

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

IN THE MATTER OF ALLEGED VIOLATIONS OF)	CAUSE NO. 1V
THE RULES AND REGULATIONS OF THE)	
COLORADO OIL AND GAS CONSERVATION)	DOCKET NO. 170100092
COMMISSION BY BAYSWATER EXPLORATION)	TYPE: ENFORCEMENT
& PRODUCTION LLC , WELD COUNTY,)	
COLORADO)	ORDER NO. 1V-648

ADMINISTRATIVE ORDER BY CONSENT

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

FINDINGS

I. Bayswater reconfigured the Ferguson 43-45 Well without prior approval.

1. Bayswater Exploration & Production LLC (Operator No. 10261) was the operator of record of the Ferguson 43-35 Well (API No. 05-123-13226) ("Well") in Weld County, Colorado until October 3, 2016.

2. The Well was spud on November 18, 1986, and completed into the Codell Formation on December 31, 1986 (Doc. No. 174457) pursuant to an approved drilling permit (Doc. No. 174459).

3. On March 12, 2014, Bayswater abandoned the Codell formation by installing a bridge plug at 7,010 feet. (Doc. No. 400642187)

4. On March 28, 2014, Bayswater recompleted the well to the Niobrara formation and hydraulically fractured the Well (Doc. No. 400642187).

5. Bayswater did not submit any written notice for the Director's approval prior to isolating the Codell formation and recompleting the Well into the Niobrara formation.

6. Bayswater did not submit a Form 5, Drilling Completion Report, for the change in wellbore configuration within 30 days of abandoning the Codell formation and completing into the Niobrara.

7. Bayswater submitted inaccurate Form 7s, Operator's Monthly Report of Operations, between May 15, 2014 and February 4, 2015, reporting production from the Codell formation, which had been isolated by a bridge plug, and not the Niobrara formation.

8. After stimulation, the Well had high bradenhead pressure (Doc. No. 400586075). Bayswater undertook various casing repairs from August 2014 to October 2014 in order to decrease the bradenhead pressure (Doc. Nos. 400641311, 400678101,

& 400703208).

9. On January 26, 2015¹, COGCC Staff issued Notice of Alleged Violation No. 200422033 ("NOAV") to Bayswater for violations of the following COGCC Rules of Practice and Procedure, 2 C.C.R. 404-1 ("Rule" or "Rules") at the Well:

- a. Rule 301 (Records, Reports, Notices-General) for the failure to provide written notice to the Director of a change to the Well's perforated interval;
- b. Rule 308A (Form 5, Drilling Completion Report) for the failure to submit a Form 5 describing the change in wellbore configuration; and
- c. Rule 309 (Form 7, Operator's Monthly Report of Operations) for the failure to accurately report the producing formation on the Form 7.

10. The January 26, 2015 NOAV required Bayswater to submit a Form 27, Site Investigation and Remediation Workplan, for prior Director approval to verify that the alleged violation did not result in groundwater impacts.

11. On February 4, 2015, Bayswater submitted corrected Form 7s, Operators' Monthly Report of Operations, for the Well listing production from the Niobrara formation and listing the Codell as Temporarily Abandoned.

12. On February 5, 2015, Bayswater submitted a Form 5, Drilling Completion Report, describing the change in wellbore configuration (Doc. No. 400786857).

13. On February 5, 2015, Bayswater submitted a Form 27, Site Investigation and Remediation Workplan, to determine whether the recompletion impacted groundwater (Doc. No. 1761424, Remediation Project No. 8905).

14. On January 22, 2016, Bayswater submitted a Form 42, Field Operations Notice, that indicated that Bayswater was going to abandon the Niobrara formation and begin mitigating the bradenhead pressure (Doc. No. 400976294). On January 28, 2016, Bayswater began repairing the Well to address the high bradenhead pressure (Doc. No. 400980208). In February and March 2016, Bayswater continued the repairs (Doc. Nos. 400999680 & 400983354).

15. On July 29, 2016, Bayswater plugged the Well in accordance with an approved Form 6, Well Abandonment Report (Intent). (Doc. Nos. 401043111, 401089082)

II. Bayswater's violations resulted in groundwater impacts.

16. In June and July of 2015, Bayswater sampled two domestic water wells in the area surrounding the Well and analyzed the samples for Table 910-1 constituents. Bayswater also drilled a groundwater monitoring well, the MW-1 monitoring well, into the

¹ Date on this NOAV states "January 26, 2014," which is a typo and should read January 26, 2015.

Laramie-Fox Hills Aquifer at the site. (Doc. Nos. 2315158, 2315159, & 2315160).

17. On July 28, 2015, Bayswater submitted the results of this sampling, which demonstrated thermogenic methane gas in the groundwater and dissolved benzene in excess of Table 910-1 standards in the groundwater sample collected from the monitoring well (Doc. No. 2315160). The samples collected from the domestic water wells did not contain thermogenic methane or dissolved hydrocarbons.

18. On August 12, 2015, COGCC Staff amended the January 26, 2015 NOAV to include Rule 324A.a. (Pollution) for the failure to take precautions to prevent significant adverse environmental impacts to water resources to the extent necessary to protect public health, safety, and welfare.

19. On August 17, 2015, North Central Environmental Protection Specialist Rick Allison sent a letter to Bayswater in response to the results of the groundwater analysis. Staff noted that the July 28, 2015 analysis indicated that the Laramie-Fox Hills aquifer contained thermogenic methane and benzene and that the Well's reconfiguration "appears to be the cause of or contributed to the presence of hydrocarbons" in this aquifer. The Laramie-Fox Hills Aquifer is a known source of drinking water in the Denver-Julesberg Basin. Mr. Allison requested the submission of an amended Form 27, Site Investigation and Remediation Workplan, to characterize the vertical and horizontal extent of the impact. (Doc. No. 2315200).

20. On September 16, 2015, Bayswater submitted an amended Form 27, Site Investigation and Remediation Workplan, in response to Mr. Allison's request (Doc. No. 2495441).

21. In November 2015, Bayswater drilled two additional water monitoring wells, the MW-2 and the MW-3 monitoring wells, and also drilled the MW-1A monitoring well to replace the poorly constructed MW-1 monitoring well. From October 2015 to October 2016, Bayswater continued the groundwater sampling from the MW-1A, the MW-2, and the MW-3 monitoring wells (Doc. Nos. 2315655, 2615173, 2615174, 2615175, 2615176, 2615177, 2615179, 2615180, 2144794, 2525905, 2212116, 2526097, 2526100, 2615270, 2526577, 401094513, 401094514, 2526780, 401097999, 2526797, 2615384, 2615385, 2615386, 401130103, & 2615420).

22. On October 5, 2016, Bayswater submitted laboratory analytical results demonstrating that thermogenic methane and benzene remained in the groundwater and showed an increase of these concentrations from past sampling at the MW-1A monitoring well. (Doc. Nos. 2615384, 2615385, & 2615386). After reviewing these results, COGCC required that Bayswater submit an amended Form 27, Site Investigation and Remediation Workplan, no later than November 5, 2016, and setting forth a proposal to install additional monitoring wells to define the extent of contamination around the Well. (Doc. No. 2527025)

23. A report prepared by Dolan Integration Group ("DIG") dated February 10, 2017, was submitted to the COGCC before a June 16, 2017, meeting between COGCC

Staff and Bayswater representatives. The report presented a multiple gas analysis of the Niobrara produced gas, the bradenhead gas, and the gas associated with the water monitoring wells.

III. Extraction acquired the Well and assumed responsibility for Remediation Project No. 8905.

24. On October 3, 2016, Extraction Oil & Gas LLC (Operator No. 10459) ("Extraction") acquired the Ferguson #43-35 lease, including the Well, from Bayswater as part of a lease acquisition. (Doc. No. 401123245)

25. On November 11, 2016, the COGCC, Extraction, and Bayswater entered into an agreement addressing ongoing responsibilities after the lease acquisition. (Doc No. 2193392) ("Attachment A") Bayswater agreed to remain liable for the payment of any penalties associated with all outstanding NOAVs, including the NOAV at issue here. Extraction assumed responsibility and liability for operations of the locations it acquired, including the Ferguson Well and Remediation Project No. 8905. Extraction agreed to comply with approved or amended Form 27s and conditions of approval.

26. On December 12, 2016, COGCC Staff transferred responsibility for Remediation Project No. 8905 from Bayswater to Extraction when it approved Amended Form 27, submitted by Extraction on November 16, 2016. (Doc No. 200440593) In the Amended Form 27, Extraction set forth plans for installing additional monitoring wells to further define the extent of contamination around the Well. Staff approved the Form 27 with conditions of approval, including the requirement that Extraction conduct quarterly groundwater sampling and report analytical results. (Doc. No. 2615446)

27. On February 16, 2017, COGCC approved the Change of Operator requested by Extraction and Bayswater, confirming Extraction as the operator of record of the Well.

28. On June 21, 2017, Extraction submitted laboratory analytical results for samples taken on May 24, 2017, demonstrating that thermogenic methane and BTEX, including benzene, remain in the groundwater. Benzene remains in groundwater near the MW-1A monitoring well at concentrations that exceed the Table 910-1 Concentration Levels. However, the results indicate a decrease of BTEX concentrations from past sampling at the MW-1A monitoring well. (Doc. No. 2615580)

29. The approved Site Investigation and Remediation Workplan, in Doc. Nos. 200440593 and 2615446, requires Extraction to continue quarterly groundwater sampling at all monitoring wells until BTEX concentrations are in compliance with Table 910-1 Concentration Levels for at least four consecutive quarters; continue sampling at the monitoring wells for thermogenic methane until sufficient data demonstrates that impacts to the Laramie Fox Hills Aquifer has been mitigated; and report results of all sampling to COGCC Staff on a quarterly schedule. COGCC Staff will evaluate the quarterly reports and determine if further investigation or active remediation is required.

IV. Penalty Calculation

30. Following factual investigation and legal review of the violations alleged in the NOAV, Hearing Staff now asserts Bayswater has committed the following violations:

Rule No(s).	Days of Violation	Start Date	End Date	Class	Impact	Daily Base Penalty	Total Penalty
301	N/A	3/28/2014	9/8/2014	N/A	N/A*	\$1,000	\$10,000
308	244	6/6/2014	2/5/2015	2	Minor	\$2,500	\$54,700
309	243	6/6/2014	2/4/2015	1	Minor*	\$200	\$3,779
324A	164	3/28/2014	9/8/2014	N/A	N/A*	\$1,000	\$164,000
Base Penalty							\$232,479
Settlement Discount (10%):							-\$23,248
TOTAL PENALTY							\$209,231

31. Pursuant to Rule 523 and the Commission's Enforcement and Penalty Policy, Hearings Staff calculated a penalty of \$209,231 for this violation. The penalty calculation is based on the following:

- a. Rule 301:
 - i. Penalties calculated under C.R.S. § 34-60-121 as effective prior to HB 14-1356 (June 6, 2014) and thus limited to \$10,000;
- b. Rules 308 and 309:
 - i. Violations continued until substantially after the effective date of HB 14-1356 (June 6, 2014) but prior to the effective date of revised Rules 522 and 523 (March 2, 2015). Therefore, the penalty for this violation has been calculated pursuant to § 34-60-121, C.R.S. (as effective June 6, 2014), with reference to revised Rules 522 and 523 and application of the Duration Matrix from the COGCC Enforcement Guidance and Penalty Policy January 2015 (corrected 4/8/2015);
 - ii. Staff used the effective date of HB 14-1356 (June 6, 2014) as the start date of the violations;
 1. Rule 308:
 - a. Violation ended on February 5, 2015, when Bayswater submitted the requisite Form 5;
 - b. Class 2 violation, Minor impact;
 - c. Daily base penalty of \$2,500;
 2. Rule 309:
 - a. Violation ended on February 4, 2015, when Bayswater submitted corrected Form 7s;
 - b. Class 1 violation, Minor impact;
 - c. Daily base penalty of \$200;
- c. Rule 324A:
 - i. Penalties calculated under C.R.S. § 34-60-121 as effective prior to HB 14-1356 (June 6, 2014) but resulted in significant adverse

- environmental impacts and thus a penalty of \$1,000 for each day of violation is appropriate;
- ii. Violation commenced during stimulation activities on March 28, 2014 and ended on September 8, 2014 when Bayswater applied remedial cement in the wellbore, resulting in a duration of 164 days;
 - d. Settlement inducement discount of 10%;
 - e. No aggravating or mitigating factors;
 - f. No pattern of violation; and
 - g. 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 Bayswater request that the Commission approve the Order set forth below.

RECOMMENDED this 20th day of October, 2017.

OIL AND GAS CONSERVATION COMMISSION OF
THE STATE OF COLORADO


By


Jeremy J. Ferrin
Enforcement Supervisor

AGREED TO AND ACCEPTED this 20th day of OCTOBER, 2017.

BAYSWATER EXPLORATION & PRODUCTION LLC

By


Donald W. Barbula
Sr. Vice President of Operations

ORDER

HAVING CONSIDERED the Agreement between the Director and Bayswater to resolve the NOAV, the COMMISSION ORDERS:

1. Bayswater is found in violation of Rules 301, 308A, 309, and 324A as described above.

2. Bayswater is assessed a penalty of \$209,231 for these violations, which is due 30 days after this Order is mailed by the Commission and must be paid by certified check. Bayswater's failure to pay the penalty by this deadline is an independent violation that may be subject to additional penalties.

3. Pursuant to that agreement between the COGCC, Bayswater, and Extraction dated November 11, 2016, attached to this Order as "Attachment A," Extraction remains responsible and liable for fulfilling all outstanding and ongoing requirements of Remediation Project No. 8905 (as may be amended by COGCC Staff).


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

5. 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 Prime, Secretary

CERTIFICATE OF MAILING

On November 6th, 2017, a true and accurate copy of Commission Order 1V- 648 was mailed by first-class mail return receipt requested to the following:

Bayswater Exploration & Production LLC
Attn: Donald Barbula
730 17th Street, Suite 500
Denver, CO 80202

Davis Graham & Stubbs LLP
Attn: Greg Nibert
1550 17th Street, Suite 500
Denver, CO 80202


Margaret Humecki