

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. 1105-OV-13
COMPANY, GARFIELD COUNTY, COLORADO)

NOTICE OF ORDER FINDING VIOLATION HEARING

In July 2007, Berry Petroleum Company ("Berry") began construction of the Chevron #12-213D (API #05-045-10938) Well Pad (the "Well Pad"), located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, Township 6 South, Range 97 West, 6th P.M. Well Pad construction activities included the excavation and lining of a drilling pit.

On January 21, 2008, Berry verbally notified Colorado Oil and Gas Conservation Commission ("COGCC" or "Commission") Staff of three releases, in which an estimated that 2,400 barrels of drilling fluids were released and then mixed with ground water which subsequently discharged into an unnamed tributary of Garden Gulch.

On March 17, 2008, COGCC Staff issued Notice of Alleged Violation #200127625 to Berry for violation of the following Rules, which were in effect at the time that the releases occurred:

a. Rule 324A.a., which required the operator 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 324A.b., which set forth that no operator, in the conduct of any oil or gas operation, shall perform any act which shall constitute a violation of water quality standards or classifications established by the Colorado Department of Public Health and Environment ("CDPHE"), Water Quality Control Commission ("WQCC");

c. 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;

d. 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;

e. 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;

f. Rule 906.b.(2), which, in addition to Form 19, required a verbal report to the Director within 24 hours of spills/releases of E&P waste that exceed 20 bbls;

g. Rule 906.b.(3), which, in addition to Form 19 and 24-hour verbal report, required a verbal report to the Director as soon as practicable of spills/releases of any size that impact or threaten to impact any waters of the state, residence or occupied structure, livestock or public byway;

h. Rule 906.e.(2), which required operators to determine the cause of a spill/release, and to the extent practicable, to implement measures to prevent spills/releases due to similar causes in the future.

i. Rule 907.a.(1), which required 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; and

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

The NOAV required Berry to perform the following abatement or corrective actions by March 28, 2008 (unless otherwise noted).

Rule 523. specifies a base fine of One Thousand dollars (\$1,000) for each day of violation of Rules 324A.a., 324A.b., 902.a., 906.a., 906.(1), 906.b.(2), 906.b.(3), 906.e.(2), 907a.(1), and 907a.(2). 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.

Berry should be found in violation of Rules 324A.a., 324A.b., 902.a., 906.a., 906.(1), 906.b.(2), 906.b.(3), 906.e.(2), 907a.(1), and 907a.(2), for failing to properly permit, construct, maintain, and repair the pit on the Well Pad so that E&P waste was not released, and ordered to pay fines in accordance with Rule 523.

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, May 16, 2011
Tuesday, May 17, 2011

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. 5139, 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 May 2, 2011, 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 May 2, 2011.

IN THE NAME OF THE STATE OF COLORADO

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
April 21, 2011