

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) ORDER NO. 1V-501
COMMISSION BY **BENCHMARK ENERGY LLC,**) DOCKET NO. 150500190
LOGAN COUNTY, COLORADO) TYPE: ENFORCEMENT

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

Benchmark Energy LLC (“Benchmark”) (Operator No. 10380) is the operator of the following Wells in Logan County: Logan J Sand Unit 2-5 Well (API No. 05-075-06004), Mount Hope-Green 4 Well (API No. 05-075-06464), Mount Hope Unit 49 Well (API No. 05-075-06343), NW Graylin D Sand Unit 8 Well (API No. 05-075-06002), NW Graylin D Sand Unit 9 Well (API No. 05-075-06016), and NW Graylin D Sand Unit 12 Well (API No. 05-075-06129) (“Wells”). Staff observed violations at these Wells in July 2014. Follow-up inspections in November 2014 confirmed that the corrective actions had not been performed.

A. Logan J Sand Unit 2-5 Well

1. On July 23, 2014, COGCC Staff inspected the Logan J Sand Unit 2-5 Well (Doc. No. 668602889). Staff observed that there was no sign at the tank battery; unused inoperable equipment, debris, and weeds on the site; and deteriorated and inadequate secondary containment around the tank battery. A Violation Inspection Report was issued, requiring the operator to correct these violations by August 11, 2014.

2. On November 10, 2014, COGCC Staff inspected the well again and observed that these violations had not been corrected (Doc. No. 667200728).

3. On January 15, 2015, COGCC staff issued Notice of Alleged Violation (“NOAV”) No. 200421709 to Benchmark for violations of the following COGCC Rules of Practice and Procedure, 2 CCR 404-1 (“Rule” or “Rules”):

- a. Rule 210 (Signs & Markers) for the failure to install a sign at the tank battery at the Logan J Sand Unit 2-5 Well;
- b. Rule 603.f. (Equipment, Weeds, Waste, & Trash) for the failure to keep the Logan J Sand Unit 2-5 Well free of unused equipment, debris, and weeds; and

- c. Rule 605.a.(4) (Berms) for the failure to maintain the berms in good condition and ensure that they are sufficiently impervious to contain any spilled or released material at the Logan J Sand Unit 2-5 Well.

B. Mount Hope-Green 4 Well

4. On July 31, 2014, COGCC Staff inspected the Mount Hope-Green 4 Well (Doc. No. 667200302). Staff observed a downed electric supply pole, cement pad, and debris on location. A Violation Inspection Report was issued to the operator, requiring these violations be corrected by August 11, 2014.

5. On November 10, 2014, COGCC Staff inspected the Well again and observed that the downed electric supply pole, cement pad, and debris had not been removed (Doc. No. 668603206).

6. On January 15, 2015, COGCC Staff issued NOAV No. 200421712 to Benchmark for violations of Rule 603.f. (Equipment, Weeds, Waste, & Trash) for the failure to keep the Mount Hope-Green 4 Well free of unused equipment, debris, and weeds.

C. Mount Hope Unit 49 Well

7. On July 29, 2014, COGCC Staff inspected the Mount Hope Unit 49 Well (Doc. No. 668602948). Staff observed unmarked guy line anchors and a cement pile, timbers, broken cement pad, and other debris on the location. A Violation Inspection Report was issued to the operator, requiring these violations to be corrected by August 11, 2014.

8. On November 17, 2014, COGCC Staff inspected the well again and observed that these violations had not been corrected (Doc. No. 667200655).

9. On January 15, 2015, COGCC staff issued NOAV No. 200421713 to Benchmark for violations of the following Rules:

- a. Rule 603.f. (Equipment, Weeds, Waste, & Trash) for the failure to keep the Mount Hope Unit 49 Well free of unused equipment, debris, and weeds; and
- b. Rule 1003.a. (Interim Reclamation, General – Guy Line Marking) for the failure to mark all guy line anchors at the Mount Hope Unit 49 Well.

D. NW Graylin D Sand Unit 8 Well

10. On July 29, 2014, COGCC Staff inspected the NW Graylin D Sand Unit 8 Well (Doc. No. 668602886). Staff observed no well sign or tank labelling at the battery; unused inoperable equipment, weeds, and debris on the location; unmarked guy line anchors; and deteriorated and inadequate secondary containment around the tank

battery. A Violation Inspection Report was issued to the operator, requiring these violations to be corrected by August 11, 2014.

11. On November 18, 2014, COGCC Staff inspected the well again and observed that these violations had not been corrected (Doc. No. 667200663).

12. On January 15, 2015, COGCC staff issued NOAV No. 200421714 to Benchmark for violations of the following Rules:

- a. Rule 210 (Signs & Markers) for the failure to properly mark wells, batteries, or tanks at the NW Graylin D Sand Unit 8 Well;
- b. Rule 603.f. (Equipment, Weeds, Waste, & Trash) for the failure to keep the NW Graylin D Sand Unit 8 Well free of unused equipment, debris, and weeds; and
- c. Rule 605.a.(4) (Berms) for the failure to maintain the berms in good condition and ensure that they are sufficiently impervious to contain any spilled or released material at the NW Graylin D Sand Unit 8 Well; and
- d. Rule 1003.a. (Interim Reclamation, General) for the failure to mark all guy line anchors at the NW Graylin D Sand Unit 8 Wells.

E. NW Graylin D Sand Unit 9 Well

13. On July 23, 2014, COGCC Staff inspected the NW Graylin D Sand Unit 9 Well (Doc. No. 668602887). Staff observed an access road covered with weeds, as well as unused inoperable equipment and cement slab debris on the location. A Violation Inspection Report was issued to the operator, requiring these violations to be corrected by August 11, 2014.

14. On November 18, 2014, COGCC Staff inspected the Well again and observed that these violations had not been corrected (Doc. No. 667200664).

15. On January 15, 2015, COGCC staff issued NOAV No. 200421715 to Benchmark for a violation of Rule 603.f. (Equipment, Weeds, Waste, & Trash) for the failure to keep the NW Graylin D Sand Unit 9 Well free of unused equipment, debris, and weeds.

F. NW Graylin D Sand Unit 12 Well

16. On July 23, 2014, COGCC Staff inspected the NW Graylin D Sand Unit 12 Well (Doc. No. 668602884). Staff observed incomplete tank labelling; unused inoperable equipment, weeds, and debris on the location; oil leaking from holes in the heater-treater and underground dump line; and chemical barrels without Best Management Practices to prevent site degradation from potential spills/releases. A

Violation Inspection Report was issued to the operator, requiring these violations to be corrected by August 11, 2014.

17. On November 18, 2014, COGCC Staff inspected the Well again and observed that these violations had not been corrected (Doc. No. 667200665).

18. On January 15, 2015, COGCC staff issued NOAV No. 200421716 to Benchmark for violations of the following Rules:

- a. Rule 210 (Signs & Markers) for failure to properly mark tanks at the NW Graylin D Sand Unit 12 Well;
- b. Rule 603.f. (Equipment, Weeds, Waste, & Trash) for the failure to keep the NW Graylin D Sand Unit 12 Well free of unused equipment, debris, and weeds;
- c. Rule 605.d. (Mechanical Conditions – Leaking Equipment) for failure to maintain the heater-treater and the buried dump line in good mechanical condition at the NW Graylin D Sand Unit 12 Well; and
- d. Rule 1002.f. (Stormwater Management) for the failure to implement or maintain stormwater BMPs around chemical barrels in order to prevent site degradation from potential spills/releases at the NW Graylin D Sand 12 Unit Well.

19. On January 22, 2015, Benchmark began good faith settlement negotiations with Staff regarding the alleged violations described above.

TOTAL VIOLATIONS AND PENALTY CALCULATION

20. Following a factual investigation and legal review of the violations alleged in the NOAVs referenced above, COGCC staff now asserts Benchmark has committed the following violations:

NOAV	Well	Rule	Class, Impact	Base Penalty	Days	Raw Penalty	Duration Matrix
200421709	Logan J Sand Unit 2-5	210	Class 2, Minor	\$2,500	183	\$457,500	\$51,550
200421709	Logan J Sand Unit 2-5	603.f.	Class 2, Minor	\$2,500	183	\$457,500	\$51,550
200421709	Logan J Sand Unit 2-5	605.a.(4)	Class 2, Minor	\$2,500	183	\$457,500	\$51,550
200421712	Mount Hope-Green 4	603.f.	Class 2, Minor	\$2,500	183	\$457,500	\$51,550
200421713	Mount Hope Unit 49	603.f.	Class 2, Minor	\$2,500	183	\$457,500	\$51,550
200421713	Mount Hope Unit 49	1003.a.	Class 2, Minor	\$2,500	183	\$457,500	\$51,550

200421714	NW Graylin D Sand Unit 8	210	Class 2, Minor	\$2,500	183	\$457,500	\$51,550
200421714	NW Graylin D Sand Unit 8	603.f.	Class 2, Minor	\$2,500	183	\$457,500	\$51,550
200421714	NW Graylin D Sand Unit 8	605.a.(4)	Class 2, Minor	\$2,500	183	\$457,500	\$51,550
200421714	NW Graylin D Sand Unit 8	1003.a.	Class 2, Minor	\$2,500	183	\$457,500	\$51,550
200421715	NW Graylin D Sand Unit 9	603.f.	Class 2, Minor	\$2,500	183	\$457,500	\$51,550
200421716	NW Graylin D Sand Unit 12	210	Class 2, Minor	\$2,500	183	\$457,500	\$51,550
200421716	NW Graylin D Sand Unit 12	603.f.	Class 2, Minor	\$2,500	183	\$457,500	\$51,550
200421716	NW Graylin D Sand Unit 12	605.d.	Class 2, Minor	\$2,500	183	\$457,500	\$51,550
200421716	NW Graylin D Sand Unit 12	1002.f.	Class 2, Minor	\$2,500	183	\$457,500	\$51,550
TOTAL PENALTY							\$773,250

21. Pursuant to Rule 523 and the Commission's Enforcement and Penalty Policy, Hearings Staff calculated a penalty of \$773,250 for these violations. The penalty calculation for the violations is also attached to this AOC. The penalty calculation is based on the following:

- a. These violations began on the date of the inspections when the violations were first observed by Staff (July 23, 2014) and continued until Benchmark began good faith settlement negotiations with Staff (January 22, 2015);
- b. These violations occurred after the effective date of HB 14-1356 (June 6, 2014). The penalty for these alleged violations is calculated pursuant to HB 14-1356, with reference to the revised Rule 523 as guidance;
- c. No aggravating or mitigating factors; and
- d. No pattern of violations or gross negligence or knowing & willful misconduct.

22. In determining whether to allow a suspended penalty in this case, the Commission considered documentation submitted by Benchmark demonstrating financial hardship. This documentation showed that Benchmark's total current liabilities exceeded its current assets by over \$120,000 as of September 30, 2014. This shows a company with short-term liquidity problems. In addition, the operator's net income continued to decline from -\$53,259 in 2013 to -\$72,813 in 2014, which represents a 36.7% decline.

AGREEMENT

NOW, THEREFORE, based on the Findings and pursuant to Rule 522.e.(1) and the Commission's Enforcement and Penalty Policy, the Director proposes and Benchmark agrees to settle the NOAV on the following terms and conditions:

- I. Benchmark is found in violation of Rules 210, 603.f., 605.a.(4), 605.d., 906.a., 1002.f., and 1003.a. as described above.
- II. Benchmark will be assessed a penalty of \$773,250. This penalty will be suspended pending compliance with all of the corrective actions by the deadline set forth in Section III of this agreement.
 - a. If Benchmark does not complete these corrective actions by the required date, this penalty will immediately become due within 30 days of notification from the Director, without further action from the Commission.
 - b. If Benchmark does not complete these corrective actions by the required date, the Director will immediately suspend the Benchmark's Form 10, Certificate of Clearance, without further action from the Commission. This suspension will remain in effect until Benchmark demonstrates that the corrective actions have been performed and the penalty is paid in full.
- III. Benchmark will perform the following corrective actions at the Wells within three months (by August 18, 2015) of the approval of this AOC:
 - a. Logan J Sand Unit 2-5 Well: Install well sign and label tank pursuant to Rule 210; remove unused inoperable equipment, debris, and weeds; mark guy line anchors; and repair secondary containment or remove the tank.
 - b. Mount Hope-Green 4 Well: Remove unused inoperable equipment and debris from the location.
 - c. Mount Hope Unit 49 Well: Remove unused inoperable equipment and debris from the location and mark guy line anchors.
 - d. NW Graylin D Sand Unit 8 Well: Install lease signs and tank labels; mark guy line anchors; and remove unused inoperable equipment and weeds.
 - e. NW Graylin D Sand Unit 9 Well: Remove inoperable equipment and control weeds.
 - f. NW Graylin D Sand Unit 12 Well: Install lease sign and tank labels; remove unused inoperable equipment, debris, and weeds; repair or remove heater-treater and repair dump line.

- IV. Payment of the penalty pursuant to this AOC does not relieve the operator from its obligations to complete corrective actions set forth in the NOAVs, as may be amended or modified by COGCC Staff.

RECOMMENDED this 4th day of May, 2015.

OIL AND GAS CONSERVATION COMMISSION OF
THE STATE OF COLORADO



By _____
Britta Beckstead, Asst. Attorney General

AGREED TO AND ACCEPTED this 4th day of May, 2015.

BENCHMARK ENERGY LLC



By _____
Signature of Authorized Company Representative

Jerry Nash
Print Signatory Name

Managing Member
Title

ORDER

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

1. Benchmark is found in violation of Rules 210, 603.f., 605.a.(4), 605.d., 906.a., 1002.f., and 1003.a. as described above.
2. Benchmark is assessed a penalty of \$773,250. This penalty will be suspended pending compliance with all of the corrective actions by the deadline set forth below.
 - a. If Benchmark does not complete these corrective actions by the required date, this penalty will immediately become due within 30 days of notification from the Director, without further action from the Commission.
 - b. If Benchmark does not complete these corrective actions by the required date, the Director will immediately suspend the Benchmark's Form 10, Certificate of Clearance, without further action from the Commission. This

suspension will remain in effect until Benchmark demonstrates that the corrective actions have been performed and the penalty is paid in full.

3. Benchmark will perform the following corrective actions at the Wells within three months (by August 18, 2015) of the approval of this AOC:
 - a. Logan J Sand Unit 2-5 Well: Install well sign and label tank pursuant to Rule 210; remove unused inoperable equipment, debris, and weeds; mark guy line anchors; and repair secondary containment or remove the tank.
 - b. Mount Hope-Green 4 Well: Remove unused inoperable equipment and debris from the location.
 - c. Mount Hope Unit 49 Well: Remove unused inoperable equipment and debris from the location and mark guy line anchors.
 - d. NW Graylin D Sand Unit 8 Well: Install lease signs and tank labels; mark guy line anchors; and remove unused inoperable equipment and weeds.
 - e. NW Graylin D Sand Unit 9 Well: Remove inoperable equipment and control weeds.
 - f. NW Graylin D Sand Unit 12 Well: Install lease sign and tank labels; remove unused inoperable equipment, debris, and weeds; repair or remove heater-treater and repair dump line.
4. This Order does not relieve Benchmark from undertaking and completing additional abatement or corrective actions as required by COGCC Staff. The Director may not extend the corrective action deadlines in this Order without Commission approval.
5. Entry of this Order constitutes final agency action for purposes of judicial review 30 days after the date this order is mailed by the Commission. For all other purposes, this Order is effective as of the date of approval by the Commission.
6. The Commission expressly reserves its right after notice and hearing, to alter, amend, or repeal any and/or all of the above orders.

ENTERED this 20th day of May, 2015 as of the 18th day of May, 2015.

OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

By  _____
Julie Murphy, Secretary