

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

[SBC 2008] Chapter 36

before

The BRITISH COLUMBIA ENERGY REGULATOR

Case File 2023-0134

BETWEEN

The British Columbia Energy Regulator

AND

Procyon Energy Corp.

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ADMINISTRATIVE FINDING

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Before

Patrick Smook, Vice President, Compliance &  
Operations

Representing the British Columbia Energy  
Regulator

John Warner, Compliance & Enforcement  
Officer

Representing Procyon Energy Corp.

Ron McKellar, President & CEO

Decision Date

April 10, 2025

## **Introduction**

1. Procyon Energy Corp. (Procyon) was required to decommission a priority site on or before December 31, 2023, per the Dormancy and Shutdown Regulation (DSR).
2. A Contravention Report (the Report) was sent to me on February 14, 2024, alleging that Procyon contravened section 18(3)(b) of the DSR.
3. The British Columbia Energy Regulator (Regulator) sent Procyon a letter and the Report on November 20, 2024, informing Procyon that I was considering making a finding that it contravened section 18(3)(b) of the DSR. The letter informed Procyon 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. Procyon provided a response in a letter dated December 20, 2024 (the Response).
5. 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 Procyon contravened section 18(3) of the DSR; 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 Procyon's Response. In making a determination, I rely on these documents, and the applicable legislation.

## **Applicable Legislation**

6. Section 18(3) of the DSR states that a permit holder for a priority site must decommission the site by the earlier of (a) the applicable date under section 15, 16 or 17 and (b) December 31 of the calendar year that is two years after the identification year for the site.
7. Maximum penalties for specific violations are set by regulation. Section 11(2) of the Administrative Penalties Regulation provides that a person who contravenes section 18(3) of the DSR is liable to an administrative penalty not exceeding \$200,000.
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 Regulator may find that the person has contravened the provision.
9. 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.
10. 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**

11. Section 18(3) of the DSR requires a permit holder to decommission a designated priority site by the earlier of (a) the applicable date under section 15, 16 or 17 and (b) December 31 of the calendar year that is two years after the identification year for the site. The Well was designated as a priority site in 2021.
12. As of January 3, 2024, the Well had not been decommissioned.

## **Issues**

13. The issues which I will decide are:
  - Did Procyon fail to decommission the Priority Site prior to December 31, 2023?
  - Did Procyon exercise due diligence in its efforts to decommission the Well?
  - Was any noncompliance due to an officially induced error?
  - Did Procyon contravene section 18(3) of the DSR?
  - If Procyon is found to have contravened section 18(3) of the DSR what if any, administrative penalty to impose?

### Did Procyon fail to decommission the priority site prior to December 31, 2023?

14. Section 18(3) of the DSR requires a permit holder to decommission a designated priority site by the earlier of (a) the applicable date under section 15, 16 or 17 and (b) December 31 of the calendar year that is two years after the identification year for the site.
15. Procyon is the permit holder for seven type A sites. Accordingly, section 15(1)(c) of the DSR provides a deadline of December 31, 2031 for decommissioning. However, the Regulator gave Procyon written notice on September 22, 2021 that the Well was designated a Priority Site on September 22, 2021. This means the identification year for the Well was 2021 and decommissioning was required by December 31, 2023, in accordance with section 18(3)(b).
16. On January 3, 2024, a Regulator inspector confirmed via site inspection that Procyon had not decommissioned the Well.
17. The Response confirms Procyon had not been able to abandon the Well.
18. Therefore, I find that Procyon failed to decommission the Priority Site by the December 31, 2023, deadline.

Did Procyon exercise due diligence in its efforts to decommission the priority site?

19. Pursuant to section 62(5) of the ERAA, I may not find that Procyon contravened section 18(3)(b) of the DSR if Procyon demonstrates to my satisfaction that it exercised due diligence to prevent the contravention. The test to be applied is whether Procyon has demonstrated that it took all reasonable steps to prevent the contravention. Procyon 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.
20. The Report shows in March 2023, Procyon made an agreement with the Regulator to pay down outstanding levies and an outstanding security deposit, and that Procyon committed to comply with its well abandonment obligations.
21. However, on August 4, 2023, Procyon stated it did not have the capital to decommission the Well in the timeline required.
22. The Response states that Procyon has a plan to use funds from a joint venture to begin producing oil from a nearby site, thereby generating the needed funds to abandon the site that is subject of this decision.
23. While Procyon's efforts to generate cash flow and stated intent to abandon the subject site are recognized, permits holders are responsible for meeting regulatory requirements regardless of financial resources and fluctuating commodity prices.
24. Procyon has failed to satisfy me that it took all reasonable steps to prevent the contravention.

Was any noncompliance due to an officially induced error?

25. I do not have evidence before me that the noncompliance was a result of an officially induced error.

Did Procyon contravene section 18(3) of the DSR?

26. I find that Procyon has failed to comply with section 18(3) of the DSR. I am not satisfied that Procyon exercised due diligence to prevent the contravention. As such, I find that Procyon contravened section 18(3) of the DSR.

If Procyon is found to have contravened section 18(3) of the DSR what if any, administrative penalty is to be imposed?

27. Section 63 of the ERAA sets out factors that the Regulator 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. In determining penalty amounts for this contravention I have found that Procyon has an enforcement history including four previous orders and two previous findings of contravention. These are listed in the table below.

<b>Enforcement Action</b>	<b>Type</b>	<b>Description</b>	<b>Comments</b>
2016-004	S 49 General Order	Failure to pay security	
2017-009	S 49 General Order	Failure to pay security	
2016-0062	Contravention Decision	Failure to pay security	
2022-0010-01	S 49 General Order	Shut-in order after failure to pay security	Terminated and replaced with GO 2022-0010-02
2022-0010-02	S 49 General Order	Shut-in order after failure to pay security	
2023-0101	Contravention Decision	Failure to decommission required well per DSR	

29. In reviewing these files I have found that all of the orders and one of the contravention decisions were for matters unrelated to the non-compliance that is subject of this decision and thus carry little weight in determining penalty amount.
30. One past contravention decision (2023-0101) was issued for failing to decommission a well on the required timelines set out in the DSR. This is a recent and very similar non-compliance to the non-compliance that is subject of this decision and is demonstrative of a similar pattern of behavior. Thus, I put significant weight on this past contravention in determining a penalty amount for the contravention that is the subject of this decision.
31. I find gravity in this case to be moderate, as the contravention shows disregard of a specific direction from the then Commissioner. The expedited decommissioning of the site was determined to be in the public interest by the Commissioner after considering:
- The age of the site,
  - public safety, including human health,
  - the environment,
  - social and agricultural values,
  - impacts on local communities,
  - cultural and environmental values of local indigenous Nations,
  - the capacity of the permit holder, and,
  - the permit holder's portfolio of current sites and portfolio of former sites.
32. I find magnitude of the contravention was low as there was no acute or immediate impact to public safety or the environment created by the contravention.
33. There is no evidence of harm to others as a result of the contravention.

34. The contravention is continuous as the decommissioning requirements have not been completed to date.
35. There is evidence the contravention was deliberate. The Response indicates Procyon was aware of the requirement but did not take steps to achieve compliance.
36. There is no evidence that Procyon gained economic benefit from the contravention.
37. There is no evidence that Procyon made efforts to prevent the contravention. With respect to correcting the contravention, the Response describes a plan to recomplete a well to produce oil, thereby generating funds needed to complete the required decommissioning work that is subject of this contravention. However, this plan is not timely and is unreliable, as it is contingent on several variables including success of recompletion efforts and outcomes of regulatory processes.

### **Conclusion**

38. I have found Procyon contravened section 18(3)(b) of the DSR. Based on the above discussion of the various factors set out in section 63(2), I am imposing an administrative penalty of \$75,000.

A handwritten signature in black ink, appearing to read 'Patrick Smook', with a stylized flourish at the end.

Patrick Smook  
Vice President, Compliance & Operations  
BC Energy Regulator

Date: April 10, 2025