

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

IN THE MATTER OF ALLEGED VIOLATIONS OF)	CAUSE NO. 1V
THE RULES AND REGULATIONS OF THE)	ORDER NO. 1V-497
COLORADO OIL AND GAS CONSERVATION)	DOCKET NO. 150500143
COMMISSION BY CM PRODUCTION LLC,)	TYPE: ENFORCEMENT
JACKSON COUNTY, COLORADO)	

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. CM Production LLC ("CM") (Operator No. 10352) operates the Margaret Spaulding Location (Location No. 324634) in Jackson County, Colorado (the "Location"), formerly owned by Lone Pine Gas, Inc. ("Lone Pine"). The Location includes the Margaret Spaulding Centralized Tank Battery (Facility No. 427281); three wells including the Margaret Spaulding # 4 (API # 05-057-06031), Margaret Spaulding # 4-B (API # 05-057-06047), and Margaret Spaulding # 14 (API # 05-057-06108); and six pits (Facility Nos. 112265, 112266, 112267, 112268, 112269, and 115241).

2. On May 6, 2013, the Colorado Oil and Gas Conservation Commission and Lone Pine Gas, Inc. ("Lone Pine") entered into an Administrative Order by Consent ("Lone Pine AOC" or "Order 1V-412") to resolve Notices of Alleged Violations issued by the Commission against Lone Pine on or about September 27, 2010 (NOAV No. 200272892) and on or about December 22, 2011 (NOAV No. 200334881). Order 1V-412 required numerous remedial actions to address environmental issues arising from exploration and production wastes and pit use.

3. On May 6, 2013, the Commission also entered a Stipulated Order with CM ("Order 1V-413") which acknowledged CM's expectation to buy Lone Pine's assets, and further acknowledged CM's willingness to become jointly and severally liable with Lone Pine for performing all corrective actions required by, and for payment of the penalty imposed under Order 1V-412. CM closed the purchase of Lone Pine assets in June 2013.

4. Order 1V-412 provided a compliance schedule for the Location, specifying corrective actions and completion dates.

5. On June 5, 2014, Olsson Associates sent a letter to the Director on behalf of CM, seeking a time extension for compliance dates specified in Order 1V-412.

6. On June 25, 2014, the Director granted the time extension requested by CM. Approved actions were as follows:

- The deadline under Paragraph 2, page 5 of Order 1V-412 was extended to July 1, 2015.

- The deadline in Paragraph 4, page 5 of Order 1V-412 was extended to November 1, 2014 for Pit Facility IDs 112268 and 112269.
- The deadline in Paragraph 4, page 5 of Order 1V-412 was extended to July 1, 2015 for Pits Facility IDs 112265, 112266, and 112267.
- The suspension of the penalty under Paragraph 7, page 5 of Order 1V-412 was extended until July 1, 2015. If the corrective actions required pursuant to paragraphs 2 through 6 of page 5 of Order 1V-412 are satisfactorily and timely completed, the penalty will be vacated. If the required corrective actions are not satisfactorily and timely completed, the penalty will become due in full 30 calendar days following written notice from the Director.
- Groundwater sampling was to continue as specified by an approved Form 27.
- All other provisions of Order 1V-412 remain in full force and effect as approved.

7. Paragraph 4, page 5 of Order 1V-412 as amended by the Director's June 25, 2014 time extension letter reads as follows:

The former water treatment pits shall be decommissioned to Table 910-1 standards pursuant to an approved Form 27 by November 1, 2014.

8. Staff interprets this requirement as requiring full remediation to Table 910-1 standards. CM believed it could satisfy the requirements by disconnecting and sealing the pipes leading into the pits, and otherwise ensuring that the pits were no longer operating, and continuing to pursue treatment options, as described in its June 5, 2014 letter to the Director.

9. On November 21, 2014, Staff issued a Notice of Alleged Violation ("NOAV") (No. 200417500) to CM for violating Order 1V-412 and 1V-413 for failing to decommission the former water treatment pits to Table 910-1 standards by the extended deadline of November 1, 2014.

10. On December 17, 2014, CM and Staff met to discuss a plan of action going forward. At this meeting, while reserving rights to contest the NOAV, CM agreed to submit a detailed plan for decommissioning the remaining pits by January 15, 2015.

11. On January 14, 2015, CM submitted a proposed draft work plan and request for extension of compliance dates. On February 19, 2015 CM submitted a Supplemental Form 27, incorporating elements of its draft proposals of January 14, 2015.

12. On March 9, 2015, Staff approved the Supplemental Form 27 for Remediation No. 7058 at the Location with conditions (Document No. 01642189).

13. Following a factual investigation and legal review of the violations alleged in the NOAV, the Hearings Staff now asserts CM violated Order 1V-412 and Order 1V-413 by failing to complete the decommissioning of the former water treatment pits to Table 910-1 standards by November 1, 2014.

14. Pursuant to Rule 523 and the Commission's Enforcement and Penalty Policy, Hearings staff calculated a penalty of \$5,000 for these violations. The penalty calculation is based on the following:

- Recognition that Location characteristics will require considerable additional remediation efforts to attain Table 910-1 standards than what was originally contemplated;
- CM has made progress in remediating the Location, yet considerable work remains;
- Imposition of a significant penalty under NOAV No. 200417500 is counterproductive to achieving ultimate environmental compliance at the Location;
- The cost of the required remediation at the Location far exceeds any reasonable penalty that could be issued and still be appropriate to the nature of the violation as required by § 34-60-121(1) C.R.S.;
- The violation occurred between the June 6, 2014 effective date of HB 14-1356 and the effective date of the amendment of Rule 523 to conform to HB 14-1356, effective March 2, 2015;
- The violation would be classified as a Class 3, with minor incremental impact if the Rule 523 amendment effective March 2, 2015 were to be applied;
- The base penalty for a Class 3, minor impact rule violation is \$5,000 per day. This is a reasonable basis to calculate the penalty in this case.
- Recognition that CM has been engaged in corrective actions under the previous orders, such that the duration of the violation is considered a single day.

15. Staff does not recommend any adjustments based on aggravating or mitigating factors beyond those discussed in the previous paragraph.

AGREEMENT

NOW, THEREFORE, based on the Findings and pursuant to Rule 522.e and the Commission's Enforcement and Penalty Policy, the Director proposes and CM agrees to settle the NOAV on the following terms and conditions:

- I. CM is found in violation of Order 1V-412 and Order 1V-413 as described above.
- II. CM will be assessed a penalty of \$5,000.

- III. The \$5,000 penalty will be suspended for as long as CM remains in compliance with Orders 1V-412, 1V-413, and this Order.
- IV. The following modifications will be made to the compliance schedule of Order 1V-412, as amended by the Director's time extension letter dated June 25, 2014:
- Paragraph 2, page 5: Hydrocarbon contaminated soil excavated from a pit and stockpiled on the Location shall be treated or disposed of by September 1, 2018, pursuant to an approved Form 27.
 - Paragraph 4, page 5: The deadline for decommissioning Pits Facility IDs 112265, 112266, and 1122675 remains July 1, 2015, however the deadline for achieving Table 910-1 standards at these sites will be September 1, 2018.
 - Paragraph 7, page 5: The suspension date for the previous \$150,000 penalty payment will be extended to September 1, 2018.
 - The total suspended penalty amount is now \$155,000.
- V. Additional requirements under Order 1V-412 and Order 1V-413 are as follows:
- CM shall make monthly written progress reports on remediation efforts to the COGCC Environmental Staff starting May 1, 2015. Upon completion of the remediation, CM will submit a final report no later than 45 days after completion of the work.
 - Full remediation to Table 910-1 standards as required in Order 1V-412 shall be completed by September 1, 2018. If prior to this date landfarmed materials have not met the Table 910-1 Standards, the Operator must have submitted and received approval of a Form 28 Centralized Exploration and Production (CE&P) Facility meeting all requirements, including financial assurance. No time extensions to the landfarm will be granted unless the facility has been permitted as a CE&P Facility by an approved Form 28. If the landfarm is not permitted by an approved Form 28 by September 1, 2018, all impacted landfarm material must be removed and disposed at an approved facility by September 1, 2018.
 - Only impacted material from the existing pits shall be placed and treated in the landfarm. No additional wastes shall be treated in the landfarm. Addition of other waste will result in a violation of the approved Supplemental Form 27 (Document Number 1642189) and this AOC.
 - CM shall make semi-annual written progress reports on groundwater monitoring to the COGCC Environmental Staff starting May 1, 2015. Subsequent reports will be due: September 1, 2015, March 1, 2016; September 1, 2016; March 1, 2017; September 1, 2017; March 1, 2018 and September 1, 2018. Upon completion of the remediation, CM will submit a final report no later than three months after completion of the work.

VI. Payment of the penalty pursuant to this Administrative Order by Consent ("AOC") does not relieve the operator from its obligations to complete corrective actions set forth in Order 1V-412, Order 1V-413, and this Order.

VII. CM agrees to the findings in this AOC only for the purpose of expeditiously resolving the matter without a contested hearing. Notwithstanding the above, CM does not admit the alleged violation for purposes other than entering this AOC, nor does it admit the factual or legal determinations made by the Commission herein, and fully reserves its right to contest the same in any further action or proceeding other than a proceeding to enforce this AOC, Order 1V-412, or Order 1V-413.

RECOMMENDED this 20th day of April, 2015.

OIL AND GAS CONSERVATION COMMISSION OF
THE STATE OF COLORADO

By Peter J. Gowen
Peter J. Gowen, Enforcement Supervisor

AGREED TO AND ACCEPTED this 24th day of April, 2015.

CM PRODUCTION LLC

By John Tefft
Signature of Authorized Company Representative

John Tefft
Print Signatory Name

Manager
Title
ORDER

HAVING CONSIDERED the Agreement between the Director and CM to resolve the NOAV, the COMMISSION ORDERS:

1. CM is found in violation of Order 1V-412 and Order 1V-413 as described above.
2. CM is assessed a total penalty of \$5,000 for the violation described above.
3. The penalty is suspended for as long as CM remains in compliance with Orders 1V-412, 1V-413, and this Order.
4. The following modifications will be made to the compliance schedule of Order 1V-412 as amended by the Director's time extension letter dated June 25, 2014:

- Paragraph 2, page 5: Hydrocarbon contaminated soil excavated from a pit and stockpiled on the Location shall be treated or disposed of by September 1, 2018, pursuant to an approved Form 27.
- Paragraph 4, page 5: The deadline for decommissioning Pits Facility IDs 112265, 112266, and 1122675 remains July 1, 2015, however the deadline for achieving Table 910-1 standards at these sites will be September 1, 2018.
- Paragraph 7, page 5: The suspension date for the \$150,000 penalty payment is extended to September 1, 2018.
- The total suspended penalty amount is now \$155,000.

5. Additional requirements under Order 1V-412 and Order 1V-413 are as follows:

- CM shall make monthly written progress reports on remediation efforts to the COGCC Environmental Staff starting May 1, 2015. Upon completion of the remediation, CM will submit a final report no later than 45 days after completion of the work.
- Full remediation to Table 910-1 standards across the Location for all corrective actions required in Order 1V-412 shall be completed by September 1, 2018. If prior to this date landfarmed materials have not met Table 910-1 Standards, the Operator must have submitted and received approval of a Form 28 Centralized Exploration and Production (CE&P) Facility meeting all requirements, including financial assurance. No time extensions to the landfarm will be granted unless the facility has been permitted as a CE&P Facility by an approved Form 28 by September 1, 2018.. If the landfarm is not permitted by an approved Form 28 by September 1, 2018, all impacted landfarm material shall be removed and disposed at an approved facility by September 1, 2018.
- Only impacted material from the existing pits shall be placed and treated in the landfarm. No additional wastes shall be treated in the landfarm. Addition of other waste will result in a violation of the approved Supplemental Form 27 (Document Number 1642189) and this AOC.
- CM shall make semi-annual written progress reports on groundwater monitoring to the COGCC Environmental Staff starting May 1, 2015. Subsequent reports will be due: September 1, 2015, March 1, 2016; September 1, 2016; March 1, 2017; September 1, 2017; March 1, 2018 and September 1, 2018. Upon completion of the remediation, CM will submit a final report no later than three months after completion of the work.

6. Payment of the penalty pursuant to this AOC does not relieve the operator from its obligations to complete corrective actions set forth in Order 1V-412, Order 1V-413, and this Order.

7. Compliance dates specified in this Order may be extended only for good cause, as determined at the Director's sole discretion. A request for extension must be made, in writing, at least 35 days prior to the pertinent compliance deadline. Failure to receive an extension prior to the compliance deadline or the failure to meet a compliance deadline may constitute a new violation subject to additional penalties. Time extensions have been previously granted in this case, and the time extension granted in this Order is considered by the Commission to be generous. CM should assume that no further time extensions will be granted.

8. Entry of this Order constitutes final agency action for purposes of judicial review as of the date this order is mailed by the Commission. For all other purposes, this Order is effective as of the date of approval by the Commission.

9. The Commission expressly reserves its right after notice and hearing, to alter, amend, or repeal any and/or all of the above orders.

10. The Commission acknowledges the CM reservation of rights expressed in paragraph VII above.

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ENTERED this ____ day of _____, 2015 as of the 18th day of May, 2015.

OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

By _____
Julie Murphy, Secretary