

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 2017-059

BETWEEN

The BC Oil and Gas Commission

AND

Venturion Oil Limited

ADMINISTRATIVE FINDING

Before

Vice President, Operations, Lance Ollenberger

Representing the BC Oil and Gas
Commission

Oil and Gas Operations Officer,
Kate Mana

Representing Venturion Oil
Limited

Vice President Production and Operations,
Brian Goodfellow

Decision Date

March 11, 2019

Introduction:

1. On April 7, 2017 following an inspection and subsequent investigation, the BC Oil and Gas Commission (the Commission) issued General Order 2017-011 (the Order) to Venturion Oil Limited (Venturion) to shut-in facility 07696 (the Facility) located at 10-36-81-14 (the Site).
2. A Contravention Report (the Report) dated May 15, 2018 was sent to me alleging that Venturion contravened section 21(b) of the *Oil and Gas Activities Act* (OGAA) and/or sections 76(d), 42(1) and 42(2) of the *Drilling and Production Regulation* (DPR).
3. On May 23, 2018 a letter and a copy of the Report were sent to Venturion informing it that the Commission was considering making a finding of contravention pursuant to section 21(b) of the OGAA and/or sections 76(d), 42(1) and 42(2) of the DPR. The letter informed Venturion 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. Venturion provided a response in a letter dated June 25, 2018 (the Response).
5. The Commissioner of the BC 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 Venturion contravened section 21(b) of the OGAA and/or sections 76(d), 42(1) and 42(2) of the DPR; 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 Venturion's Response. In making a determination, I rely on these documents, and the applicable legislation.

Applicable Legislation

6. Section 21(b) of the OGAA states that a person must not carry out an oil and gas activity unless the person carries out the oil and gas activity in compliance with this Act and the regulations; a permit issued to the person, if any, and an order issued to the person, if any.
7. Maximum penalties for specific violations are set by regulation. Section 2(1) of the *Administrative Penalties Regulation* (APR) provides that a person who contravenes section 21 of the OGAA is liable to an administrative penalty not exceeding \$500,000.
8. Section 76(d) of the DPR states that a facility permit holder must notify the commission at least one day before putting new or modified equipment in service at a facility.
9. Section 5(8) of the APR provides that a person who contravenes section 76 of the DPR is liable to an administrative penalty not exceeding \$5,000.
10. Section 42(1) of the DPR states that a permit holder must ensure that the duration of flaring and the quantity of gas that is flared is minimized.
11. Section 5(6) of the APR provides that a person who contravenes section 42(1) of the DPR is liable to an administrative penalty not exceeding \$20,000.
12. Section 42(2) of the DPR states that subject to subsections (3) and (5), a permit holder must not flare gas unless flaring is required for emergency purposes or for drilling operations.

13. Section 42(5) of the DPR states that a facility permit holder may flare gas at a facility if (a) flaring is required for maintenance purposes, or (b) permission to flare is included in the well permit.
14. Section 5(5) of the APR provides that a person who contravenes section 42(2) of the DPR is liable to an administrative penalty not exceeding \$50,000.
15. 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.
16. 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.
17. 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

18. In 2007, the Commission issued a permit (the Permit) to Husky Oil Operations Limited (Husky) for construction and operation of the Facility. The Permit was issued as a modification form an individual well permit. The Permit was amended (the Amended Permit) on May 8, 2009. The Amended Permit conditions included requirements that the Facility be immediately shut-down in the event the Vapour Recovery Unit (VRU) was unable to capture and recompress storage tank vapours for more than a two-hour period (condition 2) and that the VRU be used to capture vapours from trucks during loading operations (condition 3).
19. On August 16, 2016, the Commission approved the transfer of the Amended Permit from Husky to Venturion.
20. On March 22, 2017 Commission staff completed an inspection of the Site and noted that the VRU was not operating at the Facility and all gas was being sent to flare. A scrubber unit had been installed and was being used to capture truck loading vapours instead of the VRU system.
21. The Order was issued to Venturion to shut-in the Facility until the issues were resolved, and on June 5, 2017 the Commission approved an amendment to remove the VRU-related permit conditions.

Issues

22. The issues which I will decide are:

Section 21(b) of the OGAA:

- Did Venturion fail to comply with facility permit condition 2 and/or condition 3?
- Did Venturion exercise due diligence to comply with facility permit condition 2 and/or condition 3?
- Did Venturion contravene section 21(b) of the OGAA?

Section 76(d) of the DPR:

- Did Venturion fail to notify the Commission at least one day before putting new or modified equipment in service at the Facility?
- Did Venturion exercise due diligence to notify the Commission before putting new or modified equipment in service at the Facility?
- Did Venturion contravene section 76(d) of the DPR?

Section 42(1) of the DPR:

- Did Venturion fail to ensure the duration of flaring and the quantity of gas that was flared was minimized?
- Did Venturion exercise due diligence to ensure the duration of flaring and the quantity of gas that was flared was minimized?
- Did Venturion contravene section 42(1) of the DPR?

Section 42(2) of the DPR:

- Did Venturion flare gas for emergency purposes, drilling operations or maintenance purposes, or with permission included in the facility permit?
- Did Venturion exercise due diligence to prevent flaring not required for emergency purposes, drilling operations or maintenance purposes, or without permission included in the facility permit?
- Did Venturion contravene section 42(2) of the DPR?

If Venturion is found to have contravened section 21(b) of the OGAA and/or sections 76(d), 42(1) and 42(2) of the DPR what if any, administrative penalty to impose?

Section 21(b) of the OGAA:

Did Venturion fail to comply with facility permit condition 2 and/or condition 3?

23. The Report alleges that between January 18, 2017 and April 7, 2017, Venturion failed to comply with conditions 2 and 3 of the Amended Permit.
24. Condition 2 states, "In the event that the Vapor Recovery Unit (VRU) is not operating (routine or non-routine shut down) in a reasonable manner to capture and recompress the storage tank vapors for more than a two-hour period, the 10-36 battery must be immediately shut-down to

minimize the resultant flaring of gas". Condition 3 states, "During the truck loading operation at the 10-36 battery, all vented gas from the trucks must be captured in the VRU system".

25. In its Response, Venturion states that it did not receive a copy of the Amended Permit and was therefore unaware of condition 2. Further, Venturion states that Husky did not construct and operate the Facility in compliance with condition 3. Venturion does not dispute that it failed to comply with condition 2 as it did not shut-down the 10-36 battery when the VRU was not operating for more than two hours. Based on the evidence before me, I find that Venturion failed to comply with facility permit condition 2.
26. Venturion does not dispute that the truck vent line was not connected to the VRU as required by condition 3 and that gas was instead routed through an odour scrubber. Further as the permit holder Venturion must ensure it is in compliance with all regulatory requirements and permit conditions. Accordingly, I find that Venturion also failed to comply with facility permit condition 3.

Did Venturion exercise due diligence to comply with facility permit condition 2 and/or condition 3?

27. Pursuant to section 62(5) of the OGAA, I may not find that Venturion contravened section 21(b) of the OGAA if Venturion demonstrates to my satisfaction that it exercised due diligence to prevent the contravention. The test to be applied is whether Venturion has demonstrated that it took all reasonable steps to prevent the contravention. Venturion 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.
28. Venturion states that practice at the Facility was to truck liquid production to a third party terminal and send solution gas to a gathering pipeline operated by Glenogle Energy Inc., (Glenogle). On January 18, 2017 Glenogle brought on a new well that shut-out Venturion's sales gas from the sales line with limited notice. Venturion acted by shutting-in three of the four producing wells at the location. One well (10-36) was left in production to prevent the Facility from freezing. As a result of the shut-out, gasses could no longer be sent through the Glenogle sales line so the VRU was disabled and all gas was sent directly to flare.
29. Venturion contends that the VRU was at no time connected to the truck loading system and as such the Facility has never been in compliance with condition 3 of the Amended Permit. Venturion states that Husky failed to provide it with a copy of the Amended Permit after the Facility transfer was complete, despite promising to transfer all records. Venturion further contends that conditions 2 and 3 are unique and were included in the Amended Permit following complaints by a former landowner.
30. Regardless, as the permit holder for the Facility, Venturion must ensure it satisfies all regulatory requirements. The onus is on Venturion as the permit holder to verify it has obtained all up-to-date documentation following a permit transfer and that the Facility is operating in compliance. It is not adequate for Venturion to assume compliance; rather the expectation is that Venturion would have taken the necessary steps to acquire a complete inventory of records related to the Facility. Commission staff would have provided Venturion with all historical permit documentation had it been requested.
31. Venturion has failed to satisfy me that it took all reasonable steps to comply with facility permit condition 2 or condition 3.

Did Venturion contravene section 21(b) of the OGAA?

32. I find that Venturion has failed to comply with both facility permit conditions 2 and 3. I am not satisfied that Venturion exercised due diligence to prevent the contraventions. As such, I find that Venturion contravened section 21(b) of the OGAA by failing to comply with facility permit condition 2 and condition 3.

Section 76(d) of the DPR:

Did Venturion fail to notify the Commission at least one day before putting new or modified equipment in service at the Facility?

33. The Report alleges that in January 2017, Venturion installed and put into service a truck vapour sweetener/scrubber (Scrubber) at the Facility without notifying the Commission. The Scrubber does not appear in Appendix G or H of the Oil and Gas Activity Operations Manual (the Manual). Appendix G lists the equipment and facility changes that require a facility permit amendment and Appendix H lists the facility changes that do not require an amendment or a notice of intent (NOI).
34. Venturion acknowledges installing the Scrubber at the Facility; however, states that it was not included in the comprehensive listing in Appendix G of the Manual and was therefore, included under the “Other/miscellaneous – minor” category of the exemption list in Appendix H of the Manual. Venturion states that the Scrubber installation does not require a permit amendment or NOI. In addition, Venturion points out that it has since implemented a new procedure to confirm with the Commission whether an amendment or NOI is required prior to installation of any new equipment.
35. Senior technical personnel at the Commission indicate that the Scrubber is similar to an odourization pot and of less impact than the blowcase, both of which are identified in Appendix H of the Manual. They further indicate that the Scrubber is very minor in size and as such, it would typically fit into the “Other/miscellaneous-minor” category of Appendix H where no notification is required.
36. Therefore, I find Venturion did not fail to notify the Commission before putting new equipment in service at the Facility as the equipment in question was exempt from the requirement.

Did Venturion exercise due diligence to notify the Commission before putting new or modified equipment in service at the Facility?

37. Given that I did not find that Venturion failed to notify the Commission, there is no need to determine whether Venturion demonstrated due diligence.

Did Venturion contravene section 76(d) of the DPR?

38. I find that Venturion did not contravene section 76(d) of the DPR.

Section 42(1) of the DPR:

Did Venturion fail to minimize the duration of flaring and the quantity of gas that was flared?

39. Upon investigation, Commission personnel found that from January 18, 2017 to April 7, 2017 (76 days), Venturion had been continuously flaring solution gas instead of shutting-in the Facility.
40. In its Response, Venturion states that on January 18, 2017 Glenogle brought on a new well, and shut-in the sales line so that Venturion's solution gas was no longer able to be sent through the pipeline. As a result, Venturion shut-in three of the four producing wells at the location although the decision was made to leave one well in production to prevent the Facility from freezing. The VRU was disabled and all gas was sent directly to flare based on Venturion's assumption that the shut-out would only be for a maximum of two days.
41. Venturion contends that by only keeping one well in production it minimized the quantity of gas to be flared by approximately 67%. However, the duration of flaring and quantity of gas that was flared could have been minimized even further if Venturion had shut-in the Facility once it realized the shut-out was going to be for a substantial period of time. Regardless, the Amended Permit required Venturion to shut-down the Facility in the event the VRU was not operating for more than a two-hour period, which Venturion did not do.
42. I find that Venturion failed to minimize the duration of flaring and the quantity of gas that was flared.

Did Venturion exercise due diligence to minimize the duration of flaring and the quantity of gas that was flared?

43. Venturion does not present any evidence that it exercised due diligence to minimize the duration of the flaring and the quantity of gas flared. It states that common practice in the industry during the winter is to continue production in below freezing temperatures in order to keep the Facility warm and avoid it from freezing up. Venturion contends that it reduced the volumes flared by shutting in three of the four wells.
44. During the shut-out, Venturion took steps to manually bypass the VRU logic controls so that it would allow for flaring operations and the Facility would not shut down within two hours. However, it would be reasonable to expect that once Venturion recognized that the shut-out period was going to be for a prolonged period, it would have taken the actions necessary to shut-in the Facility instead of continuously flaring. Alternatively, Venturion could have contacted the Commission for advice and guidance to determine what the appropriate measures were under those particular circumstances.
45. Venturion has failed to satisfy me that it took all reasonable steps to prevent the contravention.

Did Venturion contravene section 42(1) of the DPR?

46. I find that Venturion has failed to comply with section 42(1) of the DPR. I am not satisfied that Venturion exercised due diligence to prevent the contravention. As such, I find that Venturion contravened section 42(1) of the DPR.

Section 42(2) of the DPR:

Did Venturion flare gas for emergency purposes, drilling operations or maintenance purposes, or with permission included in the facility permit?

47. Pursuant to section 42(2) of the DPR, a permit holder must not flare gas unless required for emergency purposes or for drilling operations, subject to subsections (3) and (5) of section 42. Subsection (3) of section 42 applies to flaring gas at a well. Subsection (5) of section 42 states that a facility permit holder may flare gas at a facility if (a) flaring is required for maintenance purposes or (b) permission is included in the facility permit.
48. Venturion has indicated that gasses captured by the VRU had to be flared because they could not be sent through the Glenogle pipeline during the shut-out.
49. Based on the evidence before me, I find that the flaring in question was not required for emergency purposes, for drilling operations or for maintenance purposes. Further, permission to flare was not included in the facility permit. Therefore, I find Venturion flared gas other than for emergency purposes, drilling operations or maintenance purposes and without permission to flare under a facility permit.

Did Venturion exercise due diligence to prevent flaring not required for emergency purposes, drilling operations or maintenance purposes or without permission included in the facility permit?

50. Venturion has not presented me with any evidence to demonstrate that it exercised due diligence to prevent flaring for reasons other than emergency purposes, drilling operations or maintenance purposes and without permission to flare under a facility permit. For that reason, Venturion has failed to satisfy me that it took all reasonable steps to prevent the contravention.

Did Venturion contravene section 42(2) of the DPR?

51. I find that Venturion has failed to comply with section 42(2) of the DPR. I am not satisfied that Venturion exercised due diligence to prevent the contravention. As such, I find that Venturion contravened section 42(2) of the DPR.

Section 63(2) of the OGAA:

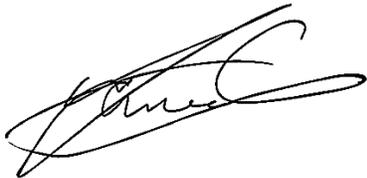
If Venturion is found to have contravened section 21(b) of the OGAA and/or sections 76(d), 42(1) and 42(2) of the DPR what if any, administrative penalty to impose?

52. Section 63(2) 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 these contraventions.
53. There have been no previous contraventions or administrative penalties and one previous order issued to Venturion.
54. The gravity and magnitude of the contraventions are low; however the flaring resulted in preventable emissions and odours entering the atmosphere. These emissions and odours were ongoing for a considerably extended period.
55. There was no harm to others resulting from the contraventions, other than the ongoing (76 days) of odours, which may be deemed to have affected quality of life.
56. The contraventions continued for an extended period of time; therefore they were continuous but not considered repeated. I find the duration of the contravention significant.

57. The contraventions were not deliberate but resulted from an assumption and mistaken belief that Venturion was operating in compliance with its permit and regulation.
58. Venturion did not derive any specific or significant economic benefit from these contraventions, although by continuing production in contravention of the shut-in requirements, it continued to generate revenue.
59. In response to the Order issued, Venturion submitted an application to amend the facility permit to remove conditions 2 and 3 which was approved by the Commission on June 5, 2017. Venturion has implemented several new processes and procedures to ensure it remains in compliance.

Conclusion

60. I have found that Venturion did not contravene section 76(d) of the DPR. I have found that Venturion contravened section 21(b) of the OGAA and sections 42(1) and 42(2) of the DPR. Based on the above discussion of the various factors set out in section 63(2) of the OGAA, I am imposing an administrative penalty of \$7,500.



Lance Ollenberger
Vice President, Operations
BC Oil and Gas Commission

Date: March 11, 2019