

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 COMMISSION BY	)	DOCKET NO. 1306-OV-12
KINDER MORGAN CO2 CO LP, MONTEZUMA AND	)	ORDER NO. 1V-414
DOLORES COUNTIES, COLORADO	)	

**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**

**Well Descriptions**

1. Kinder Morgan CO<sub>2</sub> CO LP ("Kinder Morgan") (Operator No. 46685) operates the wells identified in Table 1 ("Wells") in Montezuma and Dolores Counties.

**TABLE 1**

<b>Well</b>	<b>History</b>
YG # 1	(API No. 05-083-06697), located in the SW¼ SE¼ of Section 14, Township 37 North, Range 18 West, NM P.M., was spud on August 24, 2012, and subsequently completed.
YA # 6	(API No. 05-083-06694), located in the NE¼ SE¼ of Section 13, Township 37 North, Range 18 West, NM P.M., was spud on May 30, 2012, and subsequently completed.
HA # 4	(API No. 05-083-06693), located in NW¼ SE¼ of Section 29, Township 38 North, Range 18 West, NM P.M., was spud on August 8, 2012, and subsequently completed.
Doe Canyon # 11	(API No. 05-033-06171), located in NE¼ SW¼ of Section 15, Township 40 North, Range 18 West, NM P.M., was spud on April 5, 2012, and subsequently completed.

**Alleged Violation Citations**

2. COGCC Staff conducted inspections at the Wells and found multiple alleged permit conditions of approval and Rule violations. The dates of citation, Notice of Alleged Violation ("NOAV") numbers, alleged Rule violations, and alleged violations of conditions of approval of permits cited are identified in Table 2.

TABLE 2

Well Name	YG #1	YA #6	HA #4	Doe Canyon #11
NOAV #	200374896	200375003	2369024	2369006
NOAV Date	2/11/2013	2/14/2013	2/18/2013	3/7/2013
<b>Alleged Rule Violations</b>				
Rule 603- Drilling Operations		X	X	
Rule 902 – Pits	X	X	X	X
Rule 904 – Pit Lining	#	#	#	
Rule 906 - Spills/Releases	X	X	X	X
Rule 907 - E & P Waste	X	X	X	X
Rule 1002 - Site Preparation	X	X	X	X
Rule 1003- Interim Reclamation		X		
<b>Alleged § 34-60-121(1) C.R.S. Violations by Violating Permit Conditions of Approval</b>				
1* 48hrs notice prior to pit construction.	X	X	X	
2* 48hrs notice prior to pit liner installation.	X	X	X	
3* Drill cuttings properly contained.	#	#	#	
4* Netted Pit	#	#	#	
5* Fenced pit		#		
6* Total site disturbance	X	X	X	X
7* 110% containment of contained liquids	X			
8* <i>De minimis</i> moisture content of cuttings.	#	#	#	
9* Wattle installation	#	#	#	

X Violation used to assess penalty

# Duplicative of a rule violation and therefore not considered in base fine.

1\* Submit notice 48 hours prior to pit construction via Form 42.

2\* Submit notice 48 hours prior to pit liner system installation via Form 42.

3\* All cuttings generated during drilling with high chloride/salt based muds must be kept in the lined drilling pit, or placed either in containers or on a lined/bermed portion of the well pad prior to offsite disposal. The moisture content of any drill cuttings in a cuttings pit, trench, or pile shall be as low as practicable to prevent accumulation of liquids greater than *de minimis* amounts.

4\* The pit must be netted. The operator must maintain the netting until the pit is closed.

5\* The pit must be fenced. The operator must maintain the fencing until the pit is closed.

6\* Total disturbed area is limited to that authorized in the approved Form 2A.

7\* Operator must ensure 110 percent secondary containment for any volume of fluids contained at well site during drilling and completion operations; including, but not limited to, construction of a berm or diversion dike, diversion/collection trenches within and/or outside of berms/dikes, site grading, or other comparable measures (i.e., best management practices (BMPs) associated with stormwater management) sufficiently protective of nearby surface water.

8\* The moisture content of any drill cuttings in a cuttings pit, trench, or pile shall be as low as practicable to prevent accumulation of liquids greater than *de minimis* amounts prior to offsite disposal.

9\* Fiber wattles must be installed as required by the conditions of approval of the approved permit.

### **Cited Rules Summary**

3. Rule Violations cited in Table 2 are explained as follows:

a. Rule 603.j., provides that all locations, including wells and surface production facilities, shall be kept free of the following: equipment, vehicles, and supplies not necessary for use on that lease; weeds; rubbish, and other waste material.

b. Rule 902 requires that pits be constructed and operated to protect public health, safety, welfare, and the environment, including wildlife resources. Rule 904 provides that pit lining systems be designed, constructed, installed and maintained in accordance with manufacturer's specifications and good engineering practices. Fence posts on the top of the berms were driven through the liner. The liner was folded and wrinkled.

c. Rule 906 requires that spills/releases of Exploration and Production (E&P) waste be controlled and contained immediately upon discovery and investigated and cleaned up as soon as practicable. Rule 906 also requires that certain releases be reported to the COGCC. Drill cuttings, an E&P waste, had been stockpiled onsite and had not been contained and or immediately cleaned up. Soil staining that appeared to be result of fluids leaching from the drill cuttings was observed onsite.

d. Rule 907 requires that E&P waste be managed in a manner that prevents threatened or actual adverse environmental impacts to air, water, soil or biological resources to extent necessary to ensure compliance with Table 910-1 standards.

e. Rule 1002.b requires that soils removed during site construction be segregated into layers and that each layer be marked or identified. Rule 1002.c requires stockpiled soils be protected from degradation due to contamination, compaction and wind or water erosion. Rule 1002.f.(2) requires operators implement BMPs to control stormwater runoff, to minimize erosion and site degradation.

f. Rule 1003 requires that debris and waste materials including but not limited to cement, drilling additives, sand, plastic pipe and cable be removed and all E&P waste shall be handled according to 900 series. Interim reclamation on non-cropland is to be complete within 6 months.

### **Calculation of Fine**

4. Rule 523 (Procedure for Assessing Fines) specifies a maximum base fine of \$1,000 for each day of violation of Rule 603, Rule 902, Rule 904, Rule 906, Rule 907, Rule 1002, Rule 1003, and each violation of a condition of permit approval pursuant to §34-60-121(1) C.R.S. Rule 523.a.(3) specifies that "the maximum penalty for any single violation shall not exceed \$10,000 regardless of the number of days of such violation," unless the violation results in significant waste of oil and gas resources, damage to correlative rights, or a significant adverse impact on public health, safety or welfare or the environment. Staff alleges each violation occurred for a minimum of 10 days, except for the conditions of approval requiring 48 hours notice, which are counted as a single day of violation. Staff is not alleging significant waste of oil and gas resources, damage to

correlative rights, or a significant adverse impact on public health, safety or welfare or the environment.

5. Pursuant to Rule 523, the potential base fines for cited alleged violations identified in the NOAV's is \$ 246,000.

6. Rule 523.d. specifies that a fine may be decreased by application of mitigating factors including:

a. Rule 523.d.(2) the violator demonstrated effective and prudent response to the violation, including assistance to impacted parties.

b. Rule 523.d.(3), the violator cooperated with the Commission, or other agencies with respect to the violation.

c. Rule 523.d.(6), the cost of correcting the violation reduced any economic benefit to the violator.

No aggravating factors pursuant to Rule 523.d apply. The Director agrees to an approximate 10.5% discount in the penalty amount due to these three mitigating factors.

7. Pursuant to Commission Rule 522.b.(3), the Director proposes and Kinder Morgan agrees to settle the NOAV as follows:

a. Kinder Morgan payment of a \$220,000 penalty. A maximum of \$80,000 may be satisfied by funding a public project pursuant to Rule 523.e.

b. Any public project pursuant to Rule 523.e must be proposed to the Director not later than 30 days after this order is approved by the Commission.

c. Payment of \$140,000 shall be due 30 days after the Commission approves this Order.

d. If a public project is approved by the Director, the remaining \$80,000 shall be satisfied according to the approved public project terms.

e. If a public project is not approved, the remaining \$80,000 shall be paid not later than 30 days after the Director's final decision on the public project proposal.

8. Payment of the penalty pursuant to this AOC does not relieve Kinder Morgan from its obligations to complete corrective actions set forth in the NOAV's, as may be amended or modified by COGCC Staff.

9. Kinder Morgan agrees to the findings of this AOC only for the purpose of expeditiously resolving the matter without a contested hearing. Pursuant to Rule 522.b.(3), entering into this AOC by Kinder Morgan shall not be construed as an admission of any of the alleged violations. Kinder

Morgan fully reserves its right to contest the same in any future action or proceeding other than a proceeding to enforce this AOC.

ORDER

NOW, THEREFORE, THE COMMISSION ORDERS:

1. Kinder Morgan shall be found in violation of the alleged violations as identified in Table 2 of this Order.
2. Kinder Morgan shall be assessed a total penalty of \$220,000 for the Rule violations set forth above.
3. The penalty amount may be offset by up to a maximum of \$80,000 by a Kinder Morgan contribution to a public project pursuant to Rule 523.e.
4. Any public project pursuant to Rule 523.e must be proposed to the Director not later than 30 days after this order is approved by the Commission.
5. Payment of \$140,000 shall be due 30 days after the Commission approves this Order.
6. If a public project is approved by the Director, the remaining \$80,000 shall be satisfied according to the approved public project terms.
7. If a public project is not approved, the remaining \$80,000 shall be paid not later than 30 days after the Director's final decision on the public project proposal.
8. Payment of the fine pursuant to this AOC shall not relieve Kinder Morgan from its obligations to complete remaining corrective actions set forth in the NOAV's, as may be amended or modified by COGCC Staff.
9. 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.
10. The provisions contained in the above Order shall become effective immediately.

RECOMMENDED this 4<sup>th</sup> day of June, 2013.

OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

By Peter J. Gowen  
Peter J. Gowen, Enforcement Officer

AGREED TO AND ACCEPTED this 4<sup>th</sup> day of June, 2013.

KINDER MORGAN CO<sub>2</sub> CO LP

By:   
Signature of Authorized Kinder Morgan CO<sub>2</sub> CO LP  
Representative

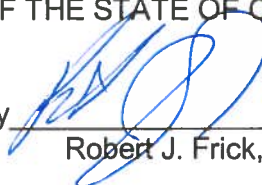
Valerian Brock  
Print Signatory Name

Director CO<sub>2</sub> Source  
Title of Signatory

=====  
This Administrative Order by Consent was heard by the Commission on the 17<sup>th</sup> day of June,  
2013 and approved.

ENTERED this 24<sup>th</sup> day of ~~May~~ June 2013, as of the 17<sup>th</sup> day of June, 2013.

OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

By:   
Robert J. Frick, Secretary