

IN THE MATTER of a CONTRAVENTION
of the *OIL AND GAS ACTIVITIES ACT*
[SBC 2008] Chapter 36
before
The BC OIL and GAS COMMISSION
Case File 2021-055

BETWEEN

The BC Oil and Gas Commission

AND

Strathcona Resources Ltd.

ADMINISTRATIVE FINDING

Before	Andy Johnson, Vice President, Operations
Representing the BC Oil and Gas Commission	Peter Smith, Compliance & Enforcement Officer
Representing Strathcona Resources Ltd.	Nolan Lerner, Vice President, Production
Decision Date	April 11, 2022

Introduction:

1. On or about February 1, 2021, through April 13, 2021, Strathcona Resources Ltd. (Strathcona) reported injection pressure above the approved pressure amount at WA #9415.
2. A Contravention Report (the Report) was sent to me on November 9, 2021, alleging that Strathcona contravened section 82 of the *Oil and Gas Activities Act* (OGAA).
3. The BC Oil and Gas Commission (Commission) sent Strathcona a letter and the Report on January 10, 2022, informing Strathcona that I was considering making a finding that it contravened section 82 of the OGAA. The letter informed Strathcona of its 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. Strathcona provided a response in a letter dated March 9, 2022 (the Response).
5. The Commissioner of the Oil and Gas Commission has delegated me authority under sections 62 and 63 of the OGAA. I will be making a determination with regards to: whether Strathcona 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 Strathcona'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) provides that a person who contravenes section 82 of the OGAA 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 Act, 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, or if the person's relevant actions were the result of an officially induced error.
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. In March 2018, the Commission issued Pressure Maintenance Waterflood Special Project – Amendment #4, Order 00-09-005 (the Order) for WA 9415 under section 75(1)(a) of the OGAA to Pengrowth Energy Corporation (Pengrowth).
12. The Order was made with conditions under section 75(2) of the OGAA, including condition 2(e)(i) providing that the wellhead injection pressure for WA 9415 not exceed 11,300kPa (MWHIP).
13. Pengrowth amalgamated under the name 'Cona Resources Ltd.' (Cona) on January 7, 2020. Cona amalgamated under the name Strathcona Resources Ltd. on August 20, 2020.
14. In February 2021 Strathcona began reporting injection pressure above the MWHIP.
15. On April 12, 2021, the Commission notified Strathcona that Commission records indicated that WA 9415 reported an injection pressure above the approved pressure. The Commission requested that Strathcona confirm whether the reported pressure was correct.
16. On April 13, 2021, Strathcona confirmed that the reported pressure was correct.
17. Strathcona shut in WA 9415 on April 13, 2021.

Issues

18. The issues which I will decide are:
 - Did Strathcona comply with the Order?
 - Did Strathcona exercise due diligence to comply with the Order?
 - Was any noncompliance due to an officially induced error?
 - Did Strathcona contravene section 82 of the OGAA?
 - If Strathcona is found to have contravened section 82 of the OGAA what if any, administrative penalty to impose?

Did Strathcona comply with the Order?

19. In the Response, Strathcona acknowledges that it failed to comply with the Order.

20. I find that Strathcona failed to comply with the Order.

Did Strathcona exercise due diligence to comply with the Order?

21. Pursuant to section 62(5) of the OGAA, I may not find that Strathcona contravened section 82 of the OGAA if Strathcona demonstrates to my satisfaction that it exercised due diligence to prevent the contravention. The test to be applied is whether Strathcona has demonstrated that it took all reasonable steps to prevent the contravention. Strathcona 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.

22. Strathcona has not provided evidence in relation to actions to prevent the contravention.

23. I note that Strathcona admitted that it failed to catch the exceedance of MWHIP and it was exceeded from February to April 2021. A step that Strathcona could have taken to avoid this contravention was to have an internal process to verify and monitor wellhead pressure in relation to the MWHIP. This would have alerted Strathcona to take the appropriate actions to modify or cease injection operations as it approached the MWHIP.

24. Strathcona has failed to satisfy me that it took all reasonable steps to prevent the contravention.

Was any noncompliance the result of an officially induced error?

25. I have no evidence before me of officially induced error.

Did Strathcona contravene section 82 of the OGAA?

26. I find that Strathcona has failed to comply with the Order. I am not satisfied that Strathcona exercised due diligence to prevent the contravention. As such, I find that Strathcona contravened section 82 of the OGAA by failing to comply with the Order.

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

27. Section 63 of the OGAA sets out factors that the Commission must take into consideration when determining whether or not to impose an administrative penalty. In the following paragraphs, I consider the applicability of those factors to this contravention.

28. Strathcona had no previous contraventions or administrative penalties issued and one previous order. Pengrowth had eight previous orders. Cona had one previous order issued.

29. The gravity and magnitude of the contravention was moderate.

30. There is no evidence of harm to others as a result of the contravention.

31. The contravention was repeated between February 9, 2021 to April 13, 2021 when the well was shut in.

32. There is no evidence demonstrating that the contravention was deliberate.
33. There is no evidence to indicate that Strathcona derived economic benefit as a result of the contravention.
34. In response to inquiries by the Commission regarding exceeding MWHIP, Strathcona made efforts to correct the contravention by making adjustments to equipment.

Conclusion

35. I have found Strathcona contravened section 82 of the OGAA. Based on the above discussion of the various factors set out in section 63(2), I am imposing an administrative penalty of \$10,000.



Andy Johnson
Vice President, Operations
BC Oil and Gas Commission

Date: April 11, 2022