

IN THE MATTER of a CONTRAVENTION  
of the *ENERGY RESOURCE ACTIVITIES ACT*

[SBC 2008] Chapter 36

before

The BRITISH COLUMBIA ENERGY REGULATOR

Case File 2020-081FSJ

BETWEEN

The British Columbia Energy Regulator

AND

Tallahassee Exploration Inc.

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ADMINISTRATIVE FINDING

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Before

Executive Vice President, Safety &  
Compliance, Andy Johnson

Representing the BC Energy Regulator

Manager, Enforcement, R.A. Workman

Representing Tallahassee Exploration Inc.

President, Ghazanfar Zafar

Decision Date

January 15, 2024

## **Introduction**

1. On April 23, 2020, the Oil and Gas Commission (the Commission) now known as the British Columbia Energy Regulator (BCER) issued General Order 2020-010 (Order) to Tallahassee Exploration Inc. (TEI). The Regulator issued two amendments to the Order, ultimately extending the deadline to suspend, or alternatively, abandon or reactivate certain wells by October 31, 2021.
2. A Contravention Report (the Report) was sent to me on August 1, 2023, alleging that TEI contravened section 82 of the *Oil and Gas Activities Act* (OGAA), now the *Energy Resource Activities Act* (ERAA).
3. The BCER sent TEI a letter and the Report on October 10, 2023, informing TEI that I was considering making a finding that it contravened section 82 of the ERAA. The letter informed TEI of its opportunity to be heard in written form and advised that a finding of contravention could result in the BCER imposing an administrative penalty in accordance with section 63 of the ERAA.
4. TEI provided a response in a letter dated November 11, 2023 (the Response).
5. The Commissioner of the BCER has delegated me authority under sections 62 and 63 of the ERAA. I will be making a determination with regards to: whether TEI contravened section 82 of the ERAA; whether to impose an administrative penalty under section 63 of the ERAA; and the amount of the penalty, if any. I have reviewed the Report and TEI's Response. In making a determination, I rely on these documents, and the applicable legislation.

## **Applicable Legislation**

6. Section 82 of the ERAA 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(1) of the Administrative Penalties Regulation provides that a person who contravenes section 82 of the ERAA is liable to an administrative penalty not exceeding \$500,000.
8. Section 62(1) of the ERAA 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 BCER may find that the person has contravened the provision.
9. Section 62(5) of the ERAA states, in part, that the BCER may not find that a person has contravened a provision of the ERAA or the regulations if the person demonstrates to the satisfaction of the BCER that they exercised due diligence to prevent the contravention or if the actions were the result of officially induced error.
10. Section 63(1) states that, if the BCER finds that a person contravened a provision of the ERAA or its regulations, the BCER may impose an administrative penalty. Section 63(2) of

the ERAA 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. On April 23, 2020, the BCER issued General Order 2020-010 (the Order) to TEI under section 49 of ERAA. In part, the Order required TEI to suspend, in accordance with section 25(5) of the Drilling and Production Regulation, or in the alternative, reactivate or abandon, 20 wells identified in the Order. The Order required TEI to comply with these requirements by August 23, 2020.
12. In May 2020, TEI met with the BCER to discuss the Order and presented the BCER with a plan to meet its requirements. In June 2020, TEI submitted an updated plan to the BCER to address the requirements of the Order.
13. On October 29, 2020, TEI provided an update on the steps taken to comply with the requirements of the Order. TEI noted that further time would be required to bring certain wells into production, including the reactivation of associated gathering systems and a pipeline. TEI identified that this work would be completed by March 2021.
14. Thus, on December 7, 2020, the BCER amended the Order to extend the deadline to suspend, or alternatively, reactivate or abandon, eight of the wells identified in the Order. The amended deadline for the eight wells was March 31, 2021. The reasons for the amendment stated that the BCER did not object to TEI's proposed timeline to reactivate eight wells.
15. In July 2021, TEI requested a second extension of the timelines in the Order. On August 5, 2021, the BCER issued a second amendment extending the deadline to suspend, or alternatively, reactivate or abandon, the eight wells to October 31, 2021. The reasons for the second amendment stated that TEI continued to implement measures for reactivation of eight wells and that the BCER did not object to TEI's proposed timeline to reactivate the wells.
16. On October 28, 2021, the Regulator requested an update on the reactivation for the eight wells. TEI informed the BCER TEI would be starting up their facility November 2, 2021, and that the eight wells "will be brought online sequentially as capacity allows".

## Issues

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

### Did TEI comply with the Order?

18. Based on the amended timelines, TEI was required to suspend, or alternatively, reactivate or abandon the wells identified in the Order by October 31, 2021.
19. In its update to the BCER dated November 2, 2021, TEI acknowledged that the wells identified in the Order would be “brought online sequentially as capacity allows”. There was no timeline identified in which any of the wells would be reactivated.
20. In TEI’s presentations to the BCER in May and June 2020, TEI stated that it intended to comply with the Order by reactivating the eight wells subject to the amended timeline. There is evidence submitted in the Report that shows that TEI did reactivate some of the wells, however the evidence also demonstrates that the reactivation of those wells occurred only after the amended timeline of October 31, 2021.
21. The Report also identifies that TEI failed to reactivate all of the wells subject to the Order. In its response, TEI acknowledges that six of the wells were not brought into compliance by the amended timeline of October 31, 2021.
22. Therefore, I find TEI failed to comply with an order issued under section 49 of the ERAA and therefore did not comply with section 82 of ERAA.

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

23. Pursuant to section 62(5) of the ERAA, I may not find that TEI contravened section 82 of the ERAA if TEI demonstrates to my satisfaction that it exercised due diligence to prevent the contravention. The test to be applied is whether TEI has demonstrated that it took all reasonable steps to prevent the contravention. TEI 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.
24. In its response TEI provides information related to the potential reactivation of the wells, investments made in respect of closure obligations and the status of TEI’s current security deposits submitted to the BCER.
25. TEI does not suggest that the costs of complying with the Order, as amended, were so harsh that those costs must be considered when assessing the reasonable steps expected of TEI to comply with its regulatory requirements. TEI is a permit holder and is responsible for

compliance with regulatory requirements, including the terms and conditions of its permits. The expenditure of financial resources to comply with TEI's regulatory requirements, including closure obligations, is the cost of participating in the regulated activity.

26. Similarly, the obligation to provide the BCER with a security deposit is to ensure that the closure obligations of TEI are sufficiently guaranteed without recourse to public funds. The obligation to provide security is a regulatory requirement that must be met as part of a permit holder's general obligations. Evidence of due diligence must be related to compliance with the Order, not general steps to meet broader regulatory obligations.
27. The decision to invest in reactivation of certain wells is a business decision, governed by the requirements of the regulatory framework. TEI met with the BCER and submitted multiple plans on the work planned. I note that the timelines for completing this work were extended on several occasions based on requests from TEI. Thus, while TEI had significant time to complete the work required by the Order, TEI still failed to meet the amended deadlines.
28. Thus, TEI has failed to satisfy me that it took all reasonable steps to prevent the contravention.

Was any noncompliance due to an officially induced error?

29. I have no evidence before me of an officially induced error.

Did TEI contravene section 82 of the ERAA?

30. I find that TEI has failed to comply with section 82 of the ERAA. I am not satisfied that TEI exercised due diligence to prevent the contravention. As such, I find that TEI contravened section 82 of the ERAA.

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

31. Section 63 of the ERAA sets out factors that the BCER 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.
32. There have been no previous contraventions issued to TEI. The Order referenced in this file is the only General Order issued to TEI.
33. The gravity and magnitude of the contravention is low given there are no known environmental concerns or impacts to public safety.
34. There is no evidence of harm to others as a result of the contravention.
35. There is insufficient evidence to establish whether the contravention was repeated or continuous.
36. There is evidence demonstrating that the contravention was deliberate. The BCER amended the Order on two occasions and provided TEI with ample time to complete the work. Despite

additional time, TEI still failed to meet the requirements of the Order. I am satisfied the evidence demonstrates that TEI delayed taking the steps necessary to comply with the Order which was a deliberate action on its part.

37. The evidence is insufficient to establish whether TEI derived any economic benefit from this contravention.

### **Conclusion**

38. I have found TEI contravened section 82 of the ERAA. Based on the above discussion of the various factors set out in section 63(2), I am imposing an administrative penalty of \$40,000.



Andy Johnson  
Executive Vice President, Safety & Compliance  
BC Energy Regulator

Date: January 15, 2024