

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

[SBC 2008] Chapter 36

before

The BRITISH COLUMBIA ENERGY REGULATOR

Case File 2022-0029

BETWEEN

The British Columbia Energy Regulator

AND

Pavilion Energy Corp.

AND

Hurley Well Service Ltd.

ADMINISTRATIVE FINDING

Before

Patrick Smook, Acting Executive Vice
President, Safety & Compliance

Representing the British Columbia Energy
Regulator (formerly the BC Oil and Gas
Commission)

John Warner, Compliance & Enforcement
Officer

Representing Pavilion Energy Corp.

Rick Williams, Borden Ladner and Gervais LLP

Representing Hurley Well Service Ltd.

Paul Stein, Gowling WLG (Canada) LLP

Decision Date

February 18, 2025

Introduction

1. Pavilion Energy Corp. (Pavilion) discovered an oil spill along pipeline project 2988, segment 3 (the Pipeline) on March 22, 2022. The Pipeline connects WA 04901 (the Well) to processing battery Facility ID 00000056 (the Facility). Prior to discovery, Pavilion was conducting servicing operations on the Well through a contractor, Hurley Well Service Ltd. (Hurley).
2. A Contravention Report (the Report) was sent to me on April 15, 2024, alleging that Hurley and Pavilion contravened section 37(1)(a) of the *Oil and Gas Activities Act*, now the *Energy Resource Activities Act* (ERAA).
3. The British Columbia Energy Regulator (Regulator) sent Hurley a letter and the Report on August 2, 2024, informing Hurley that I was considering making a finding that it contravened section 37(1)(a) of the ERAA. The letter informed Hurley of its opportunity to be heard in written form and advised that a finding of contravention could result in the Regulator imposing an administrative penalty in accordance with section 63 of the ERAA.
4. Hurley provided a response in a letter dated November 29, 2024 (the Hurley Response).
5. The Regulator sent Pavilion a letter and the Report on August 2, 2024, informing Pavilion that I was considering making a finding that it contravened section 37(1)(a) of the ERAA. The letter informed Pavilion of its opportunity to be heard in written form and advised that a finding of contravention could result in the Regulator imposing an administrative penalty in accordance with section 63 of the ERAA.
6. Pavilion provided a response September 20, 2024 (the Pavilion Response).
7. After receiving both Responses, I requested a copy of the attachments in Appendix 6 of Hurley's Response (the "additional attachments"), from the Regulator's Compliance & Enforcement Officer, John Warner.
8. The Commissioner of the Regulator has delegated me authority under sections 62 and 63 of the ERAA. I will be making a determination with regards to: whether Hurley contravened section 37(1)(a) of the ERAA; whether Pavilion contravened section 37(1)(a) of the ERAA; whether to impose an administrative penalty under section 63 of the ERAA to Hurley and/or Pavilion; and the amount of the penalties, if any. I have reviewed the Report, Hurley's Response, Pavilion's Response and the additional attachments. In making a determination, I rely on these documents, and the applicable legislation.

Applicable Legislation

9. Section 37(1)(a) of the ERAA states that a permit holder, an authorization holder and a person carrying out an energy resource activity must prevent spillage.

10. Maximum penalties for specific violations are set by regulation. Section 2(1) of the Administrative Penalties Regulation provides that a person who contravenes section 37(1)(a) of the ERAA is liable to an administrative penalty not exceeding \$500,000.
11. 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 Regulator may find that the person has contravened the provision.
12. Section 62(5) of the ERAA states, in part, that the Regulator 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 Regulator that they exercised due diligence to prevent the contravention or if the actions were the result of officially induced error.
13. Section 63(1) states that, if the Regulator finds that a person contravened a provision of the ERAA or its regulations, the Regulator 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

14. Pavilion is the permit holder for the Well, the Pipeline and the Facility.
15. Pavilion contracted Hurley to conduct workover operations on the Well March 20, 2022, and March 21, 2022.
16. During servicing operations, oil began flowing from the Well and was being stored in a rig tank. A load of water was due to arrive and needed to be stored in that same tank, so the decision was made by Pavilion to pump the oil through the Pipeline to the Facility.
17. On March 22, 2022, Pavilion discovered a pipeline break and resulting oil spill, and reported the incident to Emergency Management BC ("EMBC").

Analysis

18. The Report and both Responses provide that after instructions from Pavilion, Hurley pumped oil down the Pipeline towards the Facility. After some time, an oil spill was discovered.
19. According to the Report and both Responses, Pavilion instructed Hurley to pump oil down the Pipeline to the Facility. The Report states Pavilion gave verbal instructions to Hurley that the Pipeline had a maximum pressure of 7,000 kPa. The Hurley Response and the Pavilion Response both state that the instructions included a maximum pump pressure of 7,000 kPa.
20. The Report alleges that the Pipeline overpressure and rupture occurred during the Hurley well workover operations and that the source of pressure that caused the rupture was the Hurley rig pump.
21. The Report references an analysis from Group 10 provided by Pavilion. The Group 10 analysis states the cause of the ruptured pipe was due to overpressure of approximately 20,700 kPa.
22. The Hurley Response does not dispute that the Pipeline ruptured due to an overpressure event, but it does dispute the purported timing and cause of the rupture.
23. In an account of the pumping operation, the derrick hand that operated the pump stated that the pump was operated in fourth gear¹, he continuously monitored the pressure gauge, and that pump pressure did not exceed 1,000 kpa. Further, it is noted that the derrick hand provides that he did not witness any large increases or decreases in pressure which would have indicated an overpressure event.
24. The derrick hand's account of the pumping operation is unverified verbal evidence, and much of the evidence provided in the account is disputed by Pavilion. While it is true that increasing pressure would have stalled the pump if it were in fourth gear, there is no corresponding written or digital record of the pumping operation that provides detail on actual pump pressures, pump gear and derrick hand activities during the operation.
25. Hurley's Response notes that at the time of the pumping operation, a #60 orange pin was set in the pressure relief valve on the Hurley rig pump. This pin was set to shear at a pump pressure of 17,237 kpa. While Pavilion's response provides commentary that the pin should have been reset to 7,000 kpa prior to pumping oil down the pipeline, the pin was nevertheless set below the 20,700 kpa pressure that the Group 10 analysis identified caused the failure. I accept that the pressure relief valve with such a pin setting would have been effective at automatically stopping the pumping operation if pressures were approaching those needed to rupture the pipeline. That the pin did not shear is not in dispute and is compelling evidence against the allegation that the Hurley rig pump was the source of pressure that ruptured the pipeline.

¹The Hurley rig pump had a maximum operating pressure of 2000 – 3000 kpa. Pressure above this level would stall the pump and stop pumping. When approaching this pressure, personnel on site would have noticed increased noise coming from the pump prior to it stalling. No such observations were made.

26. In its Response, Hurley provides evidence that ice blockage may have been present in the Pipeline prior to Hurley's arrival at site, in the form of an email from Pavilion to BCER's investigating officer. Further, the Hurley Response submits that ice blockage within the Pipeline could have caused the rupture without any additional external pressure. If this were the case, the Pipeline could have been ruptured prior to Hurley's pumping of oil into the Pipeline.
27. I am not satisfied on a balance of probabilities that the Hurley rig pump caused the Pipeline failure. In reaching this conclusion, I place weight on the fact that the #60 orange pin did not shear and that an alternative cause was presented that I find at least as persuasive as the allegations made in the Report. I therefore find that Hurley did not contravene section 37(1)(a) of the ERAA.
28. While it is evident that spillage did occur from the Pipeline, I am not satisfied that the spillage was caused by the Hurley rig pump. Given that those were the allegations that were put before Pavilion and that it was provided an opportunity to respond to, I cannot conclude that Pavilion failed to prevent spillage as alleged.

Conclusion

29. I have found Hurley did not contravene section 37(1)(a) of the ERAA.
30. I have found Pavilion did not contravene section 37(1)(a) of the ERAA.



Patrick Smook
Acting Executive Vice President, Safety & Compliance
BC Energy Regulator

Date: February 18, 2025