exists from leaks and spills at the battery. In addition, leaks from the stuffing boxes at several pumping units in the field have resulted in accumulations of oily waste at the wellheads. Also, the fact that Coral admits that a water injection pump was leaking, demonstrates another violation of Rule 604.d.

Refer to Exhibit 2.

**Note 5 (Item No. 7)**

Coral admits that the netting over the skim pits had minor holes but denies that the netting was inappropriate.

The narrative of the NOAV stated, "The skim pit covers were in poor condition....." The holes observed in the skim pit covers were sufficient to allow entry to birds and other wildlife. The purpose of the covers is to prevent entry by wildlife. It was evident that the skim pit covers had not been properly maintained or repaired. The holes observed in the skim pit covers constitute a violation of Rule 902.a. See Exhibit 3.

**Note 6 (Item No. 10)**

Coral denies that it was responsible for oil reaching the soils.

A phone interview with Mr. Sam Spears, contract pumper for Coral, confirmed that Coral directed Mr. Spears to dispose of the tank bottoms on the lease roads. COGCC observed and documented oily liquids and oil saturated soils resulting from the dumping of the tank bottoms over approximately 1.37-miles of the lease roads. In addition, the lack of maintenance at the site has resulted in substantial volumes of oily waste at the tank battery, wellheads, lease roads and water pit complex. Coral is the operator of record with COGCC for these facilities and is therefore, directly responsible for E&P waste and oil reaching the soils.

To date, none of the oily waste was removed from the Young Lease road. Oily waste was removed and stockpiled from approximately 0.37-miles of roads associated with the Christiansen Lease. Oily waste was removed from the turn-around adjacent to the Young tank battery and added to the oily soil stockpiles. Oily waste from the turn-around at the Christiansen tank battery was also removed and stockpiled. None of the oily waste at the tank battery or pit complex has been removed.

All of the oily waste was required to be removed in accordance with Rule 906.a. immediately. None of the oily waste had been removed until July 28, 2011; almost 90-days after the NOAV had been issued. The original due date for corrective actions to be completed was July 31, 2011. A 60-day extension to September 30th was granted for completion of all required corrective actions. To date, none of the excavated oily waste has properly been disposed and no stormwater controls were installed around the waste stockpiles to prevent potentially contaminated stormwater from migrating and potentially impacting surrounding site soils. Site-

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wide oily soil has not been excavated. The skim pits have not been closed. The two Form 27s required by the NOAV have not been submitted. No sampling to verify removal of oily waste from the Christiansen lease roads has been performed.

**Note 7 (Item No.11)**

Same as Note 6.

**COGCC Response to Coral's Defenses**

**Item No. 1**

Regardless of who installed the pits and tanks at the Christiansen B Tank Battery, Coral is the current operator of record and is responsible for all violations cited in NOAV #200308970. In addition, Coral is responsible for upgrading facilities and maintaining their operations to comply with current COGCC rules that govern oil & gas operations in the state of Colorado.

**Item No. 2**

Not a factual statement.

**Item No. 3**

To date, Coral's lack of cooperation and timeliness in performing and documenting completion of the required corrective actions and missing the due dates to complete the corrective actions does not provide a basis for mitigation of any proposed fines. Of the seven mitigating factors listed in Rule 523.d., COGCC does not find any that apply.

COGCC finds five of the nine Aggravating factors listed under Rule 523.d. relevant to this case as follows:

- (1) The violation was intentional or reckless.
- (2) The violation had a significant negative impact or threat of significant negative impact on the environment or on public health, safety, or welfare.
- (5) The violation resulted in or threatened to result in significant loss or damage to public or private property.
- (6) The violation involved recalcitrance or recidivism upon the part of the violator.
- (8) The violation resulted in economic benefit to the violator, including the economic benefit associated with noncompliance with the applicable rule, in which case the amount of such benefit may be taken into consideration.

**Item No.4**

The intentional dumping of tank bottoms and the failure to properly maintain equipment and pits resulting in releases has created an impact to the environment.

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In addition, COGCC collected one representative soil sample from the turn-around next to the Christiansen Tank Battery after the tank bottoms had been drug into the dirt. The sample contained detectable concentrations of xylenes, naphthalene, gasoline range organics (GRO C6-C10), diesel range organics (DRO C10-C28) and oil range organics (ORO C24-C36) as follows:

Total Xylenes	210 ug/Kg
Naphthalene	11 ug/Kg
GRO	260 mg/Kg
DRO	22,000 mg/Kg
ORO	15,000 mg/Kg

**The total petroleum hydrocarbon concentration (TPH) of the GRO, DRO and ORO is 37,260 mg/Kg which greatly exceeds the Table 910-1 standard of 500 mg/Kg. The Table 910-1 exceedance documents a significant impact to the environment.**

Item No. 6

If Coral conducted an investigation with reasonable due diligence in accordance with Rule 524.e. prior to purchasing its interest in the Site, it should immediately provide a copy of the investigation to COGCC. In addition, if Coral maintains that site wide oily waste (other than the tank bottoms dumped on the lease roads) documented at the tank battery, skim pits, water pit and wellhead is attributable to violations committed by a predecessor operator, then those conditions should have been reported to the COGCC upon discovery when the investigation was performed. In accordance with Rule 524.e., the failure by the operator to report such conditions shall negate the rebuttable presumption against mitigation liability under §34-60-124(7) C.R.S. for ongoing significant adverse environmental impacts.

Item No. 7

Not a factual statement.