

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. 1303-OV-07
COMMISSION BY <b>TOP OPERATING COMPANY</b> ,	)	
BOULDER COUNTY, COLORADO	)	ORDER NO. 1V-407

**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. On January 29, 1982, Calvin Petroleum Corporation spud the Rider No. 1 Well (API No. 05-013-06096) ("Well"), located in the NE¼ SE¼, Section 36, Township 3 North, Range 69 West, 6th P.M. The Rider No. 1 Well was subsequently conveyed to Murray J. Herring Ltd on September 1, 1986 and to its current owner, Top Operating Company ("Top"), on January 1, 1989.

2. COGCC staff performed a field inspection (Document #665400063) on January 20, 2012, and discovered multiple rule violations at the Well site. On January 24, 2012, COGCC staff issued Notice of Alleged Violation ("NOAV") #01771570 to Top for its operations at the Well site. The NOAV contained the following alleged violations:

a. Rule 210.d requires the operator to label each tank with greater than 10 barrels capacity and containers used for hazardous materials in a conspicuous place, from the time of initial drilling until final abandonment;

b. Rule 301 requires the operator to provide written notice of intention to do work or to change plans previously approved and receive approval before the work is begun. These complete records of drilling, redrilling, deepening, repairing, plugging or abandoning of all wells, other well operations, and all alterations to casing must be conveniently accessible to the Director. The records must show all the formations penetrated and, among other things, the grade, weight and size, and landed depth of casing used in drilling each well on the premises;

c. Rule 308A requires the operator, within 30 days of the setting of production casing, the plugging of a dry hole, the deepening or sidetracking of a well, or any time the wellbore configuration is changed, to transmit to the Director the Drilling Completion Report, Form 5, and two (2) copies of all logs run;

d. Rule 308B requires the operator to submit the Completed Interval Report, Form 5A, within 30 days of completing a formation (successful or not), when a formation is temporarily or permanently abandoned, for a recompletion, reperforation or restimulation, or when a formation is commingled;

e. Rule 309 requires the operator to file with the Commission, within 45 days after the month in which production occurs, a report on Operator's Monthly Production Report, Form 7, containing all information required by said form, and in addition, all fluids produced during the initial testing and completion shall be reported on Operator's Monthly Production Report, Form 7 within 45 days after the month in which testing and completion occurs;

f. Rule 522.a.(5)c specifies a NOAV may identify a permit or permit condition allegedly violated. Section 34-60-121 (1) C.R.S. specifies that an operator who violates any provision of a permit shall be subject to a penalty. The approved Form 2 for the Well required remedial cement and a cement bond log verifying the remedial cement. There was no cement bond log or remedial cement reported on the Drilling Completion Report.

g. Rule 604.a.(4) requires berms or other secondary containment devices shall be constructed around crude oil, condensate, and produced water tanks to provide secondary containment for the largest single tank and sufficient freeboard to contain precipitation. Berms and secondary containment devices and all containment areas shall be sufficiently impervious to contain any spilled or released material. Berms and secondary containment devices shall be maintained in good condition

h. Rule 604.d requires all valves, pipes and fittings shall be securely fastened, inspected at regular intervals, and maintained in good mechanical condition; and

i. Rule 906.a requires spills/releases of E&P waste, including produced fluids, shall be controlled and contained immediately upon discovery to protect the environment, public health, safety, and welfare, and wildlife resources, and spills/releases shall be investigated and cleaned up as soon as practicable.

3. Rule 523.c specifies a maximum base fine of \$500 for each day of violation of Rule 210. Rule 523.c further specifies a maximum base fine of \$1,000 for each day of violation of Rules 301, 308A, 308B, 309, 603, 604.a, 604.d, and 906.a. Section 34-60-121 (1) C.R.S. similarly specifies that an operator who violates any provision of a permit shall be subject to a penalty of up to \$1,000 for each day of violation. Rule 523.a.(3) provides 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 does not allege these factors in this case.

4. Rule 523.d. specifies that a fine may be decreased by application of mitigating factors. Applicable mitigating factors include:

a. Rule 523.d.(3), the violator cooperated with the Commission with respect to the violations.

5. Top is now in substantial compliance with the rules cited above at the Rider No. 1 Well.

6. In consideration for settling this matter without a contested hearing, Top and Staff agree to resolve this enforcement matter for a total fine of \$25,000, payable in three payments over a three month period, beginning 30 days from Commission approval of the AOC.

7. Top, or its successors or assigns, shall remain responsible for complying with this AOC, in the event of any subsequent sale of the Well.

8. Top 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 Top shall not be construed as an admission of the alleged violations. Top 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, IT IS ORDERED, that:

1. Top Operating Company shall be found in violation of Rules 210.d, 301, 308A, 308B, 309, 522.a.(5)c, 603, 604.a, 604.d, and 906.a for its operations at the **Rider No. 1 Well** located in the NE¼ SE¼, Section 36, Township 3 North, Range 69 West, 6th P.M.

2. Top Operating Company shall be assessed a total fine of **\$25,000** for the Rule violations set forth above, which shall be payable in three payments as follows:

April 25, 2013	\$9,000
May 25, 2013	\$8,000
June 25, 2013	\$8,000

3. The Commission considers this Order to be final agency action for purposes of judicial review 30 days after the date this order is mailed by the Commission.

4. This Order shall become effective immediately.

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

RECOMMENDED this 7<sup>th</sup> day of March, 2013.

OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

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

AGREED TO AND ACCEPTED this \_\_\_\_\_ day of March, 2013.

TOP OPERATING COMPANY

By: [Signature]  
Signature of Authorized Top Representative  
Rodney K. Herring  
Print Signatory Name  
President  
Title of Signatory

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This Administrative Order by Consent was heard by the Commission on the 25<sup>th</sup> day of March, 2013, at the, Suite 801, in The Chancery Building, 1120 Lincoln Street, Denver, Colorado, and approved.

ENTERED this 26<sup>th</sup> day of March, 2013, as of the 25<sup>th</sup> day of March, 2013.

OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

By [Signature]  
Robert J. Frick, Secretary