

Review Decision R-2022-01

In the matter of a request for review under section 70 of the *Oil and Gas Activities Act* of General Order 2022-0010-002 issued to Procyon Energy Corp.

Decision Date: April 14, 2022

Introduction

[1] This matter involves a request for review of General Order 2022-0010-02 (“**Section 49 Order**”) issued by the Oil and Gas Commission (“**Commission**”) to Procyon Energy Corp. (“**Procyon**”). The Section 49 Order was issued by an official (“**Commission official**”) on February 11, 2022 under section 49(1)(d) of the *Oil and Gas Activities Act* (“**OGAA**”) requiring Procyon to cease certain well production.

[2] I have authority to review the Section 49 Order under section 70 of OGAA through my designation as the review official for this review by the Commissioner of the Commission. I have confirmed that the Section 49 Order is subject to review as it is a “determination” and Procyon is an “eligible person” as both are defined in section 69 of OGAA, and the request for review was submitted within the 30 day time limit specified in section 70(3) of OGAA. Section 71 of OGAA gives me the power to confirm, vary or rescind the Section 49 Order.

[3] For the purposes of the review, Procyon and the Commission official submitted an Agreed Statement of Facts on February 28, 2022. The Commission official provided reply materials on March 7, 2022. Procyon provided a written response on April 7, 2022.

Background

[4] Procyon is the holder of permits issued by the Commission for 15 wells and 22 facilities (“**Permits**”). Of the 15 wells, only well 1942 – PROCYON-RIGEL 06-23-087-17 is an active well. Of the 22 facilities, six are considered active.

[5] The Commission holds a total of \$44,628 as security for abandonment liabilities in relation to the Permits. The total abandonment liability in relation to the Permits exceeds the security.

[6] On January 9, 2020, the Commission issued an order to Procyon under section 30 of OGAA (“**Section 30 Order**”) to provide security to the Commission in the amount of \$2,688,192 by February 8, 2020. The Section 30 Order is not subject to review or appeal under OGAA. Procyon did not comply with the Section 30 Order.

[7] On February 1, 2022, the Commission issued General Order 2022-0010-001 to Procyon under section 49(1)(d) of OGAA. On February 3, 2022, Procyon requested a review of General Order 2022-0010-001 under section 70 of OGAA. On February 11, 2022, the Commission terminated General Order 2022-0010-001 and issued the Section 49 Order.

[8] The Section 49 Order states that it was issued because the Commission official was of the opinion that Procyon was not in compliance with section 30 of OGAA. The Section 49 Order required Procyon to:

- 1) On or before 4:30 PM (PST) February 16, 2022, cease production at WA 1942 – PROCYON RIGEL 06-23-087-17 (the Subject Well) and Facility ID 76.
- 2) On or before February 17, 2022, provide notification of completion of Item 1 electronically to the Oil & Gas Commission at C&E@bcogc.ca.

[9] On February 14, 2022, Procyon confirmed that it wished to proceed with a review of the Section 49 Order and not General Order 2022-0010-001 which had been terminated.

[10] On February 14, 2022, I issued a temporary stay of the Section 49 Order under section 70(6)(b) of OGAA for 60 days or until such time as I notify Procyon of my decision in the request for review, whichever date is earlier.

[11] Procyon requests relief from the Section 49 Order on grounds that may be summarized as follows:

- 1) Procyon does not have funds to pay the security required by the Section 30 Order and must resolve its outstanding liability obligations by restarting the production base.
- 2) Procyon has provided a realistic plan to activate facilities and dormant wells, and to build on that existing production base.

[12] The Commission official submits that there were sufficient grounds for the Section 49 Order and that the Section 49 Order requirements are reasonable in the circumstances.

Issues

[13] The issues to be addressed in this review are:

- 1) Whether the Commission official had appropriate grounds to issue the Section 49 Order; and
- 2) Whether the requirements of the Section 49 Order to cease production are reasonable in the circumstances.

Discussion and Analysis

1. Whether the Commission official had appropriate grounds to issue the Section 49 Order

[14] Section 49(1) of OGAA states as follows:

(1) an official may issue an order to

...

(b) a permit holder, former permit holder, authorization holder or former authorization holder, with respect to any of the person's obligations under the Act or the regulations or the person's permit or authorization ...

...

if, in the opinion of the official,

(d) the person fails to comply with the Act, the regulations, a previous order made under the Act, or the person's permit or authorization ...

[15] Section 49(4) of OGAA enables the official to specify requirements of an order made under section 49. Although the requirements identified in section 49(4) are not exhaustive, section 49(4)(d) states:

(4) ... an order under subsection (1) may specify any of the following requirements:

...

(d) that a person suspend or resume an oil and gas activity or any aspect of an oil and gas activity;

[16] The Section 49 Order states that the Commission official is “of the opinion that Procyon is not in compliance with section 30 of the Act”.

[17] Section 30 of OGAA states as follows:

(1) The commission, by order or by imposition of a condition under section 25 (2) (b), may require a holder or applicant to provide security to the commission, in the amount the commission requires and in accordance with the regulations, to ensure the performance of an obligation under this Act, a permit or an authorization.

[18] Section 82 of OGAA states as follows:

A person to whom an order under this Act applies must comply with the order.

[19] Procyon has expressly acknowledged that it has not complied with the Section 30 Order. Accordingly, there is no question that Procyon failed to comply with an order issued under OGAA as required under section 82 of OGAA. Therefore, I conclude that the Commission official had appropriate grounds to issue the Section 49 Order.

2. Whether the requirements of the Section 49 Order to cease production are reasonable in the circumstances

[20] I note that the following facts are not in dispute:

- 1) on February 19, 2020, the Commission made a demand for payment in relation to the outstanding Section 30 Order;
- 2) in September 2021, the Commission issued and filed a certificate of debts due under section 93.1 of the OGAA against Procyon (the “Certificate”) for the outstanding amount under the Section 30 Order;
- 3) in October 2021, the Commission made a demand for payment of the outstanding amount under the Certificate; and
- 4) in November 2021, the Commission made a further demand for payment of the outstanding amount under the Certificate.

[21] Based on the above, I find that Procyon had ample notice and opportunity to comply with its obligation to provide security in accordance with the Section 30 Order.

[22] Permit holders are required to meet their regulatory and liability obligations, and to carry the financial risk of their operations. Given that Procyon had not complied with the requirement to provide security to ensure performance of its regulatory obligations, it was a reasonable exercise of discretion by the Commission official to order Procyon to cease the subject activity.

[23] I note Procyon’s central argument that it has provided a realistic plan to activate facilities and dormant wells to build on an existing production base, thus ultimately reducing its overall abandonment liability. I make no finding regarding whether such a proposal appears viable or

not. Regardless, I do not accept Procyon's argument that the Commission should allow the activity to continue despite the unsecured liability, in order to enable Procyon to resolve its outstanding liability obligations.

[24] Procyon's submissions raise a number of arguments relating to circumstances surrounding its financial status and projections. To the extent that these assertions address Procyon's ability to comply with the Section 30 Order, it would be improper to allow this review of the Section 49 Order as a way to challenge the Section 30 Order, which is not the subject of review.

Summary and Decision

[25] In summary, I have found that the Commission official had appropriate grounds to issue the Section 49 Order given the failure to provide security as required by the Section 30 Order. I have also found that the requirements of the Section 49 Order to cease production are reasonable in the circumstances.

[26] Therefore, I confirm the Section 49 Order in its entirety. On issuing this decision, the temporary stay of the Section 49 Order is lifted.



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