

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

[SBC 2008] Chapter 36

before

The BRITISH COLUMBIA ENERGY REGULATOR

Case File 2022-0027

BETWEEN

The British Columbia Energy Regulator

AND

Amazing Oil & Gas Ltd.

ADMINISTRATIVE FINDING

Before

Dax Bourke, Executive Director, Compliance &
Enforcement

Representing the British Columbia Energy
Regulator

John Warner, Compliance & Enforcement
Officer

Representing Amazing Oil & Gas Ltd.

Kane Wang, Director

Decision Date

October 11, 2024

Introduction

1. Amazing Oil & Gas Ltd. (AOG) was required to decommission one type A site by December 31, 2021, under the Dormancy and Shutdown Regulation (DSR).
2. A Contravention Report (the Report) was sent to me on April 30, 2024, alleging that AOG contravened section 15(1)(a) of the DSR.
3. The British Columbia Energy Regulator (Regulator) sent AOG a letter and the Report on May 27, 2024, informing AOG that I was considering making a finding that it contravened section 15(1)(a) of the DSR. The letter informed AOG 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. AOG provided a response in multiple emails (the Response) dated May 27, 2024, May 28, 2024, and June 18, 2024.
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 AOG contravened section 15(1)(a) 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 AOG's Response. In making a determination, I rely on these documents, and the applicable legislation.

Applicable Legislation

6. Section 15(1)(a) of the DSR states that a permit holder for type A sites that were not decommissioned by December 31, 2018, must decommission by December 31, 2021, at least one or 30% of those sites, whichever is greater.
7. Maximum penalties for specific violations are set by regulation. Section 11(1) of the Administrative Penalties Regulation provides that a person who contravenes section 15(1)(a) of the DSR is liable to an administrative penalty not exceeding \$500,000.
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. On May 30, 2019, the Dormancy and Shutdown Regulation came into effect.
12. Section 15(1)(a) of the DSR requires permit holders for type A sites that were not decommissioned by December 31, 2018, to decommission those sites on a graduated schedule with the first deadline requiring one site or 30% of sites, whichever is greater, be decommissioned by December 31, 2021.
13. Under section 43.1 of the ERAA, "dormant site" means a site of an energy resource activity that is a dormant site in accordance with the regulations.
14. Under section 43.2 of the ERAA, a permit holder must comply with the prescribed requirements if the permit holder's portfolio (a) includes one or more dormant sites, and (b) meets the prescribed criteria, if any, unless the site is subject to an approved liability reduction plan pursuant to section 43.4.
15. Under the DSR, 'type A site' includes a dormant site classified as a type A site under section 4(1), which provides that a site is a type A site if:
 - (a) the site became a dormant site under section 3(1)(a) and the last of the 5 calendar years referred to in that section is 2018, or
 - (b) the site is the former site for well permit that was cancelled, declared spent or expired in 2018 or an earlier calendar year.
16. Under the DSR, "decommission" has the meaning given it in section 6, which provides that a site is decommissioned in the case of well permit, if the permit holder complies with the applicable requirements in section 26(1)(a) to (c) of the Drilling and Production Regulation, and removes from the site any facilities and other equipment that are associated with an energy resource activity and related activity that are permitted by the permit.
17. AOG, at the time the Regulation came into effect, was the permit holder for two dormant wells that are type A dormant sites under the DSR and thus was required to decommission one type A site by December 31, 2021.

Issues

18. The issues which I will decide are:
- Did AOG fail to decommission at least one type A site by December 31, 2021?
 - Did AOG exercise due diligence in its efforts to decommission at least one type A site by December 31, 2021?
 - Was any noncompliance due to an officially induced error?
 - Did AOG contravene section 15(1)(a) of the DSR?
 - If AOG is found to have contravened section 15(1)(a) of the DSR, what if any, administrative penalty to impose?

Did AOG fail to decommission at least one type A site by December 31, 2021?

19. Pursuant to section 11 of the DSR, AOG submitted Dormant Site Annual Work Plans to the Regulator in 2019, 2020, and 2021. In each of these plans well authority (WA) 26802 was identified as a type A site to be decommissioned by December 31, 2021.
20. On March 1, 2022, AOG submitted to the Regulator their Annual Report which identified that decommissioning work for WA 26802 was completed.
21. On March 4, 2022, a BCER Compliance & Enforcement Officer inspected the location of WA 26802 and found the wellhead was still in place and thus the site was not decommissioned.
22. The Response asserts that AOG is targeting November 15, 2024, for decommissioning and does not dispute that the work is outstanding.
23. Therefore, I find that AOG failed to decommission at least one type A site by December 31, 2021.

Did AOG exercise due diligence in its efforts to decommission at least one type A site by December 31, 2021?

24. Pursuant to section 62(5) of the ERAA, I may not find that AOG contravened section 15(1)(a) of the DSR if AOG demonstrates to my satisfaction that it exercised due diligence to prevent the contravention. The test to be applied is whether AOG has demonstrated that it took all reasonable steps to prevent the contravention. AOG 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.
25. AOG had been aware of decommissioning requirements under the DSR from 2019 as AOG had submitted an Annual Work Plan which identified WA 26802 as being required to be decommissioned.
26. As part of 2021 Annual Work Plan AOG identified that WA 26802 was nominated through the British Columbia Sites Reclamation Program (DRSP) to apply for funding under Increment 2 of the DRSP. The initial sites spreadsheet was emailed to EMPR on November 12, 2020. As of the date of submission, January 28, 2021, AOG had not received any updates to their nomination.

27. On January 30, 2022, AOG submitted its 2022 Annual Work Plan where WA 26802 was identified as requiring decommissioning work.
28. There is insufficient evidence as part of the Report or Response that shows any meaningful attempts, beyond applying for funding, to meet the decommissioning requirements by December 31, 2021.
29. AOG has failed to satisfy me that it took all reasonable steps to prevent the contravention.

Was any noncompliance due to an officially induced error?

30. I have no evidence before me of officially induced error.

Did AOG contravene section 15(1)(a) of the DSR?

31. I find that AOG has failed to comply with section 15(1)(a) of the DSR. I am not satisfied that AOG exercised due diligence to prevent the contravention or that its actions were the result of an officially induced error. As such, I find that AOG contravened section 15(1)(a) of the DSR.

If AOG is found to have contravened section 15(1)(a) of the DSR what if any, administrative penalty is to be imposed?

32. 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.
33. The evidence is that there was one previous order, General Order 2021-0135-01 (“Order”), issued to AOG and no prior contraventions by AOG, or administrative penalties imposed on AOG. I note that the Order was not similar in nature and did not involve a contravention similar in nature to this contravention. I find that it holds little weight in the circumstances.
34. The gravity of the contravention shows that AOG was aware that at least one type A dormant site was required to be decommissioned by December 31, 2021, given WA 26802 was identified as part of AOG 2019 Annual Work Plan with a work date of December 31, 2021. Outside of applying for funding through a government program, there was no evidence provided of any other plan by AOG to decommission the site.
35. The magnitude of the contravention was restricted to a single location on the land base. There was no evidence provided as part of the Report indicating any damage to the environment. However, the contravention does not support the regulatory requirement of reducing the cumulative impacts of energy activities on the land base once they are no longer productive.
36. The combination of these factors considers the gravity and magnitude of the contravention as being moderate.
37. There is no evidence of harm to others resulting from the contravention.

- 38. The contravention is continuous as WA 26802 has not been decommissioned to date.
- 39. There is no direct evidence demonstrating that the contravention was deliberate by AOG.
- 40. Cost estimates provided as part of the Response show that AOG derived economic benefit of approximately \$125,000 from this contravention by delaying the spending of necessary capital to decommission the required site to meet their regulatory obligations.
- 41. Once contacted regarding the contravention AOG, under the new directorship, has been in communication with the Regulator and is taking steps to address the contravention by scheduling WA 26802 to be decommissioned in November 2024.

Conclusion

- 42. I have found AOG contravened section 15(1)(a) 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 \$40,000.

Legislation	Penalty	Maximum Penalty	% of Maximum
DSR 15(1)(a)	\$40,000	\$500,000	8%



Dax Bourke
 Executive Director, Compliance & Enforcement
 BC Energy Regulator

Date: October 11, 2024