

IN THE MATTER of a CONTRAVENTION
of the *OIL AND GAS ACTIVITIES ACT*
[SBC 2008] Chapter 36
before
The OIL AND GAS COMMISSION
Case File 2019-082FSJ

BETWEEN

The Oil and Gas Commission

AND

Secure Energy Services Inc.

ADMINISTRATIVE FINDING

Before

Vice President, Compliance Operations,
Andy Johnson

Representing the Oil and Gas
Commission

Nicholas Herrmann, Compliance and
Enforcement Officer

Representing Secure Energy
Services Inc.

Corey Higham, Executive Vice-President,
Operations - Midstream

Decision Date

June 25, 2020

Introduction:

1. On or about May 9, 2019, Secure Energy Services Inc. (Secure) observed a loss of hydraulic isolation during a packer isolation test at its Kotcho Lake Non-Hazardous Waste and Produced Water Disposal Special Project (WA17797).
2. In March 2020, a Contravention Report (the Report) was sent to me. The Report alleged that Secure failed to comply with an order issued under section 75 of the *Oil and Gas Activities Act* (OGAA) thereby contravening section 82 of the OGAA.
3. On May 7, 2020, a letter and the Report were sent to Secure. The letter informed Secure that I was considering making a finding that it had contravened section 82 of the OGAA by failing to comply with an order issued under section 75 of the OGAA. The letter informed Secure of their opportunity to be heard in written form and advised that a finding of contravention could result in the Commission imposing an administrative penalty in accordance with section 63 of the OGAA.
4. Secure provided a response in a letter dated June 4, 2020 (the Response).
5. Pursuant to my delegated authority under sections 62 and 63 of the OGAA, I will be making a determination regarding whether Secure contravened section 82 of the OGAA; whether to impose an administrative penalty under section 63 of the OGAA; and the amount of the penalty, if any. I have reviewed the Report and Secure's Response. In making a determination, I rely on these documents and the applicable legislation.

Applicable Legislation

6. Section 82 of the OGAA states that a person to whom an order under this Act applies must comply with the order.
7. Maximum penalties for specific violations are set by regulation. Section 2(5) of the *Administrative Penalties Regulation* (APR) states that a person who contravenes an order issued under the Act not referred to in subsection (1) or (3) is liable to an administrative penalty not exceeding \$20,000.
8. Section 62(1) of the OGAA states that, after providing an opportunity to be heard to a person who is alleged to have contravened a provision of the OGAA, the regulations, a permit, an authorization or an order, the Commission may find that the person has contravened the provision.
9. Section 62(5) of the OGAA states, in part, that the Commission may not find that a person has contravened a provision of the OGAA or the regulations if the person demonstrates to the satisfaction of the Commission that they exercised due diligence to prevent the contravention.
10. Section 63(1) states that, if the Commission finds that a person contravened a provision of the OGAA or its regulations, the Commission may impose an administrative penalty. Section 63(2) of the OGAA sets out the factors that must be considered when determining whether to impose an administrative penalty under section 63(1) and the amount of the penalty. These include:
 - (a) previous contraventions by, administrative penalties imposed on, or orders issued to the person;
 - (b) the gravity and magnitude of the contravention;
 - (c) the extent of harm to others resulting from the contravention;
 - (d) whether the contravention was repeated or continuous;

- (e) whether the contravention was deliberate;
- (f) any economic benefit derived by the person from the contravention;
- (g) the person's efforts to prevent and correct the contravention; and
- (h) other prescribed matters.

Background

11. Commission personnel received a Notice of Operations from Secure regarding work to be done between July 18 and July 26, 2019, at Kotcho Lake c-062-J/094-I-14 (WA17797). The stated purpose of this work was "to repair annular communication by replacing packer and re-run tubing string". The disposal site approval for this location is order 05-02-006, as amended (the Order) which contains a clause that requires Secure to "cease injection and notify the commission immediately if hydraulic isolation is lost in the wellbore or formation".
12. There is numerous correspondence between the Commission and Secure regarding the technical details and timing of the issues with the wellbore and I understand that the issue of annular communication was first noticed by Secure on or about May 9, 2019, during a packer isolation test.
13. Commission personnel were informed by Secure personnel on July 19, 2019 that 13320 m³ of produced water had been injected into WA17797 between May 9, 2019, and July 17th, 2019.

Issues to be Decided

14. The issues which I will decide are:

Section 82 of the OGAA:

- Did Secure fail to comply with an order issued under section 75 of the OGAA and thereby contravene section 82 of the OGAA?
- Did Secure exercise due diligence in its efforts to comply with the Order?
- Did Secure contravene section 82 of the OGAA?
- If Secure is found to have contravened section 82 of the OGAA what if any, administrative penalty to impose?

Section 82 of the OGAA:

Did Secure fail to comply with an order issued under section 75 of the OGAA and thereby contravene section 82 of the OGAA?

15. Secure acknowledges in the Response that they failed to cease injection.
16. Therefore, I find Secure Energy failed to comply with an order issued under section 75 of the OGAA and thereby did not comply with section 82 of the OGAA.

Did Secure exercise due diligence in its efforts to comply with the Order?

17. Pursuant to section 62(5) of the OGAA, I may not find that Secure contravened section 82 of the OGAA if Secure demonstrates to my satisfaction that it exercised due diligence to prevent the contravention. The test to be applied is whether Secure has demonstrated that it took all reasonable steps to prevent the contravention. Secure is not required to show that it took all possible or imaginable steps to avoid the contravention. The standard is not one of perfection, but rather of a reasonable person in similar circumstances.
18. Secure has not raised the defense of due diligence. Regardless, I must still consider whether Secure demonstrated due diligence by their actions during the incident in question.
19. Secure states that it accepts responsibility for its failure to immediately cease injection because it incorrectly relied on the requirements of the Alberta Energy Regulator. The Alberta requirements do not require that an injection be ceased immediately and Secure acknowledges that it simply abided by those requirements “instinctively” given that the majority of its operations are located in that province. Secure did not have any policies in place to provide direction to its employees in response to a loss of hydraulic isolation. Secure acknowledges that these omissions led to miscommunication internally in addressing the loss of hydraulic isolation.
20. Therefore, Secure has failed to satisfy me that it took all reasonable steps to prevent the contravention.

Did Secure contravene section 82 of the OGAA?

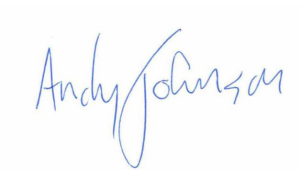
21. I find that Secure has failed to comply with an order issued under section 75 order and thereby section 82 of the OGAA. I am not satisfied that Secure exercised due diligence to prevent the contravention. As such, I find that Secure contravened section 82 of the OGAA.

If Secure is found to have contravened section 82 of the OGAA what if any, administrative penalty is to be imposed?

22. There have been no previous contraventions or administrative penalties but Secure has two previous orders issued.
23. The gravity and magnitude are deemed moderate based on the length of time that elapsed before injection ceased and is offset to a degree by the disposal well characteristics specifically operating on a vacuum. There has been no harm to others resulting from the contravention, although it is unknown if any environmental harm has been done.
24. The contravention was continuous between May 7, 2019 and July 17, 2019.
25. The contravention was not deliberate, but attributed to a lack of understanding of the specific requirement outlined in the Order and an internal process to ensure compliance with this order condition.
26. I conclude that there was a minor economic benefit to continued injection rather than ceasing injection and planning and executing the repairs.
27. Secure responded quickly to correct the contravention once informed of the Order conditions and have subsequently made changes to its regulatory tracking and reporting sheet to ensure future compliance.

Conclusion

28. Based on the above, I find that a penalty of \$5000 for contravention of section 82 is appropriate.



Andy Johnson
Vice President, Compliance Operations
BC Oil and Gas Commission

Date: June 25, 2020