

September 26, 2005

The Oil and Gas Conservation Commission met on September 26 and 27 at 11:00 a.m. in the Sky Ute Casino, Rolling Thunder Hall, 14826 Highway 172 North, Ignacio Colorado, for a hearing in Cause Nos. 112, 139, and 376.

Those present were:

Peter Mueller	Chair
Brian Cree	Vice Chair
John Ashby	Commissioner
Kimberlee Gerhardt	Commissioner
Mike Klish	Commissioner
Samuel Potter	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

Executive Director’s Report: The Department of Natural Resources recently submitted comments to the Bureau of Land Management on its position regarding drilling on the Roan Plateau. The Grand Junction Daily Sentinel has endorsed the Roan Plateau project. Shane Henry and Debbie Baldwin will be making a presentation on Wednesday, September 28<sup>th</sup> to the Interim Legislative Committee. The report on water depletion will be finalized by December 31, 2005.

Director’s Report: A written report was provided. The statistics show that the Colorado Oil and Gas Conservation Commission (“COGCC”) has exceeded last year’s record total of 2917 for all of 2004 on September 23, 2005. Garfield County has had the most Applications for Permits-to-Drill (“APDs”) issued this year and also is in second place for the largest number of active wells in the state, exceeding La Plata County. Yuma County has doubled the number of APDs issued this year. The backlog of paperwork at COGCC was discussed, including the request of the permitting staff to spend approximately 20% of its time on follow-up paperwork. The intent is to keep APD issuance at about 30 days. A request has been made for another full time employee for permitting but if granted this position would not be available until July 1, 2006.

Northwest Colorado: The Northwest Oil and Gas Forum was held on September 8, 2005 which included a presentation by Antero on Italian built drilling rigs. A presentation by Larry Kent on hydraulic fracturing will be presented at the next meeting which will be held December 7, 2005. The water quality and the aerial extent near the Mamm Creek West Divide gas seep have improved. COGCC Environmental Protection Specialist Steve Lindbloom met with Presco employees and contractors at drilling locations near the Rulison test site to discuss proposed operations. Work has begun on the Hydrogeological Study in Garfield County.

Southwest Colorado: The Gas and Oil Regulatory Team (“GORT”) met on September 16, 2005 with 20 people in attendance, where various reports were given. The next GORT meeting is scheduled for March 9, 2006. The Bryce IX Well, drilled in the 1930’s, seems to be the cause of the Bondad explosion.

Southeast Colorado: COGCC staff has met with Las Animas County officials regarding dust control on roads.

Staff Organization: Dave Shelton has been promoted to Supervising Engineer and southwest Colorado is part of the area he oversees. The hiring process is underway for two field inspectors in Garfield and Weld Counties.

Public Outreach: Tricia Beaver provided a presentation on oil and gas issues in Colorado to the Northern Colorado Energy Summit held in Greeley on September 22, 2005.

Brian Macke and Debbie Baldwin will join staff from the Division of Water Resources and the Water Quality Control Division to provide a presentation on produced water associated with oil and gas operations to the Legislative Interim Water Committee on September 28, 2005.

Brian Macke will provide a presentation on oil and gas development in Colorado and COGCC regulation to the Rocky Mountain Energy Alliance in Fort Lupton on September 28, 2005.

Thanks go to the numerous COGCC staff who set up, tore down and gave up part of their weekends to staff the exhibit at the state fair.

Next year will be the 10<sup>th</sup> year of the Outstanding Operators Awards and we hope to get many submittals for this anniversary.

COGCC met with WQCD staff to discuss possible rules and regulations to address storm water construction activities.

The Onsite Inspection Policy that went into effect February 15, 2005 was modeled after the 2000 La Plata County increased density order. Twenty-two requests for onsite inspections have been received to date with 3 inspections conducted.

One variance was granted to Antero Resources to modify the surface use provisions originally adopted in Order No. 523-1 to allow the new surface use and development agreement to replace the previous provisions.

A letter responding to noise complaints was submitted to the Commission from Petrogulf who may be present at October's hearing to provide additional information.

Report from Assistant Attorney General: An amended written report was provided which primarily described the issues addressed at the recent IOGCC state oil and gas attorneys' meeting in Jackson, Wyoming.

Commissioner Comments: Commissioner Gerhardt thanked the Commissioners for coming to La Plata County for the hearing. Commissioner Potter apologized for not being able to attend the special September 7, 2005, hearing. On September 9, 2005 he toured the Antero Italian rig which is a very impressive operation. He stated that the Grand Junction Daily Sentinel article regarding severance tax distribution shows that the number of employees in Garfield County is less than last year which is incorrect. Chair Mueller thanked the Southern Ute Indian Tribe ("SUIT") for hosting the meeting today and also thanked Commissioner Gerhardt for making the trip to Denver so many times each year. He also thanked the COGCC staff for their outreach efforts. Commissioner Klish agrees with Commissioner Potter's concern on severance tax distribution. He stated his interest in having five of the annual ten hearings out of Denver each year.

Audience Comments: Sage Remington, a Southern Ute Tribal member is concerned about accountability regarding increased drilling on the SUIT Reservation, and the associated air, dust and noise pollution. He thinks that money from production should come back into the community to repair roads.

Susan Franzheim stated that in 2000 she created COGS to help disperse information on oil and gas activities. She would like to see filings of emergency plans by operators. Ms. Franzheim would like the Commission to change the rule violation penalties, to identify old plugged and abandoned wells and require an increase in bonding funding, to ensure interim reclamation, and to provide a flow chart on all aspects of well drilling from start to finish. In addition, she supports a second field inspector and a communication ombudsman, the creation of a communication handout to explain conservation, and a handout to show Commissioners' background, education and residence.

Bob Miller, oil and gas attorney, provided a handout on Rule 1003.(b) and his concern about enforcement of the rule. His handout showed various well sites and the reclamation or lack thereof at these sites. He stated his beliefs that the rule is rarely enforced.

Carolyn Lamb asked if the noise rulemaking record has been closed as she would like to have stakeholders or those who made comments on Rule 802. notified after polling Commissioners. Director Macke noted that the Noise Rulemaking hearing will be December 5 and 6 with the possibility of a third day.

Consent Agenda: Commissioner Klish stated that his company has contracts with EnCana but he does not believe he has a conflict. The consent agenda was unanimously approved as follows:

Cause No. 139, Docket No. 0509-AW-15, Rulison Field, Garfield County, request for an order to allow additional wells, the equivalent of one well per 20 acres, in certain lands in Township 7 South, Range 94 West, 6th P.M., with setback requirements 200 feet from the boundaries of the drilling and spacing unit and 400 feet from any existing well in the same formations, for the production of gas and associated hydrocarbons from the Williams Fork/Iles Formations.

A hearing was held on the application from BP America Production Company in Cause No. 112, Docket No. 0509-AW-16 to allow the option of a total of four (4) wells in each 320-acre drilling and spacing unit for certain lands, with the permitted well to be located no closer than 660 feet to any outer boundary of the unit with no interior section line setback, utilizing a common or expanded pad with an existing well, for production of gas from the Fruitland coal seams.

The Commission heard testimony from Scott Thompson, Director Infill Land Operations for BP who summarized the testimony using the exhibits presented at the administrative hearing regarding ownership of the land in the application area and the proposed drilling window and setback changes.

The Commission heard testimony from J.W. "Bill" Hawkins, San Juan Regulatory Consultant for BP who summarized the testimony using exhibits presented at the administrative hearing regarding geologic development and reservoir engineering. He opined that the Fruitland coal seams are discontinuous across the application area, that granting the application would minimize waste and maximize production from the Fruitland coal seams, that additional wells would recover additional reserves, protect correlative rights and prevent waste, and that the drilling of additional wells would be economic for the Applicant.

The Commission heard testimony from Chad Tidwell, Operations Manager for BP regarding the provisions contained in the MOU executed between BP and La Plata County, how the MOU will adequately protect public health, safety, welfare and the environment with the increased well density, and how BP will continue to be subject to the La Plata County Land Code.

The Commission heard testimony from David Brown, Manager of Regulatory Affairs, HSSE for BP who used a well development flowchart to describe how the Commission's existing rules, the provisions in Order No. 112-157, and the MOU will ensure protection of the environment, public health, safety and welfare from increased density wells. Mr. Brown testified that BP will use Best Management Practices for expanding well pads, has ceased using diesel fluids, and that hydraulic fracturing service companies will have available onsite Material Safety Data Sheets for all fracturing fluids used. He described the proposed process for conducting water well testing under the MOU and requested for inclusion in any order the Commission may enter.

The Commission heard expert testimony from Dr. Anthony Gorody, consultant for BP regarding dissolved methane studies who opined that groundwater has not shown any discernable increase in methane concentrations as a result of the drilling of additional Fruitland coal seam wells.

The Commission heard fact testimony from Sheryl Ayers, Board of County Commissioners of La Plata County Chair who thanked the Commission for coming to La Plata County to conduct the hearing and thanked BP for working with the County to address public health, safety, welfare and environmental concerns resulting in the executed MOU. She opined that the provisions of the MOU in addition to conditions previously approved in Order No. 112-157 would adequately address the environment, public health, safety and welfare issues.

The Commission heard fact testimony from Nancy Lauro, Community Development Director for La Plata County regarding how the fees assessed in the MOU would be used to address road repairs in the application lands.

The Commission heard testimony from Michael Matheson, Oil and Gas Technical Advisor for La Plata County regarding how the water well monitoring provisions in the MOU will ensure that public health, safety, welfare and the environment will be protected.

The Commission heard testimony from Dan Randolph, SJCA staff regarding how the Alliance has worked on oil and gas issues since the early 1990s and the three (3) conditions it proposed for inclusion in any order the Commission may enter as follows: (1) All water wells within a one-quarter ( $\frac{1}{4}$ ) mile radius of both the surface location and the expected bottom hole location of a proposed additional well shall be sampled. If no water well is located within the one-quarter ( $\frac{1}{4}$ ) mile radius area of either the surface location or the bottom hole location, or if access is denied, then sampling shall not be required. Initial baseline water quality testing shall include all items listed in Order No. 112-157, (2) All water wells within a one-quarter ( $\frac{1}{4}$ ) mile radius of both the surface location and the expected bottom hole location of a proposed additional well shall be tested for quantity. If no water well is located within the one-quarter ( $\frac{1}{4}$ ) mile radius area of either the surface location or the bottom hole location, or if access is denied, then testing shall not be required. Such testing shall be repeated on a quarterly basis every third year after the additional well has been drilled, and (3) All drilling and completion fluids used in any additional well shall be disclosed and the use of diesel in such fluids shall be prohibited.

The Commission heard testimony from Rebecca Koeppen, SJCA board member regarding the need to test water wells in conjunction with allowing additional wells as proposed by BP.

The Commission heard testimony from Lisa Sumi, Research Director for the Oil and Gas Accountability Project regarding chemicals used in the drilling and completion of wells, hydraulic fracturing techniques and the use of diesel fluids. She requested that chemical names and quantities used during drilling and completion operations be disclosed to the general public.

Pursuant to Rule 510., Susan Franzheim provided a handout and made a statement regarding the need to do more to protect public health, safety and welfare, including zero tolerance for non-compliance by contractors.

Pursuant to Rule 510., Heather Snow, who lives on Florida Mesa, made a statement regarding safety concerns near gas operations, the condition of her water well, the lack of vegetation on well pads, and diminished land values. She stated that she does not believe there is sound science to support increased well density.

Pursuant to Rule 510., Carl Weston, who lives near and west of the Nick Spatter #1 and Bryce 1-X Wells, made a statement regarding concerns about cathodic protection wells and hydraulic fracturing and the associated fluids that may be buried with the pit liner.

Pursuant to Rule 510., Bob Miller, an oil and gas attorney speaking on his own behalf, made a statement in support of the application, stating his belief that using best practices for increased well density is important, that the application will adequately address surface impacts, and that the application should be used as a model for future applications.

Pursuant to Rule 510., Matthew Whalawitsa, a Fort Lewis College student and summer intern with the SJCA made a statement regarding his concern about gas well activity in La Plata County. He asked various questions of the Commission on matters he did not believe were adequately addressed by the previous day's presentations.

Brian Macke, Commission Director ("Director") commended the parties for the high quality of the presentations, the extraordinary undertaking that resulted in the executed MOU which addressed a comprehensive list of environmental and public health, safety and welfare issues that he would like to

see included in any order the Commission enters. He stated that the Commission staff believes that these provisions, along with the provisions in Order No. 112-157 and the Commission’s Rules and Regulations will adequately protect public health, safety, welfare and the environment. Mr. Macke expressed concern that the SJCA proposal to test for water quantity would be difficult to implement. He indicated his intent to review the need and funding mechanisms for additional modeling to supplement the 3M work previously accomplished. Mr. Macke recommended that the application be approved including the proposed conditions from the MOU.

Based on the technical testimony presented by the Applicant and the recommendation by the Hearing Officers, the Commission finds that the current well density will not efficiently and economically drain the drilling and spacing units previously designated by the Commission, and that based on geological and engineering data presented at the hearing, additional wells are necessary to allow the gas to be produced at its maximum efficient rate, to prevent waste and protect correlative rights, and to efficiently and economically recover gas from the Fruitland coal seams within the application area.

Based on the facts stated in the application and the testimony and exhibits presented, the Commission finds that the request to allow a total of four (4) wells to be optionally drilled in each 320-acre drilling and spacing unit for production of gas from the Fruitland coal seams should be approved. The permitted well shall be located no closer than 660 feet to any outer boundary of the unit with no interior section line setback, utilizing a common or expanded pad with an existing well.

Based on the testimony and exhibits presented at the hearing, and the request by BP and La Plata County to include conditions agreed upon in the MOU executed by the parties, the Commission should apply conditions to the order to protect the environment from significant adverse impacts and to protect the public health, safety, and welfare.

After deliberation, the Commission unanimously approved the matter.  
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The Secretary was therefore authorized to issue the following orders:

Order No. 139-50, Rulison Field, Garfield County: Approved the request for an order to allow additional wells, the equivalent of one well per 20 acres, in certain lands in Township 7 South, Range 94 West, 6th P.M., with setback requirements 200 feet from the boundaries of the drilling and spacing unit and 400 feet from any existing well in the same formations, for the production of gas and associated hydrocarbons from the Williams Fork/Iles Formations.

Order No. 112-180, Ignacio-Blanco Field, La Plata County: Approved the request to allow a total of four wells to be optionally drilled in each 320-acre drilling and spacing unit for certain lands in Townships 33 and 34 North, Ranges 7 thru 9 West, N. M. P.M. with wells located no closer than 660 feet to any outer boundary of the unit with no interior section line setback, utilizing a common or expanded pad with an existing well, for the production of gas and associated hydrocarbons from the Fruitland coal seams.

Approved:

Peter M. Mueller, Chair

Patricia C. Beaver, Secretary