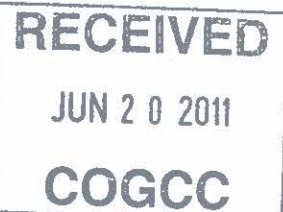


BEFORE THE OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO



IN THE MATTER OF ALLEGED VIOLATIONS OF THE RULES) CAUSE NO. 1V
AND REGULATIONS OF THE COLORADO OIL AND GAS)
CONSERVATION COMMISSION BY BERRY PETROLEUM) DOCKET NO. 1106-OV-13
COMPANY, GARFIELD COUNTY, COLORADO) ORDER NO. 1V -

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 July 14, 2005, the Director ("Director") of the Colorado Oil and Gas Conservation Commission (the "Commission" or "COGCC") approved an Application for Permit-to-Drill for the Chevron #12-213D Well (the "Well") (API #05-045-10938), with the associated well pad (the "Well Pad"), located in the SW¼ NW¼ of Section 12, Township 6 South, Range 97 West, 6th P.M. The permit was reissued on September 5, 2006 and September 28, 2007. The location of the Well Pad is within the recharge area for a spring used by wildlife and seasonally by ranchers for livestock watering. Berry Petroleum Company ("Berry") began construction of the Well Pad in July 2007, including construction of a lined reserve pit.

2. On January 17, 2008, due to concerns that the reserve pit might be leaking, Berry collected samples of water discharging from the toe of the Well Pad. Following receipt of positive test results on January 21, 2008, Berry verbally notified COGCC and other state and federal agencies of the releases that same day. Also on January 21, Berry constructed a lined collection sump at the toe of the pit in order to capture and properly dispose of any leakage.

3. On March 17, 2008, COGCC Staff issued NOAV #200127625 (the "NOAV") to Berry alleging violations of certain COGCC Rules, in effect at the time of the releases, identifying three releases from the reserve pit (on November 28, 2007, December 19, 2007, and January 19, 2008), for which the COGCC Staff recommended Berry be penalized. The NOAV further alleged that: "the subject releases have impacted Waters of the State in a tributary to Garden Gulch & currently threaten to impact Garden Gulch. Prior to 01-21-2008, Berry Petroleum had not notified the NRC, the COGCC, & the CDPHE-WQCD."

4. Following its January 21, 2008 report to COGCC, Berry fully cooperated with the COGCC Staff's response actions and requirements. Berry timely submitted and regularly updated the required Spill/Release Reports and Site Investigation and Remediation Work Plans. Further, Berry performed all required corrective actions and complied with the requirements of the NOAV.

5. From January 2008 to October 2008, Berry collected and tested numerous water samples, the analytical results for which were submitted to COGCC. A sample from the lined collection sump, taken February 7, 2008, indicated benzene contamination at a level of 6.5 parts per billion ("ppb"), which exceeded the drinking water standard of 5.0 ppb. No other water samples at any location exceeded the benzene drinking water standard. On January 21, 2008, Berry initiated the disposal of that water which was collected in the sump. Samples taken on February 15, 2008, at and below the spring, showed acetone from a low of non-detect to a high of 610 ppb. While there is no numerical water quality standard for acetone, the COGCC Staff alleges that the Colorado Department of Public Health and Environment, Water Quality Control Commission ("CDPHE-WQCC") Interim Narrative Standard was exceeded for acetone.

6. Berry took a number of steps in its efforts to operate responsibly and in a manner protective of the environment. Berry initially constructed the reserve pit with a 16 mm liner, thicker than the 12 mm required at that time. Berry repaired holes discovered in the liner (November 2007), and overlaid the initial liner with another 16 mm liner (December 2007). Berry then installed a second replacement liner (20 mm) in January 2008. Berry also installed a French drain below the pit; lined the collection sump; collected and properly disposed of the fluid collected in the sump; and conducted extensive water quality sampling.

7. Following this incident, Berry voluntarily implemented additional safeguards company-wide to prevent similar future events. Berry enhanced its existing environmental compliance and response plans and procedures as well as its existing environmental training program. Berry took additional measures to reduce the risk of pit releases, such as the use of

double liners. Berry is pilot-testing closed loop drilling and completion operations that could in many cases eliminate the future need for reserve pits.

8. On April 21, 2011, COGCC Staff issued a proposed Order Finding Violation (“OFV”) to Berry relating to this incident. On May 24, 2011, the Director and COGCC Staff met with Berry representatives, and the parties agreed to the following settlement of the above-captioned matter.

9. Rule 523. specifies a base fine of One Thousand dollars (\$1,000) for each day of violation of each Rule. Rule 523.a.(3) specifies that “the maximum penalty for any single violation shall not exceed Ten Thousand dollars (\$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.

10. COGCC Staff believes that the release of fluids from the lined reserve pit on the Well Pad resulted in a significant adverse impact to the environment and public health, safety, and welfare. Berry does not agree that this release resulted in a significant adverse impact to the environment or public health, safety, or welfare.

11. COGCC Staff believes that Berry should be found in violation of Rules 324A.a., 902.a., 906.a., 906.b.(1), and 907a.(2), for failing to properly construct and maintain the lined reserve pit on the Well Pad so that E&P waste was not released, and reporting and containing the release immediately and cleaning up the release as soon as practicable. COGCC Staff believes that these violations occurred from November 28, 2007, the date of the first release of fluids from the lined reserve pit (consisting initially of water) on the Well Pad, through January 21, 2008, when Berry reported the releases of fluid to the COGCC and began remediation work. COGCC Staff has determined that a 48-day period of violation should be used in this matter, with base fines levied as compiled in the table below:

<i>Rule Violation</i>	<i>Days of Violation</i>	<i>Fine Amount/Violation</i>
324A.a.	48	\$48,000
902.a.	48	\$48,000
906.a.	48	\$48,000
906.b.(1)	-	\$10,000
907.a.(2)	48	\$48,000
Total Maximum Allowable Fine		\$202,000

12. Because the base fines for these violations are set at One Thousand dollars (\$1,000) per day of violation, the aggravating factors set forth in Rule 523.d. are not applicable by their terms.

13. Pursuant to Rule 523.d., mitigation of 14.4% was applied to the total base fine in recognition of the following factors:

- As is provided for by Rule 523.d.(2), Berry demonstrated a prompt, effective and prudent response to the violations, and
- Under Rule 523.d.(3), Berry cooperated with the Commission with respect to the violations.

14. Berry should be assessed a total adjusted fine of One Hundred Seventy Three Thousand dollars (\$173,000) for the Rule violations described above at the Well Pad.

15. Berry does not admit to the alleged violations but agrees to pay the total fine set forth in Finding No. 14 to resolve this matter without the necessity of an extended contested hearing before the Commission.

16. Pursuant to Article IX of the Memorandum of Agreement between the CDPHE, Water Quality Control Division (“WQCD”) and the COGCC, adopted February 15, 2000, COGCC Staff conferred with WQCD enforcement staff in determining the monetary penalty against Berry. WQCD indicated it agrees with the fine and the terms of this Administrative Order by Consent (“AOC”) and will not pursue any additional penalty against Berry.

ORDER

NOW, THEREFORE, IT IS ORDERED, that Berry shall be found in violation of the following Rules at the Well Pad, located in the SW¼ NW¼ of Section 12, Township 6 South, Range 97 West, 6th P.M.:

a. Rule 324A.a., for failure to take precautions to prevent the unauthorized discharge or disposal of E&P waste, chemical substances, trash, discarded equipment or other oil field waste;

b. Rule 902.a., which required that pits used for exploration and production of oil and gas shall be constructed and operated to protect the waters of the state from significant adverse environmental impacts from E&P waste;

c. Rule 906.a., which required spills/releases of E&P waste to be controlled and contained immediately upon discovery and impacts resulting from spills/releases to be investigated and cleaned up as soon as practicable;

d. Rule 906.b.(1), which required reporting of spills/releases of E&P waste or produced fluid exceeding five barrels to the COGCC on Spill/Release Report, Form 19, within ten days of discovery; and

e. Rule 907.a.(2), for failure to conduct E&P waste management activities and failure to construct and operate E&P waste management facilities to protect the waters of the state from significant adverse impacts from E&P waste.

IT IS FURTHER ORDERED, that Berry and the Director, having come to an agreement, cognizant of the complexities of the above-captioned matter, confident that this agreement satisfies both the Director and Berry, and wishing to avoid further uncertainties and costs associated with litigation of the above-captioned matter, enter into this AOC.

IT IS FURTHER ORDERED, that Berry shall pay One Hundred Thousand dollars (\$100,000) in settlement of the NOAV and in response to the proposed OFV, which shall be payable within thirty (30) days of the date this AOC is approved by the Commission.

IT IS FURTHER ORDERED, that Berry shall further pay Seventy Three Thousand dollars (\$73,000) to fund a public project in Colorado in accordance with Rule 523.e. Berry and COGCC Staff shall work in good faith to choose a project within sixty (60) days of the date this AOC is approved by the Commission. Berry shall have the option of paying all or a portion of this \$73,000 in cash to the Commission.

A. The execution of this public project, including but not limited to the management, planning, contracting, and inspection shall be the responsibility of Berry and its contractors. COGCC Staff reserves the right to request status reports or any other documentation related to the project at any time.

B. Berry shall not deduct the expenses associated with the implementation of the above-described public project for any tax purpose or otherwise obtain any favorable tax treatment of such payment or project. Berry hereby certifies that, as of the date of this AOC, it is not under any existing legal obligation to perform or develop, nor will it receive any credit for, any public project that it may propose to the Director, except as provided in this AOC.

C. The public project must be completed to the satisfaction of the Commission by January 31, 2013. Berry shall submit a Public Project Completion Report to the Division by that date, describing the project and the associated benefits, itemizing and documenting the costs, and certifying that the project was completed in compliance with this order and Rule 523.e.

D. In the event that Berry makes any public statement, oral or written, about the public project, BERRY shall include the following language in such public statement: "This project was undertaken as part of settlement of an enforcement action taken by the Colorado Oil and Gas Conservation Commission."

IT IS FURTHER ORDERED, that Berry is fully released from any and all claims for violations of COGCC rules, the Colorado Oil and Gas Conservation Act, or any other rule, law,

order, or directive set out or that could have been set out in the NOAV, the pending OFV, or any other instrument now or in the future existing, and any fine, remedial order, sanction or other potential liability, including but not limited to those contemplated by the above-captioned matter presented to the Commission or COGCC Staff, arising from any unauthorized activity or activities on or related to the Well Pad (including the reserve pit, the lined pond, the wells themselves, and any and all other equipment or infrastructure on the Well Pad), whether related to permitting and construction of the Well Pad or operations on the Well Pad (including but not limited to fluid disposition, handling, and transportation) that occurred any time before and including the date this AOC is approved by the Commission. This AOC does not grant any release of liability for any violations, regardless of when they occurred, that are not cited in this AOC.

IT IS FURTHER ORDERED, that nothing in this AOC shall constitute or be construed as an admission by Berry that any discharge occurred from the Well Pad or that it committed any violations of any rules of the COGCC or other applicable law.

IT IS FURTHER ORDERED, that, unless otherwise specified, any report, notice or other communication required under the AOC shall be submitted digitally to:

For the COGCC: Debbie Baldwin
Environmental Manager
Debbie.baldwin@state.co.u.

Chris Canfield
Environmental Protection Specialist, Northwest Area
Chris.canfield@state.co.us

For Berry: Chris Freeman
Rocky Mountain Environmental Manager
cpf@bry.com

IT IS FURTHER ORDERED, that Berry shall execute this AOC no later than fourteen (14) days after the date it is executed by the Staff for recommendation of expedited approval by the Commission. The parties agree to the terms and conditions of this AOC and acknowledge that this AOC constitutes an order issued pursuant to 2 CCR 404-1, Rule 523.a. The Parties acknowledge that this AOC constitutes a full and final resolution of the matters addressed herein, and further agree not to challenge the terms and conditions of this AOC whether by way of direct judicial review or collateral challenge. This AOC is binding upon the Parties and their corporate subsidiaries or parents, their officers, directors, agents, attorneys, employees, contractors, successors in interest, affiliates and assigns. The undersigned warrant that they are authorized to bind legally their respective principals to this AOC. This AOC may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same AOC.

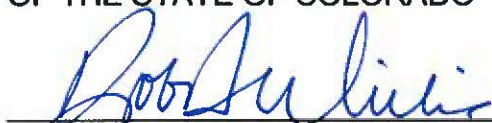
IT IS FURTHER ORDERED, that under the State Administrative Procedure Act the Commission considers this order to be final agency action for purposes of judicial review within thirty (30) days after the date this order is mailed by the Commission.

IT IS FURTHER ORDERED, that the provisions contained in the above order shall become effective forthwith.

RECOMMENDED this - 20th - day of June, 2011.

OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

By:



Robert Willis, COGCC Enforcement Officer

Dated at Suite 801
1120 Lincoln St.
Denver, Colorado 80203

AGREED TO AND ACCEPTED this 20th day of June, 2011.

BERRY PETROLEUM COMPANY

By: 

Signature of Authorized Company Representative

Print Signatory Name Daniel G. Anderson
Vice President, Production

Title _____

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This cause came on for hearing before the Commission on the _____ day of _____, 20 ____, in _____, Colorado, for the approval of this Administrative Order by Consent.

ENTERED this _____ day of _____, 20 ____, as of the _____ day of _____, 20 ____.

OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

By _____
Robert A. Willis, Acting Secretary

Dated at Suite 801
1120 Lincoln Street
Denver, Colorado 80203