

BEFORE THE OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

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| IN THE MATTER OF THE COUGAR NO. 1<br>WELL, TOWNSHIP 29 SOUTH, RANGE 69<br>WEST, 6TH P.M., SECTION 9: NW ¼,<br>HUERFANO COUNTY, COLORADO | CAUSE NO: 520<br><br>ORDER NO:<br><br>DOCKET NO: |
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VERIFIED REQUEST FOR DIRECTOR APPROVED VARIANCE,  
OR IN THE ALTERNATIVE,  
VERIFIED APPLICATION FOR WELL LOCATION EXCEPTION

COMES NOW the Applicant, Spoon Valley Energy, LLC, by its attorneys, Scott M. Campbell and Nick A. Swartzendruber, Poulson, Odell & Peterson, LLC, and files this request for a variance pursuant to Rule 502.b., in accordance with Rules 318.c. and/or 507.b.(5), requesting the Director to grant a variance to Oil and Gas Conservation Commission Order 520-1, authorizing the bottom hole location of the Cougar No. 1 Well to be within the designated 600 foot setbacks. Alternatively, and in the event the Director declines to grant the variance, Applicant files this Verified Application for Well Location Exception in accordance with Rules 318.c. and/or 507.b.(5), requesting the same relief. In support thereof, Spoon Valley Energy, LLC states as follows:

1. That Applicant is a corporation duly authorized to conduct business in the State of Colorado.
2. Applicant drilled the Cougar No. 1 Well directionally, with both the surface and bottom hole locations being within the boundaries of Section 9: NW¼, Township 29 South, Range 69 West, 6th P.M., Huerfano County, Colorado (the "Subject Lands").
3. By Order No. 520-1 dated December 2, 1999, the Oil and Gas Conservation Commission established 160-acre drilling and spacing units for the production of oil, gas (including CO<sub>2</sub>) and hydrocarbons from the Dakota and Entrada Formations underlying the Subject Lands, and the lands immediately North of the Subject Lands, *i.e.*, Section 4: SW¼ Township 29 South, Range 69 West, 6th P.M., Huerfano County, Colorado; and immediately East of the Subject Lands, *i.e.*, Section 9: NE¼, Township 29 South, Range 69 West, 6th P.M., Huerfano County, Colorado. Permitted wells were to be located no closer than 600 feet from the outer boundaries of the drilling unit, with exceptions due to topography allowed to be granted by the Director provided the bottom hole location was to be located no closer than 350 feet from the boundary of the unit.
4. The operator originally intended to drill a vertical well at a location of 600' FNL & 2033' FWL of Section 9 which is 600 feet from the north line of the 160 acre drilling and spacing unit and 600 feet west of the eastern boundary of the 160 acre drilling and spacing unit. The operator later elected to move the surface location south and west due to topographic and subsurface concerns associated with the abandoned Oakview Coal Mine, and in particular to avoid the area of the old mine shafts. The further west and/or south the well is located, however, results in encountering the Dakota formation at a lower structural position. The operator therefore permitted the well as a vertical test at a

location of 1218' FNL and 1472' FWL of Section 9, knowing that the depth of the well could be structurally lower than was optimum.

5. For reasons beyond its control, the bottom hole location of the Cougar No. 1 Well terminated thirty-five feet (35') inside the 600 foot setback from the northern (Section 4: SW¼) 160-acre drilling and spacing unit, and twenty-six feet (26') inside the 600 foot setback from the eastern (Section 9: NE¼) 160 acre drilling and spacing unit. The well is approximately 800 feet from the cornering drilling and spacing unit.

**waivers—92 mineral owners.**

**26 waivers have been obtained.**

**NE/9—one waiver—23.4375% of the minerals**

**s/2sw/4 50% of the minerals ==80 acres**

**n/2sw/4==south of highway 160 is one tract—39.84375% (5 waivers)**

**n/2sw/4 subdivision—40.820316% in (78)**

5. Applicant owns all of the working interest in the Subject Lands and the adjacent lands.

6. Prior to filing this variance request, Applicant, via its contract operator, Manzano, LLC, attempted to obtain waivers from the **[insert number of mineral owners]** affected parties via a letter mailed on April 9, 2009, and attached hereto as Exhibit “B”. Pursuant to discussion with Commission Staff, Applicant has not requested waivers from the cornering drilling and spacing unit because the well is located more than 600 feet from that drilling and spacing unit. As of April 20, 2009, \_\_\_\_\_ mineral owners executed waivers, and \_\_\_\_\_ mineral owners did not indicate a position. Applicant has therefore obtained waivers from \_\_\_\_% of the mineral owners so far.

7. Rule 318.a. of the Rules and Regulations of the Colorado Oil and Gas Conservation Commission provides that: “The Director may grant an . . . exception to the requirements of this rule or any order . . . for good cause shown . . .” if waivers are obtained from the relevant owners. Rule 318.b. “If waivers cannot be obtained from all parties and no party objects to the location, the operator may apply for a variance under Rule 502.b.”

8. Applicant reasonably anticipates that some of the mineral owners will decline to respond to the waiver request. The north No mineral owners have objected to date, however, to the down hole location of the subject well.

9. The minor setback infringement of thirty-five feet (35') and twenty-six (26') feet will have negligible impact on correlative rights, if any.

10. The well is currently shut-in because of the setback infringement. Applicant desires to resolve this issue as soon as possible in order to begin producing this well. The Cougar No. 1 Well will contribute to supplying feedstock to the Oakdale Gas Processing plant.

11. For the above reasons, Applicant respectfully submits that the granting of a Rule 502.b.(1) variance to Order 520-1 will not violate the basic intent of the Oil and Gas Conservation Act. Indeed, Order No. 520-1 permits setback infringements for mere topographic reasons of up to 250 feet. Applicant's infringement is at worst negligible, and arose from down hole conditions beyond its reasonable control.

12. Accordingly, and in acknowledgment of the fact that \_\_\_\_\_% of the mineral owners have executed waivers, coupled with the nominal setback infringement of thirty-five feet (35') and twenty-six (26') feet, Applicant respectfully submits that it has demonstrated good cause supporting the granting of a variance.

13. Applicant alleges and believes that the granting of this Request will prevent waste, protect correlative rights, and assure the greatest ultimate recovery of gas and associated hydrocarbons from the reservoir.

14. Pursuant to Rule 503(d) of this Commission, within seven (7) days of the filing of this Request, the Applicant shall submit a Certificate of Service to the Commission demonstrating that the Applicant served a copy of the Request on all persons entitled to Notice, as listed on Exhibit "A" by mailing a copy thereof, first-class postage prepaid, to the last known mailing address of the interested parties. Applicant shall simultaneously submit said list of interested parties to the Commission via electronic media.

15. Alternatively, and the event the Director declines to grant the variance, Applicant files this Verified Application for Well Location Exception in accordance with Rules 318.c. and/or 507.b.(5), requesting the same relief.

WHEREFORE, Applicant respectfully requests the Director to grant a variance to Order No. 520-1, applicable to the Cougar No. 1 Well alone, and such other and further relief which may be appropriate;

WHEREFORE, Alternatively, and the event the Director declines to grant the variance, Applicant respectfully requests that this matter be set for hearing in June, 2009, that notice be given as required by law, and that upon such hearing this Commission enter its order consistent with Applicant's proposals as set forth above.

DATED: April \_\_\_\_\_, 2009.

Spoon Valley Energy, LLC

By: \_\_\_\_\_  
Scott M. Campbell  
Nick A. Swartzendruber  
POULSON, ODELL & PETERSON, LLC

\_\_\_\_\_  
1775 Sherman Street, Suite 1400  
Denver, Colorado 80203  
Telephone: (303) 861-4400  
Facsimile: (303) 861-1225

VERIFICATION

STATE OF NEW MEXICO                    )  
  ) ss.  
COUNTY OF                                )

Blaine Hess, of lawful age, being first duly sworn upon oath, deposes and says that he is a Landman, for Spoon Valley Energy, LLC, and that he has read the foregoing Application and that the matters therein contained are true to the best of his knowledge, information and belief.

SPOON VALLEY ENERGY, LLC

By: \_\_\_\_\_  
Blaine Hess, Landman

Subscribed and sworn to before me this \_\_\_\_\_ day of April, 2009.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

EXHIBIT A

Attached to and made a part of the  
Verified Application of Spoon Valley Energy, LLC  
Cause No. 520, Docket No. \_\_\_\_\_

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## AFFIDAVIT OF MAILING

STATE OF COLORADO )  
 )  
 ) SS.  
COUNTY OF DENVER )

Scott M. Campbell, of lawful age, being first duly sworn upon oath, states and declares:

That he is the attorney for Spoon Valley Energy, LLC, Applicant herein; that on April \_\_\_\_\_, 2009, he caused a copy of the attached Request to be deposited in the United States Mail, postage prepaid, addressed to each of the parties listed on Exhibit "A" to the Application.

POULSON, ODELL &amp; PETERSON, LLC

By: \_\_\_\_\_  
 Scott M. Campbell  
 Nick A. Swartzendruber  
 1775 Sherman Street, Suite 1400  
 Denver, Colorado 80203-4319  
 Telephone: (303) 861-4400

Subscribed and sworn to before me this \_\_\_\_\_ day of April, 2009

Witness my hand and official seal.

My commission expires: July 22, 2011.

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Notary Public