

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. 0711-OV-9
<b>DIVERSIFIED OPERATING CORPORATION,</b>	)	
WELD COUNTY, COLORADO	)	

NOTICE OF ADMINISTRATIVE ORDER BY CONSENT

TO ALL INTERESTED PARTIES AND TO WHOM IT MAY CONCERN:

In October of 1988, the Long Draw #1-22 Well, located in the NE¼ NE¼ of Section 22, Township 3 North, Range 62 West, 6th P.M., was drilled and abandoned by Diversified Operating Corporation ("DOC").

In May 1989, DOC re-entered the Long Draw #1-22 Well.

On March 4, 1996 a field inspection was conducted by Colorado Oil and Gas Conservation Commission ("COGCC") staff. A pit was observed during the inspection.

On July 1, 1997, the COGCC received the Pit Inventory Report from DOC as required by Rule 911. An unlined earthen produced water pit was listed at the subject location. The report also stated that this pit was located in a non-sensitive area.

On February 9, 2004, a field inspection was conducted by COGCC staff. An unlined earthen pit was observed.

On or about December 22, 2005, the subject well was plugged and abandoned by DOC.

On March 15, 2006, a field inspection was conducted by COGCC environmental staff. COGCC staff observed that the unlined pit at the Long Draw #1-22 location had been backfilled. COGCC staff collected a representative soil sample from the former pit location and submitted it for analyses. The gas meter shed had not been removed, and the former tank battery and pit location were still surrounded by a fence. DOC did not notify the COGCC of the pit closure verbally or by written communication.

A Total Petroleum Hydrocarbon ("TPH") concentration of 51,000 milligrams per kilograms ("mg/kg") was detected in the soil sample collected on March 15, 2006. This exceeds the COGCC Allowable Concentrations and Levels for TPH in non-sensitive areas, which is 10,000 mg/kg as specified in Table 910-1.

On April 14, 2006, a Notice of Alleged Violation ("NOAV," #1175577) was issued to DOC for the Long Draw #1-22 Well. The NOAV cited violations of the following COGCC Rules:

- a. Rule 905.a., failure to submit a Site Investigation and Remediation Workplan, Form 27, for prior COGCC approval before closing an unlined production pit;
- b. Rule 907.a.(1)., failure to ensure that exploration and production ("E&P") waste is properly stored, handled, transported, treated, recycled or disposed to prevent threatened or actual significant adverse environmental impacts to air, water, soil or biological resources;
- c. Rule 909.c., failure to submit a Site Investigation and Remediation Workplan, Form 27, for prior COGCC approval;
- d. Rule 911.d. failure to submit an Application For Permit For Unlined Pit, Form 15, for unlined production pits outside sensitive areas constructed after July 1, 1995 and not closed by December 30, 1997; and
- e. Rule 1004.b., failure to remove or treat E&P waste remaining in a production pit before the pit was closed.

Corrective action specified that DOC submit a Site Investigation and Remediation Workplan, Form 27. On April 25, 2006, the COGCC received a Form 27 with a written explanation regarding the alleged violations. The explanation stated that DOC was pressured to close the pit by "third party sources." The explanation further stated that DOC did not intentionally ignore COGCC rules regarding the filing of a Form 27.

On October 25, 2006, COGCC staff conditionally approved the Form 27 for Remediation Project #3784. DOC signed the Form 27 agreeing to take initial action by digging up contaminated soil, putting it in windrows, working it with manure, KenGro BioSorb, and, once the soil is regenerated, leveling the windrows to the natural contour. Pursuant to the Form 27, DOC also agreed to reclaim the site by reseeding with a native mixture, and once grass is established, removing the fence and, with prior notice to the COGCC, taking a soil sample for testing of TPH concentrations.

On October 25, 2006, the COGCC staff approved DOC's Form 27 with the following conditions:

- a. All oily soils within the pit and other areas must be excavated for onsite remediation.
- b. Following excavation activity in the pit, a representative soil sample must be collected from the pit bottom and submitted for the following laboratory analyses: Total Recoverable Petroleum Hydrocarbons, Sodium Adsorption Ratio, Electrical Conductivity, and pH.
- c. DOC must submit to COGCC all laboratory results with a site map showing the pit location, soil sample locations, and onsite land treatment area.
- d. The pit excavation must not be backfilled without prior COGCC approval.
- e. DOC must collect confirmation samples from the treated soils and submit them for laboratory analyses to confirm remedial success that the land-treated oily waste incorporated in place shall not exceed the allowable concentrations in Table 910-1 pursuant to Rule 907.e.(2).E

COGCC environmental staff has determined that this site is located in a sensitive area because it is within the Lost Creek Designated Ground Water Basin as established by the Division of Water Resources of the Department of Natural Resources, and that the top of the Laramie/Fox Hills aquifer is approximately 57 feet below ground surface. Allowable TPH concentration in a sensitive area is 1,000 mg/kg.

DOC has on two previous occasions, closed unlined produced water pits without prior COGCC approval as required by Rule 905.a. These unlined pits were at the Green #5-3 tank battery located in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 5, Township 7 North, Range 59 West, 6<sup>th</sup> P.M. and the Frank #27-16 tank battery located in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 27, Township 8 North, Range 60 West, 6<sup>th</sup> P.M.

COGCC staff notified DOC by letter, dated February 9, 2005, that future closure of a production pit without prior COGCC approval would result in the issuance of an NOAV and possible fine.

Based on the above findings, DOC should be found in violation of Rules 905.a., failure to submit a Site Investigation and Remediation Workplan, Form 27, for prior COGCC approval before closing an unlined production pit; and Rule 907.a.(1)., failure to ensure that E&P waste is properly stored, handled, transported, treated, recycled or disposed to prevent threatened or actual significant adverse environmental impacts to air, water, soil or biological resources.

Rule 523. specifies a base fine of One Thousand dollars (\$1,000.00) per day for each violation of Rules 905.a. and 907.a.(1). and that fines are subject to adjustment based on aggravating and mitigating factors set forth in subparagraph d. of Rule 523.

A fine of Two Thousand dollars (\$2,000.00) should be assessed against DOC, in accordance with Rule 523.a., for violation of Rules 905.a. and 907.a.(1). The fine should be increased by One Thousand dollars (\$1,000.00) pursuant to Rule 523.d.(1) because the violations involved recalcitrance or recidivism on the part of the violator. A total fine of Three Thousand dollars (\$3,000) should be assessed against DOC.

DOC should be required to implement the conditionally approved Form 27 within a reasonable period of time, but to be completed no later than December 31, 2007. The remediation project should be considered complete when the analytical results for the soil samples collected from the pit area excavation and the confirmation soil samples from the remediated soils meet the COGCC TPH standard of 1,000 mg/kg for soils in sensitive areas. Additionally, the former pit and wellsite areas should meet final reclamation standards pursuant to COGCC Rules.

On August 31, 2007, COGCC staff issued an Administrative Order by Consent ("AOC") to Diversified Operating Corporation for violation of Rules 905.a., failure to submit a Site Investigation and Remediation Workplan, Form 27, for prior COGCC approval before closing an unlined production

pit; and Rule 907.a.(1)., failure to ensure that E&P waste is properly stored, handled, transported, treated, recycled or disposed to prevent threatened or actual significant adverse environmental impacts to air, water, soil or biological resources, for the Long Draw #1-22 Well, located in the NE¼ NE¼ of Section 22, Township 3 North, Range 62 West, 6th P.M., and proposing a fine of Two Thousand dollars (\$2,000.00) for violation of the rule. On September 11, 2007, Diversified Operating Corporation agreed to and accepted the AOC, including the fine of Two Thousand dollars (\$2,000.00).

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 5, 2007  
Tuesday, November 6, 2007

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 October 22, 2007, 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 13 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 October 22, 2007.** 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 5, 2007