

September 07, 2005

The Oil and Gas Conservation Commission met on September 7, 2005 at 9:10 a.m. in Suite 801, The Chancery Building, 1120 Lincoln Street, Denver, Colorado, for a hearing in Cause No. 1R.

Those present were:

Peter Mueller	Chair
Brian Cree	Vice Chair
John Ashby	Commissioner
Kimberlee Gerhardt	Commissioner
Mike Klish	Commissioner
Tom Reagan	Commissioner
Carol Harmon	Assistant Attorney General
Brian Macke	Director
David Dillon	Deputy Director of Operations
Debbie Baldwin	Environmental Supervisor
Patricia Beaver	Hearings Manager

Debbie Baldwin, Environmental Supervisor, provided an update on the Wellington Operating matter. She stated that the COGCC has received the permit but has not begun the review process. Ms Baldwin indicated that she hopes to start the review by the end of this week or the first of next week. She also provided an update on the activity at the Bondad explosion site where an old well drilled in May 1937 was uncovered. Ms. Baldwin described the remedial work being performed at the site.

Director Macke introduced Marc Fine as the COGCC’s new Information Technology Manager. A hearing in Cause No. 1R, Docket No. 0508-RM-02, amendments to Rules 100, 215, 303, 308A., 333, and 802. was held. Thom Kerr used a PowerPoint presentation to describe the proposed changes to the survey rules and the reasons these changes are needed.

A discussion occurred as to whether existing wells should be resurveyed prior to reentry, or whether operators should instead be required to attest to as-built well locations. Chair Mueller stated his belief that surveys should be done on an exception basis. He believes that the deepening, sidetracking or reentry of plugged well should require a new survey.

Commissioner Ashby stated that any reentry of an old well not surveyed under these new rules would require a new DGPS survey prior to APD issuance.

Mike Matheson, La Plata County Oil and Gas Technical Advisor, stated his belief that to ensure safety, the Commission should consider requiring surveys on all as-built wells including plugged and abandoned wells.

The Commission agreed that Rule 311. will need to be amended, and asked Mr. Kerr and Mr. Milne to amend the proposed survey rules to reflect the Commissioners’ comments made during the morning session so that the Commission can review the changes in the afternoon after the noise rule presentation.

David Dillon, used a PowerPoint presentation to describe the COGCC staff recommendation, which is agreed to in most part by the stakeholder members, for changes to Rule 802. He stated that the proposed rules recommend that noise measurements be taken depending on location: property line vs. receptor vs. certain distance from source. Mr. Dillon reminded the Commission that currently under Rule 802. the noise levels are same as the state nuisance statute levels. He further stated that under the proposed changes, COGCC staff would use the classifications for noise set by local governments through zoning. Mr. Dillon confirmed that there are no rules currently to address low frequency noise. He indicated that the 350 foot distance proposed is same as the high density area distance.

Sheryl Ayers, La Plata County Commission Chair, stated that noise is the number one complaint in La Plata County. She participated in all of the noise stakeholder meetings.

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Tresi Haupt, Garfield County Commissioner, also participated in all of the stakeholder meetings and she supports including the rural/residential classification with the agriculture classification.

The Colorado Oil and Gas Association made a presentation. Ken Wonstolen stated that COGA has no problem with Ms. Ayers' request to add "type of land use" and he believes that if low frequency noise is addressed by this Commission it would be the first time any agency has addressed the issue. Jerry Jacob provided written testimony and discussed why Canadian regulations are different from what Colorado has proposed. He described the three recommended changes to the COGCC proposal to the Commission as follows:

1. Add a proviso to the noise level table indicating that: *In remote locations, where there is no reasonably proximate occupied structure or designated outside activity area, the light industrial standard is applicable.*
2. Rewrite the third sentence of 802.c(1): *If an oil and gas well site, production facility or gas facility is installed close than 350' from an existing occupied structure, sound levels shall be measured at a point of 25' from the structure towards the noise source.*
3. Rewrite the next-to-last sentence of 802.d: If this reading exceeds 65 DB(C), the commission will require the operator to obtain a low frequency noise impact analysis by a qualified sound expert, including identification of any reasonable control measures ~~that should be employed available~~ to mitigate such low frequency noise impact.

He stated that existing facilities would have to be grandfathered in if the proposed noise regulations are adopted. Howard McGregor provided a handout and discussed the cost of reducing noise levels to 45 decibels (A) at 350 feet. Jerry Jacob and David Brown described the engines and compressors at their companies' sites in the Raton and San Juan Basins.

Sara Ferguson, Do It Right in Las Animas County, made comments on behalf of citizens in Las Animas County:

Steve Gosse-concered about low ambient noise levels.

Michael Weissman-Ranch Escondido resident, concerned about Petrogulf's wells.

Larry Faeh, believes Petrogulf's wells are a noise nightmare.

Teresa Coombs, owns 38 acres and is unhappy about gas activity and noise.

Mary Derimmer, her property value was \$110,000 but she could only sell it for approximately \$60,000 due to gas operations.

Craig Burson, Rancho Escondido, has problems with Petrogulf.

Michael Weissman, owns a cabin in Weston, and is bombarded by noise from gas wells.

Ms. Ferguson would like to see sound mitigation become an industry standard. XTO is doing it right in Las Animas County. She referred to a report with surveys from landowners in various areas of Las Animas County.

Rebecca Doyle, has a place in Rancho Escondido and is concerned about noise from compressor sites which are long-term facilities rather than the shorter term events such as fracing. Petrogulf refused to sound proof wells near her house. She believes that noise must be addressed since surface disturbance cannot be addressed. There is annoying noise from electric motors near her house.

Kathleen Dellzell, Archuleta County, 29450 West Highway 160, was here in September 2004 when stakeholder group for noise was put together. She believes those living in rural residential agricultural areas have less tolerance to noise due to being used to low noise in the past in the area.

Carolyn Lamb, staff attorney for Oil and Gas Accountability Project ("OGAP") stated that OGAP and the San Juan Citizens Alliance have created a joint presentation for today. Lisa Sumi, Research Director for OGAP was not on the stakeholder team but has worked with those who were on the team and she presented a PowerPoint slide show. Ms. Lamb stated that OGAP and San Juan Citizen Alliance are proposing 45 decibels for rural residential agricultural areas. She stated the need to have "remote" defined in COGA'S proposed rule changes.

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Dan Randolph, a member of the stakeholder group believes the process was beneficial but would have appreciated some technical expertise for the group. He was concerned when and where the noise regulations were posted on the COGCC website. Mr. Randolph believes the proposed rule is an improvement over the current rule but that the OGAP and San Juan Citizens Alliance proposal to change the decibel level is a better proposal. He is also concerned about the definition of “remote” in COGA’s proposal. Mr. Randolph pointed out the letter from the Division of Wildlife suggesting that a lowering of the decibel level would be good. Chair Mueller questioned Ms. Sumi about the noise measurements she took at the Van Stavern’s residence.

Ms. Lamb read a letter from Sid Lindauer who could not attend today due to recent surgery.

Sheryl Ayers stated that she still agrees with the COGCC proposal but also believes COGA’s number two and three language proposals are good. She does not like COGA’s #1 language as proposed but if “is applicable” is changed to “may be applicable” she would agree so that Local Government Designees could have some input into the decision.

Tresi Haupt responded to Commissioner Gerhardt’s question to Commissioner Ayers regarding the 350 foot distance from an existing occupied structure. She agrees with #1 and #3 of COGA’s proposed language and really would not agree with #2 unless the property boundary issue is also addressed.

Chair Mueller stated that he is not ready to vote on the noise rules today and would like to continue the matter.

Commissioner Reagan agreed and mentioned that a committee of 12 worked for 9 months on the proposal.

Commissioner Klish would be comfortable going ahead with the COGCC recommendation.

Commissioner Ashby agrees with Commissioner Klish.

A motion was made by Chair Mueller to continue the matter, seconded by Commissioner Reagan and approved by Commissioners Mueller, Reagan, Klish and Gerhardt but opposed by Commissioner Ashby. The matter was continued to a date to be determined.

Vice Chair Cree had to leave at 4:35p.m., and the Commission resumed the hearing on the survey rules with Thom Kerr describing the changes COGCC staff made from this morning’s discussion.

After discussion, Chair Mueller stated that by the time a well is plugged and abandoned, the COGCC needs an NAD 83 Global Positioning Satellite survey. He made a motion that the COGCC adopt a policy for wells drilled prior to a NAD 83 survey being performed that will require all operators to submit a NAD 83 survey prior to plugging and abandonment, seconded by Commissioner Ashby and approved by Commissioners Reagan, Ashby, Klish Gerhardt and Chair Mueller.

Commissioner Gerhardt made a motion to adopt Rule 333., seconded by Commissioner Ashby and approved unanimously.

Chair Mueller made a motion to adopt the definition of “Drilling Window”, seconded by Commissioner Ashby and approved unanimously.

Chair Mueller made a motion to adopt Rule 215., seconded by Commissioner Ashby and approved unanimously.

Chair Mueller made a motion to adopt Rule 308A., seconded by Commissioner Klish and approved unanimously.

Commissioner Reagan made a motion to amend Rule 303.c., seconded by Commissioner Ashby and approved unanimously.

Commissioner Klish made a motion, seconded by Commissioner Reagan to keep the deletions in 303.c. (1) and to keep the deletion in 303.c. (17). The motion was approved unanimously.

Commissioner Ashby made a motion to delete the definition of “Drilling Window”, seconded by Commissioner Reagan and approved unanimously.

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The meeting adjourned at 7:05 p.m. and the Secretary was therefore authorized to issue the following order:

Order No. 1R-97, Statewide: Approves amendments to Rules 215., 303.c. (1) and (17), 308A., and 333., and adopts the statement of basis and purpose.

Approved:

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Patricia C. Beaver, Secretary

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Peter M. Mueller, Chair