

BEFORE THE ENERGY AND CARBON MANAGEMENT  
COMMISSION OF THE STATE OF COLORADO

IN THE MATTER OF ALLEGED VIOLATIONS OF ) CAUSE NO. 1V  
THE RULES AND REGULATIONS OF THE )  
COLORADO ENERGY AND CARBON ) DOCKET NOS. 230800269 and  
MANAGEMENT COMMISSION BY PROSPECT ) 240100006  
ENERGY, LLC, LARIMER COUNTY, COLORADO )  
) TYPE: ENFORCEMENT  
ORDER NO. 1V-930

**HEARING OFFICER'S RECOMMENDED ORDER  
GRANTING THE PARTIES' JOINT MOTION TO APPROVE  
A STIPULATED ORDER FINDING VIOLATION**

The Staff of the Colorado Energy and Carbon Management Commission ("ECMC" or "Commission") and Prospect Energy, LLC (Operator No. 10312) ("Prospect") have jointly moved for approval of a Stipulated Order Finding Violation resolving allegations made in Notices of Alleged Violation ("NOAV") Nos. 403418205, 403258719, and 403635867, and stipulating to violations of Commission Rules 419.c., 420, and 903, as well as a well condition permit of approval, implicating the penalty provisions of § 34-60-121(1)(a), cited therein in Larimer County, Colorado.

**I. Findings**

**A. Procedural History**

NOAV No. 403418205

1. On May 11, 2023, Larimer County filed a written complaint on a Form 18, Complaint Report, alleging that Prospect was flaring natural gas at the Well. (Doc. No. 403401116).
2. On May 31, 2023, ECMC Staff issued Notice of Alleged Violation ("NOAV") No. 403418205 to Prospect for violating a well condition permit of approval, implicating the penalty provisions of § 34-60-121(1)(a), and Rule 903.
3. On June 28, 2023, Prospect submitted its answer to NOAV No. 403418205.
4. On August 17, 2023, Enforcement Staff filed an application for hearing.
5. On August 18, 2023, the Commission Secretary issued a Notice and Application for Hearing ("NOH") in Docket No. 230800269 to adjudicate the allegations in the NOAV before a Commission Hearing Officer.
6. On August 22, 2023, following Prospect's agreement to accept service via electronic mail, the NOH was served electronically upon Prospect.

7. On August 24, 2023, notice of Docket No. 230800269 was published in The Daily Journal, a newspaper of general circulation printed and published in Denver County, in satisfaction of § 34-60-108(4), C.R.S.

8. On August 25, 2023, notice of Docket No. 230800269 was published in The Loveland Reporter Herald, a newspaper of general circulation printed and published in Larimer County, in satisfaction of § 34-60-108(4), C.R.S.

9. On September 11, 2023, a copy of the NOH was sent via certified mail to Larimer County in accordance with Rules 504.b.(9). and 522.c. On December 13, 2022, ECMC Staff issued Notice of Alleged Violation (“NOAV”) No. 403258719 to Prospect for violations of Rule 419.c.

10. On January 4, 2024, ECMC Staff issued NOAV No. 403636214 to Prospect for violations of Rule 419.c.

11. On May 31, 2023, ECMC Staff issued NOAV No. 403418205 to Prospect for violating a well permit condition of approval, implicating the penalty provisions of § 34-60-121(1)(a), and Rule 903, for continuing to flare gas without an approved Gas Capture Plan or variance.

NOAV Nos. 403258719 and 403636214

12. On December 13, 2022, ECMC Staff issued NOAV No. 403258719 to Prospect for violations of Rule 419.c. The same day, Prospect agreed to waive service by certified mail and accepted electronic service via email.

13. On January 4, 2024, ECMC Staff issued NOAV No. 403636214 to Prospect for violations of Rule 419.c.

14. On January 5, 2024, Enforcement Staff filed an application for hearing. The same day, the Commission Secretary issued an NOH and assigned the matter Docket No. 240100006.

15. On January 12, 2024, Enforcement Staff requested Prospect waive service of both the NOAV and NOH by certified mail. The same day, Prospect replied and refused to waive service.

16. On January 17, 2024, Enforcement Staff mailed the NOH and a copy of both NOAVs to Prospect via certified mail to the address on file with ECMC.

17. On February 7, 2024, notice of Docket No. 240100006 was published in The Daily Journal, a newspaper of general circulation printed and published in Denver County, in satisfaction of § 34-60-108(4), C.R.S.

18. On February 9, 2024, notice of Docket No. 240100006 was published in The Loveland Reporter Herald, a newspaper of general circulation printed and published in Larimer County, in satisfaction of C.R.S. § 34-60-108(4).

19. On February 26, 2024, the NOH and NOAV were returned to ECMC as unclaimed mail and unable to forward.

### Consolidated Proceedings

20. On April 15, 2024, Enforcement Staff and Prospect jointly moved the Hearing Officers in Docket Nos. 230800269 and 240100006 to consolidate the dockets. The motion was granted on May 13, 2024, and the matters were consolidated into Docket No. 230800269.

21. On July 10, 2024, the Parties agreed to and executed a Stipulated Order Finding Violation resolving the allegations made in the NOAVs.

22. On August 7, 2024, the Hearing Officer held a Review Hearing at which the Parties moved for approval of the Stipulated Order Finding Violation. The Stipulated Order Finding Violation is attached to this order as Exhibit A and incorporated by reference herein.

### **B. Jurisdiction**

1. The Commission has jurisdiction over the Parties and the subject matter of this proceeding, pursuant to §§ 34-60-101 et seq., C.R.S. (the “Act”) and the Commission Rules, 2 C.C.R. 404-1 (the “Rules”).

2. Due notice of this proceeding has been given in all respects as required by the Act and the Rules.

### **C. Conclusion**

1. Having reviewed the Stipulated Order Finding Violation, and being fully advised on the premises, and pursuant to Rule 520.b., the Hearing Officer finds the Stipulated Order Finding Violation, attached hereto as Exhibit A, complies with the Act, the Rules, and Commission Policies and makes this written order recommending approval of the Settlement Agreement, incorporating and adopting all factual findings contained therein, based upon evidence in the record.

2. Pursuant to Rule 520.b. if no exceptions are filed within 20 days after service, or unless the order is stayed by the Commission upon its own motion, the Recommended Order will become the order of the Commission and be subject to § 34-60-111, C.R.S.

## **II. ORDER**

Having reviewed the Stipulated Order Finding Violation and record of this matter, the Hearing Officer ORDERS:

1. The Parties’ joint motion for approval of the Stipulated Order Finding



## CERTIFICATE OF SERVICE

On August 7, 2024, a true and correct copy of the foregoing Hearing Officer's Recommended Order Granting the Parties' Joint Motion to Approve a Stipulated Order Finding Violation, was transmitted to the Parties at the following addresses:

Prospect Energy, LLC  
Attn: Ward Giltner  
1036 Country Club Estates Drive  
Castle Rock, CO 80101  
[wgiltner@yahoo.com](mailto:wgiltner@yahoo.com)

Jack Luellen  
Counsel to Prospect Energy, LLC  
1624 Market Street, Suite 400  
Denver, CO 80202  
[juellen@buchalter.com](mailto:juellen@buchalter.com)


Jeremy Ferrin, Enforcement Manager  
Steven Kirschner, Enforcement Supervisor  
Energy and Carbon Management Commission Staff  
1120 Lincoln Street, Suite 801  
Denver, CO 80203  
[jeremy.ferrin@state.co.us](mailto:jeremy.ferrin@state.co.us)  
[steven.kirschner@state.co.us](mailto:steven.kirschner@state.co.us)

Caitlin Stafford  
Senior Assistant Attorney General  
Colorado Department of Law  
1300 Broadway, 7<sup>th</sup> Floor  
Denver, CO 80203  
[caitlin.stafford@coag.gov](mailto:caitlin.stafford@coag.gov)

A true and correct copy of the foregoing Hearing Officer's Recommended Order Granting the Parties' Joint Motion to Approve a Stipulated Order Finding Violation, was also transmitted to:

Matt Sura  
Counsel to Larimer County and the City of Fort Collins  
[mattsura.law@gmail.com](mailto:mattsura.law@gmail.com)

Also on this date, the record and exhibits of this proceeding were transmitted to the Commission and the parties by electronic mail:

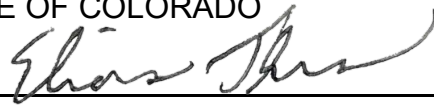
  
\_\_\_\_\_

Stephen Smeltz, Hearing Officer

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ENTERED this 28<sup>th</sup> day of August, 2024, as of the 14<sup>th</sup> Day of August, 2024.

ENERGY AND CARBON MANAGEMENT COMMISSION  
OF THE STATE OF COLORADO

By   
\_\_\_\_\_

Elias J. Thomas, Commission Secretary

## CERTIFICATE OF SERVICE

On the below date, a true and correct copy of the foregoing Hearing Officer's Recommended Order Granting the Parties' Joint Motion to Approve a Stipulated Order Finding Violation, was transmitted to the Parties at the following addresses:

Prospect Energy, LLC  
Attn: Ward Giltner  
1036 Country Club Estates Drive  
Castle Rock, CO 80101  
[wgiltner@yahoo.com](mailto:wgiltner@yahoo.com)

Jack Luellen  
Counsel to Prospect Energy, LLC  
1624 Market Street, Suite 400  
Denver, CO 80202  
[juellen@buchalter.com](mailto:juellen@buchalter.com)

Jeremy Ferrin, Enforcement Manager  
Steven Kirschner, Enforcement Supervisor  
Energy and Carbon Management Commission Staff  
1120 Lincoln Street, Suite 801  
Denver, CO 80203  
[jeremy.ferrin@state.co.us](mailto:jeremy.ferrin@state.co.us)  
[steven.kirschner@state.co.us](mailto:steven.kirschner@state.co.us)

Caitlin Stafford  
Senior Assistant Attorney General  
Colorado Department of Law  
1300 Broadway, 7<sup>th</sup> Floor  
Denver, CO 80203  
[caitlin.stafford@coag.gov](mailto:caitlin.stafford@coag.gov)

A true and correct copy of the foregoing Hearing Officer's Recommended Order Granting the Parties' Joint Motion to Approve a Stipulated Order Finding Violation, was also transmitted to:

Matt Sura  
Counsel to Larimer County and the City of Fort Collins  
[mattsura.law@gmail.com](mailto:mattsura.law@gmail.com)

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Margaret Humecki

## ATTACHMENT A

### BEFORE THE ENERGY AND CARBON MANAGEMENT COMMISSION OF THE STATE OF COLORADO

IN THE MATTER OF ALLEGED VIOLATIONS OF )	CAUSE NO. 1V
THE RULES AND REGULATIONS OF THE )	DOCKET NO. 230800269 et
ENERGY AND CARBON MANAGEMENT )	al.
COMMISSION BY <b>PROSPECT ENERGY, LLC,</b> )	TYPE: ENFORCEMENT
LARIMER COUNTY, COLORADO )	ORDER NO. 1V-930

### STIPULATED ORDER FINDING VIOLATION

The Colorado Energy and Carbon Management Commission (“ECMC” or “Commission”) has reviewed the administrative record and is advised on the issues. The Commission enters this Order Finding Violation (“OFV” or “Order” against **Prospect Energy, LLC** (Operator No. 10312) (“Prospect”), pursuant to the Rules and Regulations of the Colorado Energy and Carbon Management Commission, 2 C.C.R. § 404-1 (“Rule” or “Rules”), and finds and states as follows:

### FACTUAL AND LEGAL FINDINGS

1. The Commission holds the following financial assurance for Prospect:

<u>Surety ID</u>	<u>Amount</u>	<u>Instrument</u>	<u>Bond Type</u>	<u>Coverage</u>
20210099	\$20,000	Cash	Plugging	Excess Inactive
20170193	\$120,000	Cash	Plugging	Excess Inactive
20170192	\$25,000	Cash	Surface	Blanket
20170191	\$60,000	Cash	Plugging	Blanket

#### A. Notice of Alleged Violation No. 403418205

2. Prospect is the operator of record of the Hearthfire #1 well (API No. 069-06254), located in Larimer County (the “Well”). Prospect has operated the Well since 2009 and has been flaring gas from the Well since 2011.

3. According to the Commission’s 100-Series Rules, “flaring” means “the combustion of natural gas during upstream Oil and Gas Operations, excluding gas that is intentionally used for onsite processes.”



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4. Rule 903, Venting or Flaring Natural Gas, became effective on January 15, 2021. Pursuant to Rule 903, the venting and flaring of natural gas represent waste of an important energy resource, pose safety and environmental risks, and are therefore prohibited except as specifically provided for in the rule. Accordingly, all produced natural gas must be put to a beneficial use or the operator must obtain an approved variance from the Commission to vent or flare saleable production gas. Routing produced gas from a well without adequate separation to oil production tanks to vent or combust with flash gas is not allowed by Rule 903. Flaring after January 15, 2022 requires an approved Gas Capture Plan or an approved variance.

5. On March 31, 2021, Prospect submitted a Form 4, Sundry Notice to request to continue flaring at the Well because no gas sales line was in place. (Doc. No. 402143980). According to Prospect, gas production was too low for economic benefit. (*Id.*) In its Form 4, Prospect stated that the Well had been venting gas since December 2010, pursuant to a Form 4 approved January 6, 2011. (*Id.*; see also Doc. No. 179971). Prospect also indicated that the gas had been routed to a thermal oxidizer and flared since early 2011. (Doc. No. 402143980).

6. On September 28, 2022, Prospect submitted another Form 4 to request to continue flaring. (Doc. No. 403179304). As part of its Form 4 submission, Prospect did not include a Gas Capture Plan that met the requirements of Rule 903.e. (*Id.*) Under the "Gas Capture Plan" sub-heading, Prospect described its plan as follows: "Beneficial use of the gas to use for the generation of electricity is possible upon the recompletion of several wells. Production would be shifted from the Muddy to the Codell. The well permits are in process. Proposed timeline would be the end of 2024." (*Id.*) This description does not include the information specifically required by Rule 903.e.(1).B. to be considered a Gas Capture Plan.

7. On February 16, 2023, ECMC Staff processed the two Form 4s and applied conditions of approval ("COAs") requiring Prospect to obtain an approved Gas Capture Plan or an approved variance in order to continue flaring. (Doc. Nos. 402143980 and 403179304).

8. ECMC Staff conducted an audit of Prospect's records on May 22, 2023, and determined that Prospect reported on its Form 7s, Operator's Monthly Reports of Operations, that it was continuing to flare gas.

9. Prospect therefore violated a permit COA on the Well, implicating the penalty provisions of C.R.S. § 34-60-121(1)(a), and Rule 903.

10. On February 8, 2024, the Director issued a Rule 901.a. Order that required Prospect to shut in the Well and cease all production activities at the Well.

11. On February 15, 2024, Prospect shut in the Well. ECMC Staff conducted an inspection at the Well on February 16, 2024 and confirmed the Well had been shut in. (Doc. No. 697008936).

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### B. Notice of Alleged Violation Nos. 403258719 and 403636214

12. Commission Rule 419.c. requires an operator to perform annual Bradenhead tests on all wells and submit the data on a Form 17.

13. Rule 420 requires an operator to submit the results of any Bradenhead test on a Form 17 within 10 days of completing the test.

14. Although the Notices of Alleged Violation (“NOAVs”) issued to Prospect only cited Rule 419.c. violations, upon further review, the facts of the case for some Wells more closely support a Rule 420 violation because Prospect performed the tests but failed to timely file the results. Rather than issue new NOAVs for these violations, and in the interest of administrative efficiency, ECMC Staff and Prospect have agreed to resolve these violations in this Order.

15. The Rule 419.c. violations and the Rule 420 violations are broken out on a well-by-well and a per year basis in the tables below.

#### *Rule 419.c. Violations – Wells where no Bradenhead test was completed in 2021*

<u>API Number</u>	<u>Facility Name</u>
069-05129	COMMUNITY (MUDDY UNIT) #1
069-05124	K.W.B. (MUDDY UNIT) #1
069-05121	KRAUSE (MUDDY UNIT) #1
069-05113	MEYER #1
069-05115	WORTH (MUDDY UNIT) #1

#### *Rule 419.c. Violations – Wells where no Bradenhead test was completed in 2022*

<u>API Number</u>	<u>Facility Name</u>
069-05129	COMMUNITY (MUDDY UNIT) #1
069-05121	KRAUSE (MUDDY UNIT) #1

#### *Rule 420 Violations – Wells where a Bradenhead test was completed but the Form 17 was submitted late in 2022*

<u>API Number</u>	<u>Facility Name</u>	<u>Test Date</u>	<u>Form 17 Submitted</u>
069-06256	MSSU #30-11	7/11/2022	7/20/2023

### C. 2023 Bradenhead Violations

16. During the prosecution of the NOAVs, Enforcement Staff discovered that Prospect also violated Rule 420 for Bradenhead tests performed in 2023.

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17. For purposes of administrative efficiency, ECMC Staff have not issued an NOAV for these violations, however, Staff and Prospect have agreed to resolve these violations through the same agreement.

18. Prospect timely completed all of its annual Bradenhead tests for its Wells in 2023.

19. As such, Staff does not allege that Prospect violated Rule 419.c. at the Wells for the 2023 reporting period, and only pursued the Rule 420 violations listed in the table below.

*Rule 420 Violations – Wells where a Bradenhead test was completed but the Form 17 was submitted late in 2023*

<u>API Number</u>	<u>Facility Name</u>	<u>Test Date</u>	<u>Form 17 Submitted</u>
069-06137	COMMUNITY #6	4/22/2023	12/27/2023
069-06309	MSSU #20-1	5/2/2023	5/23/2023
069-06095	MSSU #30-7	2/22/2023	12/17/2023
069-06311	MSSU #30-18	3/28/2023	4/22/2023

### **D. Procedural History**

#### NOAV No. 403418205

20. On May 11, 2023, Larimer County filed a written complaint on a Form 18, Complaint Report, alleging that Prospect was flaring natural gas at the Well. (Doc. No. 403401116).

21. On May 31, 2023, ECMC Staff issued Notice of Alleged Violation (“NOAV”) No. 403418205 to Prospect for violating:

- a. C.R.S. § 34-60-121(1)(a), for failing to comply with permit COAs of the Form 4s to obtain approval of a revised Gas Capture Plan or variance prior to continuing to flare gas; and
- b. Rule 903, for continuing to flare gas without an approved Gas Capture Plan or variance.

22. On June 28, 2023, Prospect submitted its answer to NOAV No. 403418205.

23. On August 17, 2023, Enforcement Staff filed an application for hearing.

24. On August 18, 2023, the Commission Secretary issued a Notice and Application for Hearing (“NOH”) in Docket No. 230800269 to adjudicate the allegations in the NOAV before a Commission Hearing Officer.

## ATTACHMENT A

25. On August 22, 2023, following Prospect's agreement to accept service via electronic mail, the NOH was served electronically upon Prospect.

26. On August 24, 2023, notice of Docket No. 230800269 was published in The Daily Journal, a newspaper of general circulation printed and published in Denver County, in satisfaction of C.R.S. § 34-60-108(4).

27. On August 25, 2023, notice of Docket No. 230800269 was published in The Loveland Reporter Herald, a newspaper of general circulation printed and published in Larimer County, in satisfaction of C.R.S. § 34-60-108(4).

28. On September 11, 2023, a copy of the NOH was sent via certified mail to Larimer County in accordance with Rules 504.b.(9). and 522.c.

### NOAV Nos. 403258719 and 403636214

29. On December 13, 2022, ECMC Staff issued NOAV No. 403258719 to Prospect for violations of Rule 419.c.

30. The same day, Prospect agreed to waive service by certified mail and accepted electronic service via email.

31. On January 4, 2024, ECMC Staff issued NOAV No. 403636214 to Prospect for violations of Rule 419.c.

32. On January 5, 2024, Enforcement Staff filed an application for hearing. The same day, the Commission Secretary issued an NOH and assigned the matter Docket No. 240100006.

33. On January 12, 2024, Enforcement Staff requested Prospect waive service of both the NOAV and NOH by certified mail. The same day, Prospect replied and refused to waive service.

34. On January 17, 2024, Enforcement Staff mailed the NOH and a copy of both NOAVs to Prospect via certified mail to the address on file with ECMC.

35. On February 26, 2024, the NOH and NOAV were returned to ECMC as unclaimed mail and unable to forward.

### Consolidated Proceedings

36. On April 15, 2024, Enforcement Staff and Prospect jointly moved the Hearing Officers in Docket Nos. 230800269 and 240100006 to consolidate the dockets. The motion was granted on May 13, 2024, and the matters were consolidated into Docket No. 230800269.

## ATTACHMENT A

### E. Jurisdiction

37. The Commission has jurisdiction over the Parties and the subject matter of this proceeding, pursuant to C.R.S. §§ 34-60-101 *et seq.* and the Rules.

38. Due notice of this proceeding has been given in all respects as required by the Act and the Rules.

### F. Penalty Calculation

39. Following a factual investigation and legal review of the violations alleged in the NOAV reference above, Enforcement Staff now asserts Prospect is liable for the following violations and calculates the following penalties:

NOAV No.	Facility Name	Rule	Adverse Impact	Rule Class	Daily Base Penalty	Duration	Start Date	End Date	Total Penalty*
40341-8205	HEARTHFIRE #1	§ 34-60-121(1)(a)	Minor	2	\$2,500	270	5/22/23	2/15/24	\$56,000
	HEARTHFIRE #1	903	Major	3	\$15,000	270	5/22/23	2/15/24	\$615,000
403258719	COMMUNITY (MUDDY UNIT) #1	419.c.	Moderate	2	\$5,000	517	1/1/22	6/1/23	\$166,370
	K.W.B. (MUDDY UNIT) #1	419.c.	Moderate	2	\$5,000	265	1/1/22	9/22/22	\$142,250
	KRAUSE (MUDDY UNIT) #1	419.c.	Moderate	2	\$5,000	517	1/1/22	6/1/23	\$166,370
	MEYER #1	419.c.	Moderate	2	\$5,000	265	1/1/22	9/22/22	\$142,250
	WORTH (MUDDY UNIT) #1	419.c.	Moderate	2	\$5,000	363	1/1/22	12/29/22	\$156,950
403636214	COMMUNITY (MUDDY UNIT) #1	419.c.	Moderate	2	\$5,000	152	1/1/23	6/1/23	\$125,300
	KRAUSE (MUDDY UNIT) #1	419.c.	Moderate	2	\$5,000	152	1/1/23	6/1/23	\$155,450
	MSSU #30-11	420	Minor	1	\$200	364	7/22/22	7/20/23	\$4,142
2023 Violations	COMMUNITY #6	420	Minor	1	\$200	240	5/2/23	12/27/23	\$3,770
	MSSU #20-1	420	Minor	1	\$200	11	5/13/23	5/23/23	\$2,030
	MSSU #30-7	420	Minor	1	\$200	287	3/6/23	12/17/23	\$3,911
	MSSU #30-18	420	Minor	1	\$200	15	4/8/23	4/22/23	\$2,150
<b>Total Penalty</b>									<b>\$1,711,793</b>

\* This penalty amount was calculated using the Duration Matrix as described in the Commission's Enforcement Guidance and Penalty Policy, January 2024 (the "Enforcement Guidance and Penalty Policy").

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40. Pursuant to Rule 525 and the Commission's Enforcement Guidance and Penalty Policy, Enforcement Staff calculated a penalty of \$1,711,793 for these violations. The penalty calculation is based on the following:

- a. Application of the Duration Matrix from the ECMC Enforcement Guidance and Penalty Policy;
- b. NOAV No. 403418205
  - I. Well permit COA, implicating the penalty provisions of C.R.S. § 34-60-121(1)(a):
    - A. For the permit COA violation, a 270-day duration beginning on May 22, 2023, the date ECMC Staff performed an audit of Prospect's records and determined that Prospect had not complied with the Form 4 COAs and was continuing to report in its monthly production reports that it was flaring gas without an approved Gas Capture Plan or variance, and ending February 15, 2024, the date Prospect shut in the Well;
    - B. Class 2 violation, minor impact. Enforcement Staff determined that the failure to comply with the COA by having no approved Gas Capture Plan or variance had minor actual adverse impacts; and
    - C. A daily base penalty of \$2,500.
  - II. Rule 903:
    - A. For the Rule 903 violation, a 263-day duration beginning on May 22, 2023, the date ECMC Staff performed an audit of Prospect's records and determined that Prospect was continuing to report in its monthly production reports that it was flaring gas without an approved Gas Capture Plan or variance, and ending February 15, 2024, the date Prospect shut in the Well;
    - B. Class 3 violation, major impact. Enforcement Staff determined that flaring gas without an approved Gas Capture Plan or variance had major actual adverse impacts; and
    - C. A daily base penalty of \$15,000.
- c. NOAV No. 403258719 – Rule 419.c., Violations for 2021
  - I. Initial start dates of January 1, 2022 – the day after 2021 Bradenhead testing requirements should have been completed. For all counts, the

## ATTACHMENT A

end date is the date on which a Bradenhead test was actually conducted at that location;

- II. A class 2, moderate impact; and
  - III. Daily base penalty of \$5,000.
- d. NOAV No. 403636214
- I. Rule 419.c., Violations for 2022
    - A. Initial start dates of January 1, 2023 – the day after 2022 Bradenhead testing requirements should have been completed. For all counts, the end date is the date on which a Bradenhead test was actually conducted at that location;
    - B. A Class 2 violation, moderate impact; and
    - C. Daily base penalty of \$5,000.
  - II. Rule 420, Violations for 2022
    - A. For all counts the start date is the day after the Form 17 was due – 11 days after the Bradenhead test was completed. The end date is the date the Form 17 was submitted; and
    - B. A Class 1 violation, minor impact. Although the Enforcement Guidance and Penalty Policy classifies Rule 420 as a Class 2 Rule, Enforcement Staff exercised its discretion to reclassify the Rule as a Class 1 violation, in this instance. The potential impacts of a Class 2 violation are not present in this matter because Prospect's violation consisted of a failure to timely submit the Forms 17, which is a ministerial error. A Class 2 violation is characterized by its potential to cause distinct, identifiable, actual, or threatened adverse impacts to public health, safety, and welfare. In this instance, Prospect performed the required Bradenhead tests, but failed to submit the Forms 17 required to document those tests. Prospect's violations are more consistent with the paperwork or other ministerial violations contemplated by a Class 1 rule as they do not present a direct risk of threat of harm to public health, safety, and welfare; and
    - C. Daily base penalty of \$200.
- e. Rule 420 – Violations for 2023

## ATTACHMENT A

- I. For all counts the start date is the day after the Form 17 was due – 11 days after the Bradenhead test was completed. The end date is the date the Form 17 was submitted;
  - II. A Class 1 violation, minor impact. Although the Enforcement Guidance and Penalty Policy classifies Rule 420 as a Class 2 Rule, Enforcement Staff exercised its discretion to reclassify the Rule as a Class 1 violation, in this instance. The potential impacts of a Class 2 violation are not present in this matter because Prospect's violation consisted of a failure to timely submit the Forms 17, which is a ministerial error. A Class 2 violation is characterized by its potential to cause distinct, identifiable, actual, or threatened adverse impacts to public health, safety, and welfare. In this instance, Prospect performed the required Bradenhead tests, but failed to submit the Forms 17 required to document those tests. Prospect's violations are more consistent with the paperwork or other ministerial violations contemplated by a Class 1 rule as they do not present a direct risk of threat of harm to public health, safety, and welfare; and
  - III. Daily base penalty of \$200.
- f. No pattern of violations;
  - g. No gross negligence or knowing and willful misconduct; and
  - h. No aggravating or mitigating factors.




**ATTACHMENT A**

**STIPULATION**

Based on the Findings above, the Director and Prospect stipulate to this Order Finding Violation in its entirety and jointly request that the Commission enter this Order.

RECOMMENDED this 3rd day of July, 2024.

ENERGY AND CARBON MANAGEMENT  
COMMISSION OF THE STATE OF COLORADO

By   
Caitlin M. Stafford, Sr. Assistant Attorney General

By /s/ Siera J. Schroeder  
Siera J. Schroeder, ECMC Enforcement Advisor

AGREED TO AND ACCEPTED this 0<sup>TH</sup> day of JULY, 2024.

PROSPECT ENERGY LLC

By   
Signature of Authorized Company Representative

WARD GUYMER  
Print Signatory Name

OWNER  
Title

## ATTACHMENT A

### ORDER

HAVING CONSIDERED the Stipulated Order Finding Violation between the Director and Prospect to resolve the NOAVs, the COMMISSION ORDERS:

1. Prospect is liable for violating a Well permit condition of approval, implicating the penalty provisions of C.R.S. § 34-60-121(1)(a), and Rules 419.c., 420, and 903, as described above.

2. Prospect is assessed a total penalty of \$1,711,793 for these violations.

3. The \$1,711,793 penalty is suspended contingent upon Prospect's agreement to the terms of this Order.

4. The Director is hereby required to take the following actions as soon as practicable upon the emailing of this Order:

- a. Suspend Prospect's Form 10s, Certificates of Clearance, for its wells, and withhold the issuance of any new drilling or oil and gas location permits;
- b. Terminate Prospect's Operator Number (Operator No. 10312), rescind Prospect's Form 1 (Doc. No. 1993671), and revoke Prospect's right to conduct oil and gas operations in Colorado;
- c. Foreclose Prospect's existing financial assurance (Surety ID Nos. 20210099, 20170193, 20170192, and 20170191) and claim both the principal and any accrued, but undisbursed, interest that may exist and use those funds to remediate conditions that threaten to cause, or that actually cause, significant environmental impacts at non-federal and non-tribal wells and locations formerly operated by Prospect. To the extent Staff has already expended Energy and Carbon Management Cash Fund at non-federal and non-tribal wells and locations formerly operated by Prospect, foreclosed financial assurance can be used to repay those funds; and
- d. Require Prospect, and its successors or assigns, to comply with the Order and repay any funds expended by the Commission from the Energy and Carbon Management Cash Fund for any work undertaken by ECMC Staff.

5. Following the entry of this Order Finding Violation, Ward Giltner of Prospect Energy, LLC is required to notify the Commission if he or any entity of which he is a principal, majority owner, operational or general manager, or in any other way controls, applies for any permit or Form 1 or submits a Form 9 for the Commission's approval. Mr. Giltner is also required to notify the Commission if he joins an existing entity conducting oil and gas operations in the State of Colorado and becomes the principal, majority owner, operational or general manager, or otherwise controls that existing entity. If Mr. Giltner or any such entity should seek any permits or authorizations from the ECMC, the Director will not approve the request. Mr. Giltner must first pay the assessed and suspended

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\$1,711,793 penalty before the Director considers the request. The request must then come before the Commission at a hearing, at which it may determine whether to grant the application, require a higher amount of financial assurance, or deny the application.

6. The Commission authorizes, but does not require, the Director to take any or all of the following actions if Prospect fails to pay the penalty and/or return to compliance within 35 days of the mailing of the Order:

- a. Declare Prospect's Facilities, Locations, and Wells "Orphaned Sites" and "Orphaned Wells," as defined in the 100-Series Rules;
- b. Use funds from the Energy and Carbon Management Cash Fund to investigate, prevent, monitor, or mitigate conditions that threaten to cause, or that actually cause, significant adverse environmental impacts at nonfederal and non-tribal wells and locations formerly operated by Prospect;
- c. If Prospect's wells are determined to have been abandoned, claim all equipment, saleable product, and appurtenances related to Operator's oil and gas operations at its wells as property of the Commission, provided that any proceeds from the disposition of the assets will be credited to the cost of plugging and abandonment of the wells and/or the Energy and Carbon Management Cash Fund.

7. At the Director's request, Prospect will assign equipment, saleable product, and appurtenances related to Prospect's oil and gas operations to the Commission or a third party to be determined by the Director.

8. In the event the Director determines, in the Director's discretion and consistent with the Director's independent determination of operational priorities, that there is a need to use the Commission's Emergency Response appropriation (Long Bill), which is funded by the Energy and Carbon Management Cash Fund, to remediate conditions that threaten to cause, or that actually cause, significant environmental impacts at wells or locations formerly operated by Prospect, the Director will confer with the Commission regarding expenditure of these appropriation funds at the earliest practical opportunity.

9. The following will not affect Prospect's obligations under this Order Finding Violation: (1) a change in ownership, corporate status, or partnership status; or (2) a conveyance of title or other interest relating to Prospect's oil and gas operations. Prospect will give written notice of this Order to any purchaser, successor, or assignee prior to transferring ownership or title to its oil and gas operations. Prospect will give written notice to the Director prior to any change in title, ownership, or status. If there are outstanding corrective actions at the time of a change in title or ownership, Prospect's successors or assigns will be responsible for completing those corrective actions at Prospect's former oil and gas locations.

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10. Upon the Director's notice of a claim as described above, Prospect will not remove, transfer, or dispose of any equipment, saleable product, or appurtenances related to its oil and gas operations, unless the Director grants permission.

11. This Order is effective as of the date it is transmitted by the Commission. It constitutes final agency action for purposes of judicial review.

12. The Commission expressly reserves its right after notice and hearing, to alter, amend, or repeal any and/or all of the above Order.