

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 **ENCANA**) ORDER NO. 1V-399
OIL & GAS (USA) INC, BOULDER COUNTY,) DOCKET NO. 1211-OV-12
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

Procedural History

1. On October 17, 2012, the Commission Secretary issued a Notice of Administrative Order by Consent Hearing for this matter, setting this matter for consideration at the Commission's November 14, 2012 meeting.

2. Staff and the operator, Encana Oil & Gas (USA) Inc. ("Encana" or "Operator") (Operator No. 100185), entered into an Administrative Order by Consent ("Initial AOC") on October 25, 2014.

3. The Initial AOC was considered by the Commission at its November 14, 2012 meeting. The individual filing the complaint which initiated the enforcement action ("Complainant") appeared at the hearing and objected to the Initial AOC. He expressed an interest in filing for a hearing pursuant to Rule 522.b.(4). The Commission granted the Complainant 45 days from the date of the November 15, 2012 hearing to make his formal application for hearing.

4. On December 31, 2012, the Complainant sent the Director an email message which can be construed as a request for an Order Finding Violation ("OFV") hearing pursuant to Rule 522.b.(4).

5. In January 2013, a Hearing Officer assumed jurisdiction over prehearing procedures. A long history of prehearing proceedings transpired, but will not be reported here.

6. On November 20, 2013, an attorney entered an appearance on behalf of the Complainant.

7. On November 22, 2013, Boulder County moved to intervene.

8. On January 17, 2014, the Operator and Complainant filed a Stipulated Motion to Continue further proceedings to provide the Operator an opportunity to implement a settlement agreement with the Complainant.

9. On February 5, 2014, the Hearing Officer entered an order continuing the matter to July 1, 2014 in response to the Stipulated Motion to Continue.

10. On June 25, 2014, the Operator, Complainant and Boulder County filed a Stipulated Motion to Dismiss with Prejudice the matter in its entirety. Boulder County has subsequently expressed its support for the resolution of this case through this AOC.

Factual History

11. On February 9, 1982, Vessels Oil & Gas Company spud the Ross 'G' Unit Well #1 (API No. 05-013-06116) ("Well") located in the SE¼ NE¼ of Section 24, Township 2 North, Range 69 West, 6th P.M. Encana is the current operator of the Well.

12. On April 27, 2012, Colorado Oil and Gas Commission ("COGCC" or "Commission") Staff inspected the Well's tank battery location (Location ID #321305) ("Location") along with field staff of the Air Pollution Control Division of the Colorado Department of Public Health and Environment ("APCD-CDPHE"). The inspection was in response to a complaint (Complaint #200348658), received April 26, 2012, alleging odors and air emissions emanating from the Location.

13. During the inspection, COGCC Staff detected odors at the boundary of the property. Staff observed condensate on the top of fluid in the produced water tank and the tank was venting to the atmosphere. Staff also observed indications of condensate film on the exterior of the condensate tank as well as on the stairway leading to the tank. Staff observed gas venting and condensate mist emerging out of the tank thief hatch, as well as a small leak from the fitting at the wellhead. COGCC Staff concluded, in agreement with APCD-CDPHE staff, that the Emission Control Burner may have been inadequate in size for Encana's operations at the Location at the time of the inspection.

14. On May 1, 2012, COGCC Staff issued Notice of Alleged Violation No. 200348796 ("NOAV") to Encana for its operations at the Location. The NOAV cited violations of the following COGCC Rules of Practice and Procedure, 2 CCR 404-1 ("Rule" or "Rules"):

- a. Rule 324.A.c. (Air Pollution);
- b. Rule 805.a. (Odors);
- c. Rule 907.a.(1). (Management of E&P Waste); and
- d. Rule 912.a. (Venting or Flaring Natural Gas)

15. The NOAV required Encana to complete abatement or corrective actions. Encana has fully performed the required actions.

16. The CDPHE-APCD had a parallel enforcement action for the same transaction and occurrences, so the COGCC has no need to pursue the Rule 324A.c. claim. Encana entered into an early settlement agreement with the CDPHE regarding a

Compliance Advisory issued on June 15, 2012 (Case No.: 2012-093) via letter agreement dated December 12, 2012 under which Encana paid a \$53,900 penalty.

17. Encana performed a number of actions in response to the NOAV, beyond that required by COGCC Staff, including installing equipment upgrades at the Location. Encana also implemented a field-wide project to review, verify and upgrade (if necessary) production equipment. These initiatives were in addition to Encana's existing inspection, monitoring, maintenance and testing programs.

18. As part of its confidential settlement agreement with the Complainant, upon dismissal of this matter, Encana will plug and abandon the Ross 'G' Unit Well #1, remove the existing battery equipment at the Location, reroute the flowlines for the other wells that flow to that location to another battery, and reclaim the Location.

19. Following a factual investigation and legal review of the violations alleged in the NOAV, the COGCC Staff asserts Encana has committed the following violations:

- a. Rule 805.a. because equipment at the Location vented gas and liquids to the atmosphere, resulting in odors;
- b. Rule 907.a.(1) by failing to properly store, handle, and dispose E&P waste to prevent threatened or actual significant adverse environmental impacts by allowing uncontrolled release of condensate to release from the tanks and impact the surface of the tanks and appurtenant equipment.
- c. Rule 912.a. by allowing natural gas to vent from the well head without approval from the COGCC Director.

Staff dismissed the alleged violation of Rule 324A.c. because this violation was subsumed by the APCD-CDPHE enforcement action and Compliance Advisory.

20. Pursuant to Rule 523 and the Commission's Enforcement and Penalty Policy, Hearings staff calculated a penalty of \$15,000 for these violations after applying the following mitigating factors:

- a. The violator cooperated with the Commission, or other agencies with respect to the violation.
- b. The cost of correcting the violation eliminated any economic benefit to the violator.

21. The costs incurred by Encana performing the actions referred to in paragraphs 17 and 18 were above and beyond that required by COGCC Staff, and resulted in public benefits greater than the monetary penalty calculated for the alleged violations.

AGREEMENT

NOW, THEREFORE, based on the above Findings and pursuant to Rule 522.b.(3) and the Commission's Enforcement and Penalty Policy, the Director proposes and Encana agrees to settle the NOAV on the following terms and conditions:

- I. EnCana is found in violation of Rule 805.a., Rule 907.a.(1), and Rule 912.a. at the Ross 'G' Unit Well #1, as described above.
- II. The Commission agrees not to assess any monetary penalty, due to the mitigating factors described in paragraphs 17, 18, and 21 above, and pursuant to the Commission's Penalty Policy to consider response costs when response costs exceed the calculated total penalty. In this case, Encana has gone well beyond COGCC Staff requirements in resolving the concerns of the Complainant, resulting in public benefits greater than the monetary penalty calculated for the alleged violations.
- III. Encana agrees to the findings of this AOC only for the purpose of expeditiously resolving the matter without a contested hearing. Pursuant to Rule 522.c.(3), entering into this AOC by Encana shall not be construed as an admission of the alleged violations, all of which Encana expressly denies. Encana fully reserves its right to contest the same in any future action or proceeding other than a proceeding to enforce this AOC.

RECOMMENDED this 17th day of July 2014.

OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

By: _____

Peter J. Gowen
Peter J. Gowen, Enforcement Officer

AGREED TO AND ACCEPTED this 17th day of July, 2014.

ENCANA OIL & GAS (USA) INC., by its authorized
Agent, Encana Services Company Ltd.

By: _____

Eric L. Root
Signature of Authorized Company Representative

Eric L. Root
Print Signatory Name

Sr. Manager
Title

ORDER

HAVING CONSIDERED the Agreement between the Director and Encana to resolve the NOAV, and the Stipulated Motion to Dismiss with Prejudice, the COMMISSION ORDERS:

1. The Complainant's application for an Order Finding Violation hearing is hereby dismissed with prejudice.
2. The Hearing Officer's granting of the Boulder County's Motion to Intervene is vacated.
3. Encana is found in violation of the Rule 805.a.; Rule 907.a.(1); and Rule 912.a. at the Ross 'G' Unit Well #1, as described above.
4. No additional monetary penalty is assessed.
5. This Order shall be a full and complete settlement and resolution of all matters and potential violations arising from the April 27, 2012 inspection and related NOAV, whether alleged or not.
6. Entry of this Order constitutes final agency action for purposes of judicial review as of 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.

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ENTERED this 30th day of July, 2014, as of the 28th day of July, 2014.

OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO


By _____
Robert J. Frick, Secretary