

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

| | | |
|--|---|-------------------------|
| IN THE MATTER OF ALLEGED VIOLATIONS OF THE |) | CAUSE NO. 1V |
| RULES AND REGULATIONS OF THE COLORADO |) | |
| OIL AND GAS CONSERVATION COMMISSION BY |) | DOCKET NOS. 161200382 & |
| NORTHSTAR GAS COMPANY INC., GARFIELD |) | 170500185 |
| COUNTY, COLORADO |) | TYPE: ENFORCEMENT |
| |) | |
| |) | ORDER NO. 1V-642 |

ORDER FINDING VIOLATION

The Colorado Oil and Gas Conservation Commission ("Commission"), having reviewed the administrative record and being fully advised on the premises, enters this Order Finding Violation ("OFV") against Northstar Gas Company Inc. ("Northstar") (Operator No. 64310) pursuant to the Rules and Regulations of the Colorado Oil and Gas Conservation Commission, 2 C.C.R. 404-1 ("Rule" or "Rules"), and finds and states as follows:

FACTUAL AND LEGAL CLAIMS ASSERTED

1. Northstar is the operator of the Cohiba-Federal 6-8 well (API No. 05-045-06162) ("Well") in Garfield County, Colorado. (Exhibit 1 – COGIS Scout Card).

A. Mechanical Integrity Testing

2. On February 2, 2016, COGCC Staff issued Warning Letter Document #2193185 to Northstar for their failure under Rule 326.b. to perform the required MIT on a shut-in well. (Exhibit 2 – Warning Letter).

3. According to the Form 7s submitted to the COGCC by Northstar the Well has been shut-in since February 2011. (Exhibit 3 – COGIS Monthly Well Production).

4. Rule 326.b.(1) states that "A mechanical integrity test shall be performed on each shut-in well within two years of the initial shut-in date."

5. COGCC Rules required Northstar to successfully perform a MIT on the Well before February 2013.

6. A review of COGCC records reveal that the Well remains past-due for MITs. (Exhibit 4 - COGIS - Inspection/Incident Inquiry).

7. Northstar failed to submit Form 7 Monthly Reports of Operations for the Well from February 2016 through May 2016. (Exhibit 3 – COGIS Monthly Well Operations).

B. Spill to Waters of the State

8. On December 8, 2016, staff of the Bureau of Land Management ("BLM") reported a spill/release at the Well to the COGCC. (Exhibit 5 – Field Inspection Doc. No. 674300797 and Email Communications).

9. During a December 9, 2016, inspection of the Well, COGCC Staff observed the Well venting (both gas and liquid) east and west from uncapped valves and bull plugs. (Exhibit 5 – Field Inspection Doc. No. 674300797 and Email Communications).

10. During the December 9, 2016, inspection of the Well COGCC Staff observed that oily mist/condensate spray had blown over a steep cutbank into Trail Creek onto ice and snow on the partially frozen surface of the creek. (Exhibit 5 – Field Inspection Doc. No. 674300797 and Email Communications).

11. Trail Creek constitutes "Waters of the State" as defined by the 100 Series of the COGCC Rules and Regulations. (Exhibit 6 – Affidavit of Mr. Alex Fischer).

12. Northstar has not submitted the required Form 19 Initial Spill/Release Report to COGCC Staff. (Exhibit 6 – Affidavit of Mr. Alex Fischer).

13. COGCC Staff was informed by the Bureau of Land Management that on December 14 2016, a roustabout crew excavated contaminated surface soil and vegetation using heavy equipment and had stockpiled it in a pit to the east of the wellhead. (Exhibit 7 – BLM's Follow-up Inspection: email communication and pictures).

14. The operator has not conducted the necessary cleanup to conform to Table 910-1 standards. (Exhibit 6 – Affidavit of Mr. Alex Fischer; Exhibit 8 – Soil Sampling Results Report).

15. Northstar has not submitted the required Form 27 Site Investigation and Remediation Workplan to COGCC Staff. (Exhibit 6 – Affidavit of Mr. Alex Fischer).

16. COGCC Staff conducted an inspection of the site on August 2, 2017, and observed, "No indication of any recent activity on location. Location is completely overgrown." (Exhibit 9 – COGCC's August 2017 Inspection, Field Inspection Doc. No. 690300017).

ENFORCEMENT PROCEEDING

17. On July 15, 2016, COGCC Staff issued Notice of Alleged Violation ("NOAV") No. 401078793 to Northstar for violations of the following Rules of the COGCC Rules of Practice and Procedure, 2 C.C.R. 404-1 ("Rule" or "Rules") (Exhibit 10 – NOAV 401078793):

a. Rule 309 (Form 7, Operator's Monthly Report of Operations) for the failure to timely submit monthly reports of operations for the Well; and

b. Rule 326.b. (Mechanical Integrity Testing for Shut-in Wells) for the failure to timely perform a MIT on the Well.

18. On February 2, 2017, COGCC Staff issued NOAV No. 401193120 to Northstar for violations of the following Rules (Exhibit 11 – NOAV 401193120):

a. Rule 605.d (Mechanical Conditions) for the failure to have all valves, pipes and fittings securely fastened, inspected at regular intervals, and maintained in good mechanical condition; and

b. Rule 906.b (Spills and Releases) for the failure to report spills or releases of E&P Waste or produced fluids to the Director verbally or in writing as soon practicable, but no more than 24 hours after the discovery; and

c. Rule 907.a(2) (Management of E&P Waste) for the failure to manage E&P Waste in a manner to protect the waters of the state from significant adverse environmental impacts from E&P waste.

19. The NOAVs and Notices of Hearing were sent to Northstar via certified mail to the addresses on file with the COGCC pursuant to Rule 302 and also via email to the email address on file with the COGCC. (Exhibit 12 – Registration for O&G Operations; Exhibit 13 – Nov. 2016 Notice and Application for Hearing; Exhibit 14 – March 2017 Notice and Application for Hearing; Exhibit 15 – July 2017 Notice and Application for Hearing).

PENALTY CALCULATION

20. Based on the foregoing, the Commission finds that Northstar has committed the following violations and calculates the following penalties:

| NOAV No. | Rule | Penalty Start Date | Penalty End Date | Class, Impact | Days of Violation | Total Penalty |
|--------------|-----------|--------------------|------------------|---------------|-------------------|--------------------|
| 401078793 | 309 | 4/15/2016 | 9/11/17 | 1, Minor | 514 | \$ 4,324 |
| 401078793 | 326.b | 7/19/2015 | 9/11/17 | 2, Minor | 785 | \$69,150 |
| 401193120 | 605.d | 12/9/2016 | 12/9/2016 | 2, Moderate | 1 | \$5,000 |
| 401193120 | 906.b | 12/11/2016 | 9/11/2017 | 2, Moderate | 273 | \$ 143,450 |
| 401193120 | 907.a.(2) | 12/9/2016 | 9/11/2017 | 2, Moderate | 276 | \$ 1,380,000 |
| TOTAL | | | | | | \$1,601,924 |

Pursuant to Rule 523 and the Commission's Enforcement and Penalty Policy, the Commission calculates a penalty of \$1,601,924 for these violations at the Cohiba-Federal 6-8 well. The penalty calculation is based on the following:

21. Rule 309:

a. Northstar violated Rule 309 for the failure to timely submit monthly reports of operations for the Well;

b. Staff determined that this violation resulted in minor impacts;

c. Violation of a Class 1 Rule, with a minor impact, results in a daily penalty of \$200;

d. The violation commenced on April 15, 2016, (Form 7s are due within 45 days after the end of the month, in this case February 2016) and continued through September 11, 2017 (initial hearing date);

e. Application of the Duration Matrix ("Duration Matrix") from the COGCC Enforcement Guidance and Penalty Policy January 2015 (corrected 4/8/2015).

22. Rule 326.b:

a. Northstar violated Rule 326.b by failing to perform an MIT at the well by February 2013;

b. Staff determined that this violation resulted in minor impacts;

c. Violation of a Class 2 Rule, with a minor impact, results in a daily penalty of \$2,500;

d. The violations commenced on July 19, 2015, (Date NOAV issued plus 5 days) and continued through September 11, 2017 (initial hearing date);

e. Application of the Duration Matrix.

23. Rule 605.d:

i. Northstar violated Rule 605.d by failing to ensure that all valves, pipes and fittings were securely fastened, inspected at regular intervals, and maintained in good mechanical condition at the Well;

ii. Staff determined that this violation resulted in moderate impacts;

iii. Violation of a Class 2 Rule, with a moderate impact, results in a daily penalty of \$5000;

iv. The violation commenced and ceased on December 9, 2016;

v. Application of the Duration Matrix.

24. Rule 906.b:

a. Northstar violated Rule 906.b by failing to report a spill or release of E&P Waste or produced fluids to the Director verbally or in writing as soon practicable, but no more than 24 hours after the discovery and submit a Form 19 within 72 hours of discovery;

b. Staff determined that this violation resulted in moderate impacts;

c. Violation of a Class 2 Rule, with a moderate impact, results in a daily penalty of \$5000;

d. The violations commenced on December 12, 2016, (72 hours from the Operator's discovery of the spill/release) and continued through September 11, 2017 (initial hearing date);

e. Application of the Duration Matrix.

25. Rule 907.a(2):

a. Northstar violated Rule 907a(2) by failing to protect the waters of the state from significant adverse environmental impacts from E&P waste when conducting E&P waste management activities, and constructing and operating facilities.

b. Staff determined that this violation resulted in moderate impacts.

c. Violation of a Class 2 Rule, with a major impact, results in a daily penalty of \$5,000.

d. The violations commenced on December 9, 2016, (COGCC inspected the spill/release on December 9th) and continued through September 11, 2017 (initial hearing date);

26. Staff has determined that there are no aggravating factors, no mitigating factors, and no gross negligence or knowing and willful misconduct associated with the violations.

ORDER

NOW, THEREFORE, the COMMISSION ORDERS:

1. Northstar is found in violation of COGCC Rules 309, 326.b, 605.d, 906.b, and 907.a(2), as described above.

2. Northstar is ordered to pay a \$1,601,924 penalty, by certified check, within 35 days after this Order is mailed by the Commission.

3. Northstar is hereby ordered to return to compliance with the Act and Rules, including, but not limited to:

a. Northstar shall immediately perform a successful MIT at Cohiba-Federal 6-8 well (API No. 05-045-06162) ("Well") in Garfield County.

b. Northstar shall assess the nature and extent of contamination with confirmation surface and soil samples, remediate to Table 910-1 standards, and provide documentation in either a Form 19 or a Form 27 if extended remediation is required.

4. If Northstar fails to pay the penalty or return to compliance within 35 days of mailing of the approved Order Finding Violation, the Director shall take the following actions:

a. Suspend Northstar's Form 10s, Certificates of Clearance, for Northstar's wells, and withhold the issuance of any new drilling or oil and gas location permits, until Northstar demonstrates to the satisfaction of the Director that it has brought

all violations cited in the Order into compliance and that any penalty assessed has been paid;

b. Terminate Northstar's Operator Number (Operator No. 64310), rescind Northstar's Form 1 (Doc No. 709166), and revoke Northstar's right to conduct oil and gas operations in Colorado, until Northstar demonstrates at a Commission hearing that Northstar has brought all violations cited in the Order into compliance, any penalty assessed has been paid, and that re-instating Northstar's Form 1 will not threaten to or actually create significant adverse impacts to public welfare or the environment;

c. Foreclose Northstar's existing financial assurance (Surety ID 1996-0019) and claim both the principal and any accrued, but undisbursed, interest that may exist and use those funds to remediate conditions that threaten to cause, or that actually cause, significant environmental impacts at non-federal and non-tribal wells and locations formerly operated by Northstar. To the extent COGCC Staff has already expended Oil and Gas Conservation and Environmental Response Funds at non-federal and non-tribal wells and locations formerly operated by Northstar, foreclosed financial assurance can be used to repay those funds;

d. Require Kenneth McKinney and Casey Zachary to notify the Commission if: (1) either individual or any entity of which either individual is a principal, majority owner, operational or general manager, or otherwise controls applies for a permit or submits a Form 10, Certificate of Clearance, for the Commission's approval; or (2) either individual joins an existing entity and becomes the principal, majority owner, operational or general manager, or otherwise controls the existing entity. If Kenneth McKinney and Casey Zachary or such an entity applies for a permit or submits a Form 10, Certificate of Clearance, the Director may not approve the request. The request must come before the Commission at a hearing, at which it may determine whether to grant the application, require a higher amount of financial assurance before granting the application, or deny the application;

e. Require Northstar, and its successors or assigns, to comply with the Order and repay any funds expended by the Commission from the Oil and Gas Conservation and Environmental Response Fund for any work undertaken by COGCC Staff; and/or

5. If Northstar fails to pay the penalty or return to compliance within 35 days of mailing of the approved Order Finding Violation, the Director is authorized, but not required, to take any or all of the following actions:

a. Declare Northstar's wells "Orphaned Wells", as defined in the 100-Series Rules;

b. Use funds from the Oil and Gas Conservation and Environmental Response Fund to investigate, prevent, monitor, or mitigate conditions that threaten to cause, or that actually cause, significant adverse environmental impacts at non-federal and non-tribal wells and locations formerly operated by Northstar;

c. Claim all equipment, saleable product, and appurtenances related to Northstar's oil and gas operations at its wells as property of the Commission, provided that any proceeds from the disposition of the assets will be credited to the cost of

plugging and abandonment of the Well and/or the Oil and Gas Conservation and Environmental Response Fund.

6. At the Director's request, Northstar will assign equipment, saleable product, and appurtenances related to Northstar's oil and gas operations to the Commission or a third party to be determined by the Director.

7. In the event the Director determines, in the Director's discretion and consistent with the Director's independent determination of operational priorities, that there is a need to use the Commission's Emergency Response appropriation (Long Bill), which is funded by the Oil and Gas Conservation and Environmental Response Fund, to remediate conditions that threaten to cause, or that actually cause, significant environmental impacts at wells or locations formerly operated by Northstar, the Director will confer with the Commission regarding expenditure of Emergency Response appropriation funds at the earliest practical opportunity.

8. The following will not affect Northstar's obligations under this Order: (1) a change in ownership, corporate status, or partnership status; or (2) a conveyance of title or other interest relating to Northstar's oil and gas operations. Northstar will give written notice of this Order to any purchaser, successor, or assignee prior to transferring ownership or title to its oil and gas operations. Northstar will give written notice to the Director prior to any change in title, ownership, or status. If there are outstanding corrective actions at the time of a change in title or ownership, Northstar's successors or assigns will be responsible for completing those corrective actions at Northstar's former oil and gas locations.

9. Upon the Director's notice of a claim pursuant to Paragraph 5.c., Northstar will not remove, transfer, or dispose of any equipment, saleable product, or appurtenances related to its oil and gas operations, unless permission is granted by the Director.

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

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

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ENTERED this 1 day of Nov, 2017, as of the 30th day of October, 2017.

OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

By Julie Pine
Julie Pine, Secretary

CERTIFICATE OF MAILING

On 11/06, 2017, a true and correct copy of the foregoing *Order Finding Violation* was sent by certified mail, return receipt requested, to the following:

Scott Schultz
Assistant Attorney General
Colorado Department of Law
Natural Resources and Environment Section
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 7th Floor
Denver, Colorado 80203

Northstar Gas Company Inc.
Attn: Ken McKinney
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Northstar Gas Company Inc.
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Margaret Humecki