

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

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| 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. 0901-OV-05 |
| PRESCO, INC. , GARFIELD COUNTY, COLORADO |) | |

NOTICE OF ADMINISTRATIVE ORDER BY CONSENT

TO ALL INTERESTED PARTIES AND TO WHOM IT MAY CONCERN:

On May 2, 2007, the staff ("Staff") of the Colorado Oil and Gas Conservation Commission ("COGCC" or "Commission") inspected oil and gas operations of Presco, Inc. ("Presco") at the Battlement Mesa #36-13 well site (API #05-045-10840-00) located in the NW¼ NE¼ of Section 36, Township 7 South, Range 95 West, 6th P.M. See, Inspection Report #200109947.

The inspection was in response to a complaint alleging that a produced water pit had overflowed and flooded the location, and then fluids flowed off the location. The well site failed the inspection because stormwater best management practices ("BMPs") failed to divert melting snow from running onto the location. Staff observed that lack of BMPs allowed melt-water to fill two pits which subsequently overflowed and flooded the pad. The secondary containment berm failed, resulting in water flowing off the pad. This was at least the second release from this location. There was less than two feet of freeboard in the pits. See, Complaint #1260668, Inspection Report #200109947; Notice of Alleged Violation ("NOAV") #200112550; NOAV #200089773 (2006 release).

On May 8, 2007, Staff returned to the Battlement Mesa #36-13 well site and conducted a follow-up inspection. The site again failed the inspection because the situation at the site had not changed. Due to springtime snow melt and run-off and the lack of adequate BMPs, run-on filled the pits, the pits overflowed onto the location, and fluids spilled off the location. See, Inspection Report #200110627.

On June 20, 2007, Staff issued NOAV #200112550. Among the violations alleged in the NOAV were breaches of the following Rules:

- a. Rule 324A.a., which requires the operator to take precautions to prevent the unauthorized discharge or disposal of exploration and production waste ("E&P waste"), chemical substances, trash, discarded equipment or other oil field waste;
- b. Rule 902.c., which requires pits to be constructed and operated to provide for a minimum of two feet of freeboard between the top of the pit wall and the fluid level of the pit;
- c. Rule 906.a., which requires 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 907.a.(1), which requires operators to ensure that E&P waste is properly stored, handled or disposed of to prevent threatened or actual significant adverse environmental impacts to air, water, soil or biological resources;
- e. Rule 907.a.(2), which requires operators to conduct E&P waste management activities to construct and operate E&P waste management facilities to protect the waters of the state from significant adverse impacts from E&P waste; and
- f. Rule 1002.e., which requires operators to implement BMPs to minimize erosion and offsite sedimentation by controlling stormwater run-off.

Relevant to the alleged violations cited above, the NOAV required Presco to perform the following abatement or corrective actions by July 20, 2007 (unless otherwise noted):

- a. Immediately remove sufficient fluid to create two feet of freeboard between the top of the pit wall and the fluid level in the pits and subsequently maintain a minimum of two feet of freeboard;
- b. Within 10 days, submit a Spill/Release Report, Form 19 for the incident;
- c. Provide Staff with a full explanation of why a Spill/Release Report, Form 19 was not submitted in a timely manner;

- e. Install stormwater BMPs to divert run-on around the pad;
- f. Repair secondary containment berms;
- g. Install stormwater BMPs to mitigate run-off from the pad; and
- h. Close and reclaim the reserve pit by October 1, 2007, unless drilling operations have resumed.

On July 10, 2007, Presco responded to the NOAV by submitting the required Spill/Release Report, Form 19.

On July 23, 2007, Presco further responded to the NOAVs by providing a written explanation of why the Spill/Release Report, Form 19 had not been submitted in a timely manner. In that letter, Presco elaborated on prior verbal communication with the Staff regarding the sale of the subject property to Noble Energy, Inc. in approximately May, 2007. Noble Energy, Inc. had previously contacted the Staff to explain that as the current owner, they would initiate (with the exception of submitting the Spill/Release Report, Form 19) the abatement and corrective actions required by the NOAV.

The Staff, after reviewing all of the information regarding discoveries made during the May 2, 2007 field inspection and the subsequent May 8, 2007 field inspection, have concluded that at the Battlement Mesa #36-13 well site, stormwater BMPs either were missing or, if present, were ineffective in diverting run-on from melting snow. As a result, two pits on the pad had overflowed and flooded the pad. Secondary containment berms failed resulting in water (both produced water and snow melt) flowing from the location into a tributary of Battlement Creek.

Presco should be found in violation of the following Rules at the Battlement Mesa #36-13 well site:

- a. Rule 324A.a., for failure to take precautions to protect environmental quality and to prevent the unauthorized discharge of E&P waste;
- b. Rule 324A.b., for failure to conduct oil and gas operations that meet the water quality standards or classifications established by the Water Quality Control Commission ("WQCC") for waters of the state;
- c. Rule 902.a., for failure to construct and operate exploration and production pits to protect waters of the state from significant adverse environmental impacts from E&P waste;
- d. Rule 902.c., for failure to provide for a minimum of two feet of freeboard between the top of the pit walls and the fluid level of the pits;
- e. Rule 906.a., for failure to control and contain spills/releases of E&P waste immediately upon discovery;
- f. Rule 907.a.(1), for failure to ensure E&P waste is properly stored or handled to prevent threatened significant adverse environmental impacts to air, water, soil or biological resources;
- g. 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; and
- h. Rule 1002.e., for failure to implement BMPs to minimize erosion and offsite sedimentation by controlling stormwater run-off.

Rule 523.c. provides for the assessment of a \$1,000 base fine for violation of each of the Rules described above.

Rule 523.a. provides for the Commission, in its discretion, to find that each day a violation exists constitutes a separate violation (limited to \$1,000 per day for any single violation). Staff believe that the violations of the above Rules at the Battlement Mesa #36-13 well site existed for at least six days

Presco should be assessed a total fine of \$48,000 for the Rule violations described above at the Battlement Mesa #36-13 well site.

Presco does not admit to the alleged violations but agrees to pay the total fine described above to resolve this matter without the necessity of an extended, contested hearing before the Commission.

Pursuant to Article VI, Section 6.02 of the "Memorandum of Agreement" between the Water Quality Control Division ("WQCD") and the Commission, adopted August 16, 2007, Staff conferred with WQCD enforcement staff in determining the monetary penalty against Presco for violations of WQCC standards for surface waters. WQCD indicated it agrees with the fine and the terms of this Administrative Order by Consent and will not pursue any additional penalty.

On December 12, 2008, COGCC staff issued an Administrative Order by Consent ("AOC") to Presco, Inc. for violation of Rules 324A.a., 324A.b., 902.a., 902.c., 906.a., 907.a.(1), 907.a.(2), and 1002.e., at the Battlement Mesa #36-13 well site (API #05-045-10840-00) located in the NW¼ NE¼ of Section 36, Township 7 South, Range 95 West, 6th P.M., proposing a fine of Forty-eight Thousand dollars (\$48,000), which had been provisionally agreed to and accepted by Presco, Inc. on November 19 and 24, 2008.

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: Tuesday, January 13, 2009
 Wednesday, January 14, 2009

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 December 30, 2008, 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. **Anyone who files a protest or intervention must be able to participate in a prehearing conference during the week of December 29, 2008.** 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 accordance with the practices of the Commission, should no protests or interventions be filed in this matter by **December 30, 2008, the Applicant may request that an administrative hearing be scheduled during the week of December 29, 2008.** In the alternative, pursuant to Rule 511.b., if the matter is uncontested, the applicant may request, and the Director may recommend approval on the basis of the merits of the verified application and the supporting exhibits.

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, CO 80203
December 12, 2008