

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	)	DOCKET NO. 0611-OV-15
<b>DELTA PETROLEUM CORPORATION,</b>	)	
WASHINGTON COUNTY, COLORADO	)	

NOTICE OF ADMINISTRATIVE ORDER BY CONSENT

TO ALL INTERESTED PARTIES AND TO WHOM IT MAY CONCERN:

In August of 2004, the Daisy #41PR-29349 Well located in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 29, Township 3 South, Range 49 West, 6th P.M. was drilled and completed by Delta Petroleum Corporation ("Delta Petroleum").

On October 12, 2004, the Colorado Oil and Gas Conservation Commission ("COGCC") approved the Application for Permit-to-Drill, Form 2 for the Daisy #41PR-29349 Well submitted by Delta Petroleum on October 1, 2004. The APD was approved to a proposed total depth of 4,600 feet.

On November 4, 2004, the COGCC received the Drilling Completion Report, Form 5 for the Daisy #41PR-29349 Well from Delta Petroleum. The report stated that the well was spudded on July 30, 2004 and reached a total depth of 7,032 feet on August 19, 2004. The mud log submitted with the Form 5 indicated a mud chloride concentration of 170,000 parts per million ("ppm") at total depth.

On December 14, 2004, a Notice of Alleged Violation ("NOAV") was issued to Delta Petroleum for the Daisy #41PR-29349 Well. The NOAV cited violations of Rule 301., failure to provide written notice of intention to do work or to change plans previously approved and receive COGCC approval before the work is begun; Rule 903.a.(1)., failure to submit a Pit Report/Permit, Form 15 for prior COGCC approval for the drilling pits with fluids having chloride concentrations at total depth exceeding 50,000 ppm at total depth; and Rule 904.a.(1)., failure to line the drilling pits with fluids having chloride concentrations at total depth exceeding 50,000 ppm at total depth. COGCC corrective action requirements included the submittal of a Site Investigation and Remediation Workplan, Form 27.

On January 31, 2005, the COGCC received a Form 27 with a written explanation regarding the alleged violations.

On February 8, 2005, COGCC environmental staff requested additional information to supplement the proposed workplan. COGCC environmental staff conditionally approved the workplan on March 2, 2005.

On March 14, 2005, COGCC staff met onsite with Delta Petroleum personnel to witness the collection of the required soil samples. Soil samples were collected at the ground surface, five feet, and ten feet below the ground surface.

In Delta Petroleum's correspondence dated March 15, 2005, typical drilling pit closure procedures on non-cropland were described. All drill cuttings and drilling mud were reportedly placed in the reserve pit where they remained until dried. Once the reserve pit was adequately dry, it was backfilled. The cuttings in the reserve pit were mixed with stockpiled soil and then covered with remaining stockpile. The remainder of the soil from the reserve pit stockpile was then spread over the reserve pit. Topsoil was then spread over the location and re-contoured.

On April 12, 2005, Delta Petroleum forwarded the laboratory results of the soil samples to the COGCC via e-mail. The Sodium Adsorption Ratio ("SAR") for the sample collected at the ground surface was 170 and the samples collected at five and ten feet below ground surface were 16. The COGCC standard for SAR is 12. The Electrical Conductivity ("EC") in the three (3) samples ranged from 13.8 to 112 mmhos/cm and exceeded the COGCC standard of 4 mmhos/cm. These standards are set forth in the Allowable Concentrations and Levels, Table 910-1.

Based on the laboratory results, another NOAV was issued to Delta Petroleum on May 13, 2005. The NOAV cited violations of Rule 910.a., exceeding the Allowable Concentrations

and Levels for Inorganics in Soils; Rule 1002.b.(2)., failure to properly remove and segregate soil on non-cropland; and Rule 1003.d.(2)., failure to properly close drilling pits on non-cropland. COGCC corrective action requirements included the submittal of a supplemental remediation workplan.

The NOAV was accepted by Delta Petroleum on May 16, 2005 as indicated by the certified mail receipt that was returned to the COGCC.

A supplemental remediation workplan was submitted by Delta Petroleum on September 1, 2005 and verbally approved by COGCC environmental staff. Remediation is ongoing at the site. Confirmation soil samples have reportedly been collected. Laboratory results have not been received by the COGCC.

On October 5, 2006, the COGCC received a status report on the remediation efforts. Four (4) sets of composite soil samples were collected from the ground surface at the location of the former reserve pit. Laboratory results reported SAR levels ranging from 7.5 to 29 and EC levels ranging from 4.97 to 16.2 mmhos/cm. These results indicate that soil conditions slightly exceed the COGCC Allowable Concentrations and Levels set forth in Table 910-1. Delta Petroleum has proposed to plant native grass seed to assess the growth process.

Based on the above findings, COGCC staff recommends that Delta Petroleum Corporation be found in violation of Rules 903.a.(1)., for failure to submit a Pit Report/Permit, Form 15 for prior COGCC approval for drilling pits containing fluids with chloride concentrations at total depth exceeding 50,000 ppm; Rule 904.a.(1)., for failure to line the drilling pits containing fluids with chloride concentrations exceeding 50,000 ppm at total depth; Rule 910.a., for exceeding the Allowable Concentrations and Levels for Inorganics in Soils; and Rule 1003.d.(2)., for failure to properly close drilling pits on non-cropland.

Rule 523. specifies a base fine of One Thousand dollars (\$1,000.00) per day for each violation of Rules 903.a.(1)., 904.a.(1)., 910.a., and 1003.d.(2)., and a base fine for violations of the Oil and Gas Conservation Act shall be determined by the Commission at its discretion.

A monetary penalty of Four Thousand dollars (\$4,000.00) should be assessed against Delta Petroleum Corporation, in accordance with Rule 523.a., for violation of Rules 903.a.(1)., 904.b.(1)., 910.a., and 1003.d.(2). The following mitigating factor was considered in reducing the recommended fine amount by One Thousand dollars (\$1,000.00) per mitigating factor, for a total fine of Three Thousand dollars (\$3,000.00) fine reduction: Rule 523.d.(3)., the violator cooperated with the Commission with respect to the violation.

On October 12, 2006, COGCC staff issued an Administrative Order by Consent ("AOC") to Delta Petroleum Corporation for failure to comply with Rules 903.a.(1)., failure to submit a Pit Report/Permit Form 15, 904.a.(1)., failure to line the drilling pits, 910.a., exceeding Allowable Inorganics in soils and 1003.b.(2)., failure to properly close drilling pits on non-croplands for the Daisy #41PR-29349 Well, proposing a fine of One Thousand dollars (\$1,000.00). On October 16, 2006, Delta Petroleum Corporation agreed to and accepted the AOC, including the fine of One Thousand Dollars (\$1,000).

NOTICE IS HEREBY GIVEN, that the Oil and Gas Conservation Commission of the State of Colorado, pursuant to the above, has scheduled the above-entitled matter for hearing on:

Date: Monday, November 27, 2006  
Tuesday, November 28, 2006

Time: 9:00 a.m.

Place: Suite 801, The Chancery Building  
1120 Lincoln Street  
Denver, Colorado 80203

In accordance with the Americans with Disabilities Act, if any party requires special accommodations as a result of a disability for this hearing, please contact Margaret Humecki at (303) 894-2100 ext. 139, prior to the hearing and arrangements will be made.

Pursuant to said hearing in the above-entitled matter at the time and place aforesaid, or at any adjourned meeting, the Commission will enter such orders as it deems appropriate to

protect the health, safety and welfare of the public and to prevent the waste of oil and gas, either or both, in the operations of said field, and to carry out the purposes of the statute.

**In accordance with Rule 509., any interested party desiring to protest the granting of the application or to intervene on the application should file with the Commission a written protest or intervention no later than November 13, 2006, briefly stating the basis of the protest or intervention.** Such interested party shall, at the same time, serve a copy of the protest or intervention to the person filing the application. An original and nine (9) copies shall be filed with the Commission (Rule 503.). **Anyone who files a protest or intervention must be able to participate in a prehearing conference during the week of November 13, 2006.** Pursuant to Rule 503.f., if a party who has received notice under Rule 503.b. wishes to receive further pleadings in the above-referenced matter, that party must file a protest or intervention in accordance with these rules.

IN THE NAME OF THE STATE OF COLORADO

OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

By \_\_\_\_\_  
Patricia C. Beaver, Secretary

Dated at Suite 801  
1120 Lincoln Street  
Denver, Colorado 80203  
October 26, 2006