

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 2018-024FSJ

BETWEEN

The BC Oil and Gas Commission

AND

Yoho Resources Inc.

ADMINISTRATIVE FINDING

Before

Vice President, Operations, Andy
Johnson

Representing the Oil and Gas Commission

Compliance and Enforcement Officer,
Ken McLean

Representing Yoho Resources Inc.

VP Engineering and COO Yoho
Resources Inc., Barry Stobo, P. Eng.

Decision Date

December 15, 2020

Introduction:

1. On February 7, 2018, the BC Oil and Gas Commission (Commission) was notified by Yoho Resources Inc. (Yoho) that a neighboring landowner had observed vacuum trucks operating in their field. The landowner could smell invert (oil based drilling mud) and observed an oily substance with a strong odour on his field. A subsequent incident report concluded that the vacuum trucks spread 15m³ of water on the field which was contaminated with invert.
2. A Contravention Report (the Report) was prepared by a Compliance and Enforcement Officer and sent to me by the Director, Compliance and Enforcement on October 19, 2020, alleging that Yoho contravened section 37(1) of the *Oil and Gas Activities Act*.
3. On November 13, 2020, the Commission sent Yoho a letter and the Report informing Yoho that the Commission was considering making a finding that Yoho contravened section 37(1) of the OGAA. The letter informed Yoho of its opportunity to be heard in written form and advised that a finding of contravention might result in the Commission imposing an administrative penalty in accordance with section 63 of OGAA.
4. Yoho did not provide a response.
5. I have been delegated authority under sections 62 and 63 of OGAA. I will be making a determination regarding whether Yoho contravened section 37(1) of the OGAA; whether to impose an administrative penalty under section 63 of OGAA to Yoho; and the amount of the penalty, if any. I have reviewed the Report and will rely on it and the applicable legislation in making a determination.

Applicable Legislation

6. Section 37(1)(a) of the OGAA states that a permit holder, an authorization holder and a person carrying out an oil and gas activity must prevent spillage.
7. Section 1 of the OGAA states that “spillage” means petroleum, natural gas, oil, solids or other substances escaping, leaking or spilling from (a) a pipeline, well, shot hole, flow line, or facility, or (b) any source apparently associated with any of those substances.
8. 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.
9. Section 62(5) of OGAA states, in part, that the Commission may not find that a person has contravened a provision of OGAA or the regulations if the person demonstrates to the satisfaction of the Commission that they exercised due diligence to prevent the contravention.
10. Section 63(1) states that, if the Commission finds that a person contravened a provision of OGAA or its regulations, the Commission may impose an administrative penalty. Section 63(2) of 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

11. Yoho operates a well at B01-19-087-23 approximately 60 km north of Fort St. John. On February 3, 2018, during drilling operations, Yoho transported drilling fluid in a vacuum truck for disposal by landspraying on private land adjacent to the well.
12. On February 6, 2018, the owner of the private land noticed a strong odour and dark brown staining in the area where the vacuum truck was completing the landspraying operations, and contacted Yoho. On the afternoon of the same day Yoho completed a site visit and it was apparent that it was not water that had been spread but in fact an oily substance with a strong invert odour.
13. Yoho's subsequently hired a third party to conduct an investigation which determined that approximately 15m³ of drilling waste material (surface mud) was spread by the vacuum truck and that the surface mud was contaminated with invert.
14. Yoho and their contractors commenced sampling and clean-up efforts on February 8, 2018, and in total 448 m3 of melted snow and 142 m3 of solids were removed from site and sent to an industrial waste handling facility.

Issues

15. The issues which I will decide are:

Section 37(1)(a) of the OGAA:

- Did Yoho fail to prevent spillage?
- Did Yoho exercise due diligence to prevent spillage?
- Did Yoho contravene section 37(1)(a) of the OGAA

Section 63 of OGAA

- If Yoho is found to have contravened section 37(1)(a) of the OGAA what if any, administrative penalty to impose?

Section 37(1)(a) of the OGAA:

Did Yoho fail to prevent spillage?

16. The Report alleges that during drilling operations, a contractor hired by Yoho transported drilling waste by vacuum truck and allowed it to be disposed of by landspraying. The drilling waste for disposal was identified as drilling mud; however, approximately 15 m³ of material containing invert (oil based drilling mud) was also spread from the Yoho drilling site and onto private property. Yoho submitted a report from their site visit on February 6th, 2018, and a subsequent environmental consultant reports that were consistent with this assessment.
17. By allowing invert to be released from the vacuum truck, I am satisfied that this meets the definition of “spillage” for the purposes of the OGAA. Therefore, I find that Yoho failed to prevent spillage.

Did Yoho exercise due diligence to prevent spillage?

18. A reasonable step that Yoho could have taken prior to the incident would have been to have a comprehensive plan for ensuring that any material used as part of a landspray program met all the provincial requirements most of which are easily obtained in the Commission’s *Drilling Waste Management Handbook*. Yoho provided information relevant to Alberta Regulations and not British Columbia’s and on the day of the incident did not have the measures in place to test the material prior to using it in their landspray program.
19. Yoho has failed to satisfy me that it took all reasonable steps to prevent the contravention.

Did Yoho contravene section 37(1)(a) of the OGAA?

20. I find that Yoho has failed to prevent spillage. I am not satisfied that Yoho exercised due diligence to prevent the contravention. As such, I find that Yoho contravened section 37(1)(a) of the OGAA.

If Yoho is found to have contravened section 37(1)(a) what if any, administrative penalty to impose?

21. Section 63 of 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.
22. The contravention was of low gravity and magnitude. The amount of fluid contaminated with invert was only 15m³ and did not enter any watercourses. Because the ground was frozen at the time of the incident, the invert did not contaminate the soil and the invert was removed.
23. There contravention did not result in any harm to others.
24. The contravention was neither repeated nor continuous.
25. There is no evidence to show the contraventions were deliberate.

26. There is no evidence to indicate that Yoho derived any significant economic benefit.
27. Yoho acted quickly to contain and address the invert that was inadvertently sprayed on private land thereby reducing both the short and long term effects of the spillage.
28. There have been no previous contraventions or administrative penalties.
29. In consideration of the foregoing, I find that Yoho contravened sections 37(1)(a) of the OGAA. I am imposing an administrative penalty of \$15,000.



Andy Johnson
Vice President, Operations
BC Oil and Gas Commission

Date: December 15, 2020