

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

IN THE MATTER OF ALLEGED VIOLATIONS)	CAUSE NO. 1V
OF THE RULES AND REGULATIONS OF THE)	
COLORADO OIL AND GAS CONSERVATION)	DOCKET NOS. 171000649
COMMISSION BY BP AMERICA)	TYPE: ENFORCEMENT
PRODUCTION COMPANY , LA PLATA AND)	
ARCHULETA COUNTIES, COLORADO)	ORDER NO. 1V-651

ADMINISTRATIVE ORDER BY CONSENT

(Pursuant to Rule 522.b.(3) of the Rules and Regulations of the
Colorado Oil and Gas Conservation Commission, 2 CCR 404-1)

FINDINGS

1. BP America Production Company ("BP America") (Operator No. 10000) is the operator of record for the Carmelita Gallegos A #3 Well, API No. 05-007-06325, in Archuleta County, Colorado (the "Well") and a 6-inch coalbed methane produced water fiberglass flowline located at the NWNW Section 4, Township 34N, Range 6 West along Forest Service Road 608 in La Plata County, Colorado (the "Flowline").

Flowline Release

2. On December 13, 2016, a lease operator for BP America discovered and reported a produced water spill from the Flowline (the "Spill") (Spill/Release ID 448730). BP America responded to the location of the Spill the same day and stopped the release. (Form 19, Initial Spill/Release Report No. 401167642)

3. BP immediately stopped the Spill, contained the produced water, and initiated vacuum truck removal of the produced water. Specifically, on December 13, 2016, BP personnel immediately depressurized the Flowline and shut-in 16 wells¹ supplying produced water to the Flowline thereby stopping the Spill that same day. In addition, on December 13, 2016, BP immediately dispatched a team of vacuum trucks to remove as much liquid produced water from Saul's Creek and the Spill location as possible in light of freezing temperatures. (NOAV Answer No. 401235916) Also on December 13, 2016, BP constructed a small berm of sandbags to prevent downstream migration of produced water during thaw conditions. (COGCC Field Inspection Report No. 674901401, NOAV Answer No. 401235916)

4. On December 14, 2016, COGCC Staff conducted an initial assessment of the Spill and confirmed that produced water from the Spill traveled from the Spill location and entered Saul's Creek. (COGCC Field Inspection Report No. 674901401) Saul's Creek is an intermittent surface waterbody that, at the time of the Spill, contained

¹ API Nos. 05-067-07390; 05-067-08332; 05-067-07245; 05-067-08882; 05-067-07334; 05-067-08634; 05-067-07056; 05-067-08525; 05-067-08665; 05-067-07887; 05-067-08648; 05-067-07030; 05-067-08521; 05-067-07126; 05-067-08520; 05-067-07127; and 05-067-08522.

patches of frozen water and was not flowing. Saul's Creek constitutes waters of the state as defined in the COGCC 100-Series Rules. (COGCC Field Inspection Report No. 674901401, NOAV Answer No. 401235916)

5. During the Inspection on December 14, 2016, COGCC Staff observed that BP America had stopped the release of produced water from the Flowline, was actively removing standing water from the creek bed with vacuum trucks, and had installed a temporary dam (*i.e.*, sandbag berm) to prevent further migration of residual produced water. (COGCC Field Inspection Report No. 674901401). Vacuum truck removal continued through January 2, 2017. BP America also constructed a catch basin on December 14, 2016. (NOAV Answer No. 401235916)

6. On December 28, 2016, BP America reported that the Spill released an estimated 550 barrels of produced water; that the media impacted were soil and "surface water" (*i.e.*, a frozen, non-flowing Saul's Creek),²; and that the surface area impacted was approximately 2,300 feet in length and two feet wide as measured by BP America's consultant. (Supplemental Spill/Release Report No. 401174201)

7. COGCC Staff is satisfied with BP's remediation efforts in response to the Spill.

8. BP conducted a subsequent root cause analysis of the Spill and "concluded that a slight side bend of approximately 5 degrees was imposed on the 6-inch fiberglass pipeline as a result of [a] 2008 exposure" and "that the crack in December 2016 was an acute event in that it happened suddenly and was detected soon after it occurred." (NOAV Answer No. 401235916) BP America discovered the bend when it excavated the Flowline in connection with the Spill, on December 13, 2016. BP America replaced the failed section of fiberglass flowline with carbon steel and returned the line to service on December 20, 2016.

9. Pursuant to an approved Form 27, Site Investigation and Remediation Workplan, BP America took eight soil samples and seven surface water samples from the path of the Spill. (Doc. No. 401176999) Subsequent reporting on January 31, 2017 indicated that four of the eight soil samples exceeded COGCC Table 910-1 Concentration Levels for Sodium Adsorption Ratio ("SAR") with the highest being 28.5. Six of the seven water samples collected from Saul's Creek exceeded Table 910-1's chloride standard. (Supplemental Form 27 No. 401198595)

10. On February 17, 2017, Commission Staff issued a Notice of Alleged Violation (No. 401213603) ("the February 17, 2017 NOAV") to BP America alleging violations of the following COGCC Rules of Practice and Procedure, 2 CCR 404-1 ("Rule" or "Rules"):

² Supplemental Spill/Release Report No. 401174201 indicates that surface water and a dry drainage were impacted by the Spill; however, BP checked both of these boxes in reference to the fact that produced water entered Saul's Creek which was frozen and not flowing on the day the Spill occurred, December 13, 2016.

- a. Rule 1102.a. (Maintenance) for failing to take reasonable precautions to prevent failures, leakage, and corrosion of pipelines; and
- b. Rule 324A (Pollution) for failing to prevent significant adverse environmental impact to soil and waters of the state;

11. On March 17, 2017, BP America submitted an answer to the February 17, 2017 NOAV (Doc. No. 401235916) including a Written Plan for Avoiding Future Occurrences of flowline releases like the Spill. The Plan addressed practices and procedures BP America will implement during excavation and backfilling around fiberglass lines like the Flowline.

12. On July 6, 2017, BP America collected soil samples downstream of the Spill. Soil sampling indicated exceedances of Table 910-1's standard for SAR and arsenic³. In a Form 27 filed with the Commission on September 14, 2017 (Doc. No. 401403703), BP America indicated that it will collect soil samples in the spring of 2018 after snow melt to re-evaluate SAR.

13. Initial vegetation monitoring on June 1, 2017 revealed that rubber rabbitbrush shrubs immediately downstream of the Spill were severely stressed, but that other vegetation along the path of the Spill was not stressed. (Doc. No. 401309746)

14. Subsequent vegetation monitoring on October 2, 2017, confirmed that "The vast majority of rubber rabbitbrush that appeared stressed in previous monitoring events have new growth and no longer appear stressed." and "No stressed vegetation was observed along the length of the surveyed area." (Attachment to Supplemental Form 27 No. 401427554) Pursuant to the U.S. Forest Service's request, BP will conduct vegetation monitoring for two more quarters. Commission Staff approves of the sampling methodology proposed by BP America.

15. On September 16, 2015, the Commission entered Administrative Order by Consent No. 1V-533, finding that BP America violated Rules 605.d and 1101.e. by failing to maintain the flowline in good mechanical condition and to annually pressure test the well nearest to the leak location resulting in a release from the flowline into a dry irrigation ditch. Order No. 1V-533 required that BP America pay a penalty of \$20,000 for these violations and complete a remediation project addressing the impacts of the flowline release.

16. On January 29, 2017, the Commission entered Administrative Order by Consent No. 1V-557, finding that BP America violated Rule 1102 by failing to take reasonable precautions to prevent failures, leakage, and corrosion of its flowlines, resulting in a release from a flowline, caused by sessile microbial induced corrosion, affecting a pasture and a right of way. Order No. 1V-557 required that BP America pay a penalty of \$10,000 for the Rule 1102 violation and complete a remediation project addressing the impacts of the flowline release.

³ The arsenic exceedances are consistent with naturally-occurring, background concentrations found throughout southwest Colorado.

Carmelita Gallegos A #3 Well

17. As noted in COGCC Form 5, Drilling Completion Report, submitted on June 2, 2017 (Doc. No. 401273637), BP America spud the Well on March 17, 2017 without providing prior notice to the Commission as required by Rule 316C and the conditions of approval on the Well's Form 2, Application for Permit to Drill.

18. On March 20, 2017, 3 days after the Well was spud, BP America submitted COGCC Form 42, Field Operations Notice (Doc. No. 401236768), including an erroneous spud date of March 20, 2017.

19. On August 4, 2017, COGCC Staff issued a Notice of Alleged Violation (Doc. No. 401356123) ("the August 4, 2017 NOAV") to BP America, citing a violation of Rule 316C, Notice of Spud, for failing to give at least 48 hours advance written notice of BP America's intent to spud the Well.

20. Following receipt of the August 4, 2017 NOAV, on August 10, 2017, BP America submitted an Answer to the Commission (Doc. No. 401371765), stating that incomplete training of operators resulted in a misunderstanding of the applicable Rules. BP America provided training to its employees and contractors on the applicable Rules.

21. On January 29, 2017, the Commission entered Administrative Order on Consent No. 1V-557, finding that BP America violated Rule 316C by failing to provide prior notice before BP America spud a Well. Order No. 1V-557 required that BP America pay a penalty of \$2,500 for the Rule 316C violation and that BP America implement new Form 42 policies (Doc. No. 02193013) developed in response to the violation.

22. Following a factual investigation and legal review of the violations alleged in the NOAVs, the Hearings Staff now asserts BP America has violated the rules listed in the table below.

NOAV No.	Rule No.	Days of Violation	Start Date	End Date	Class, Impact	Daily Base Penalty	Total Penalty
401356123	316C	2	03/15/2017	03/17/2017	2, Minor	\$2,500	\$5,000
401213603	1102. a. (1)	7	12/13/2016	12/20/2016	2, Moderate	\$5,000	\$35,000
401213603	324A	1	12/13/2016	12/13/2016	3, Moderate	\$10,000	\$10,000
TOTAL PENALTY							\$50,000
Settlement Discount (20%)							-\$10,000
FINAL PENALTY							\$40,000

23. Pursuant to Rule 523 and the Commission's Enforcement and Penalty Policy, Hearings staff calculated a penalty of \$40,000 for these violations. The penalty calculation is based on the following:

- a. Application of the Duration Matrix from the COGCC Enforcement Guidance and Penalty Policy, January 2015 (corrected April 8, 2015);
- b. Rule 316C;
 - i. A start date of March 15, 2017, and an end date of March 17, 2017, resulting in a duration of two days;
 - ii. Class 2, minor impact;
 - iii. Daily base penalty of \$2,500;
- c. Rule 1102.a.;
 - i. A start date of December 13, 2016 and an end date of December 20, 2016, resulting in a duration of seven days;
 - ii. Class 2, moderate impact;
 - iii. Daily base penalty of \$5,000;
- d. Rule 324A;
 - i. A start and end date of December 13, 2016, resulting in a duration of one day;
 - ii. Class 3, moderate impact;
 - iii. Daily base penalty of \$10,000;
- e. Settlement inducement of 20%;
- f. No mitigating or aggravating factors;
- g. No pattern of violation; and
- h. No gross negligence or knowing and willful misconduct.

AGREEMENT

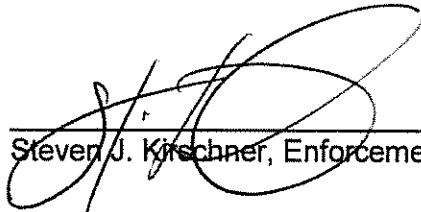
NOW, THEREFORE, based on the Findings and pursuant to Rule 522.e.(1) and the Commission's Enforcement and Penalty Policy, the Director and BP America request that the Commission approve the Order set forth below.

BP America agrees to this AOC only for the purpose of expeditiously resolving this matter without a contested hearing. BP America reserves the right to contest the findings of this AOC in any proceeding before any agency, court, or other tribunal, except in a proceeding to enforce the terms of this AOC. The findings and any action undertaken by BP America pursuant to this AOC shall not constitute evidence of fault or liability by BP America with respect to any third-party claim against BP America.

RECOMMENDED this 29th day of November, 2017.

OIL AND GAS CONSERVATION COMMISSION OF
THE STATE OF COLORADO

By


Steven J. Kirschner, Enforcement Officer

AGREED TO AND ACCEPTED this 30 day of November, 2017.

BP AMERICA PRODUCTION COMPANY

By


Signature of Authorized Representative

William Burden
Print Signatory Name

Vp ops
Title

ORDER

HAVING CONSIDERED the Agreement between the Director and BP America to resolve the NOAVs, the COMMISSION ORDERS:

1. BP America is found in violation of Rules 316C, 1102.a.(1), and 324A as described above.
2. BP America is assessed a total penalty of \$40,000 for the violations described above.
3. BP America will pay \$40,000 within 30 days after this approved AOC is mailed by the Commission.
4. BP will continue to cooperate with the surface owner, the U.S. Forest Service (USFS), and COGCC to complete vegetation and soil monitoring, and any remediation and reclamation efforts that may be necessary based upon the results of further vegetation monitoring and soil sampling and agreeable to the USFS. Specifically, pursuant to the USFS' request, BP will

continue to monitor vegetation for two more quarters and re-sample soil in the spring of 2018.

- a. BP will conduct remediation in accordance with Table 910-1 standards and in accordance with the approved Form 27 Site Investigation and Remediation Workplan (Doc. No. 401176999) and any subsequently approved Form 27s, and submit for approval a Form 27 requesting final closure of remediation project number 10004.
- b. Should remediation efforts, if any, fail to bring all areas impacted by the Spill fully into compliance with Table 910-1 standards by January 9, 2020, BP America shall remit additional financial assurance in the amount of \$9,200.00 pursuant to Rule 702(a), which will be released upon final closure of Remediation Project 10004.

5. Compliance dates specified in this Order may be extended only for good cause, as determined at the Director's sole discretion. A request for extension must be made, in writing, at least 35 days prior to the pertinent compliance deadline or as soon as possible if 35 days prior notice is not feasible. Failure to receive an extension prior to the compliance deadline or the failure to meet a compliance deadline may constitute a new violation subject to additional penalties.

6. This Order does not relieve BP America of the continuing obligation imposed in Order No. 1V-557 to implement the new Form 42 policies detailed in Doc. No. 2193013 at all the wells it operates.

7. Failure to pay the penalty or perform any corrective actions by the above deadlines is an independent violation that may be subject to additional penalties.

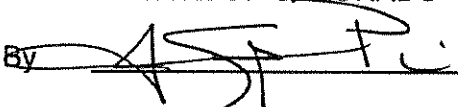
8. This Order is effective as of the date it is mailed by the Commission. It constitutes final agency action for purposes of judicial review.

9. The Commission expressly reserves its right after notice and hearing, to alter, amend, or repeal any and/or all of the above orders.

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ENTERED this 13 day of December 2017 as of the 11th day of December, 2017.

OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

By 
Julie Prine, Secretary

CERTIFICATE OF MAILING

On December 18, 2017, a true and accurate copy of Commission Order 1V- 651 was mailed by first-class mail return receipt requested to the following:

BP America Production Company
Attn: Patricia Campbell
380 Airport Road
Durango, CO 81303


Margaret Humecki