

## RECORD OF PROCEEDINGS

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August 27, 2007

The Oil and Gas Conservation Commission met on August 27, at 9:03 a.m. at the Southwest Weld County Services Complex, South Wing, 4209 Weld County Road 24½, Longmont, Colorado and at 9:05 a.m. on August 28, 2007 in Suite 801, The Chancery Building, 1120 Lincoln Street, Denver Colorado, for a hearing in Cause Nos. 440 (2 matters), 112 (2 matters), 1R, 1V (2 matters), 9, 133, 139 and 510, 510, and 527.

Those present were:

Harris Sherman	Chair
Joshua Epel	Vice Chair
Rich Alward	Commissioner
Tom Compton	Commissioner
Mark Cutright	Commissioner
Michael Dowling	Commissioner
Kim Gerhardt	Commissioner
Trési Houpt	Commissioner
Jim Martin	Commissioner
Kelly Rees	Assistant Attorney General
Casey Sphall	Deputy Attorney General
Brian Macke	Director
Tricia Beaver	Hearings Manager

Executive Director's Report: Assistant Director-Energy David Neslin reported that Executive Director Harris Sherman gave a talk at the COGA Natural Gas Strategy Conference that was well received. The Department of Natural Resources ("DNR") will be involved in a 120 day review of the Roan Plateau Plan. COGCC staff and Mr. Neslin have been involved in holding stakeholder meetings in preparation for rulemaking. A Project Rulison planning meeting is scheduled for Wednesday, August 29<sup>th</sup> to discuss the October 2, 2007 Informational Session presentations.

Director's Report: Director Macke stated that a record 738 APDs were submitted in June 2007 and that approximately 3952 APDs have been processed as of August 22, 2007. The backlog has increased the turnaround time for APD approval to near 60 days compared to the previous 30–45 day turnaround time. Approximately 16% of APDs statewide are using bonds for surface damage rather than negotiating a surface use agreement.

Northwest Colorado: The next Northwest Colorado Oil and Gas Forum is scheduled for September 13, 2007, from 10:00 a.m. until 2:00 p.m. at the Garfield County Fairgrounds in Rifle.

Garfield County has awarded the contract for the Phase II Hydrogeologic Characterization Project to S. S. Papadopoulos & Associates. This is another Public Project In Lieu of Fines that will be funded by EnCana. Task 1 – Domestic Water Well Sampling began in late July 2007. Water samples have been collected from 66 water wells and submitted for laboratory analysis.

The draft report for the water quality investigation in Moffat County has been received and is currently being reviewed by COGCC staff. Twenty-five water wells in Townships 6 and 7 North, Range 92 West, 6th P.M. were sampled for general water quality parameters and dissolved methane concentration. Recent permitting for coalbed methane (CBM) wells in this area of Moffat County has generated the need to establish baseline ground water quality data from water wells.

Southwest Colorado: On behalf of the COGCC, LT Environmental (LTE) is preparing a report of its evaluation of the results of recent water well sampling and aquifer testing near the Bryce 1-X Well near Bondad, and their recommendations for ground water remediation and methane mitigation. The report of the results of the July 20, 2007 soil gas survey has been provided to the Commission and posted on the COGCC website ([www.cogcc.state.co.us](http://www.cogcc.state.co.us)). Results show significant improvement over the entire area

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where methane has been detected at high concentrations in the soil. Methane was detected only in the soils in one small area adjacent to the Bryce 1-X Well.

The next GORT meeting is scheduled for September 20, 2007, at 8:30 a.m. at the La Plata County Fairgrounds. Possible topics for this meeting include outcrop mitigation and monitoring scoping status and pending revisions to the County's codes related to oil and gas development.

Brian Macke, Debbie Baldwin, and Karen Spray continue to work with La Plata County Energy Council, La Plata County, and USFS/US BLM personnel to identify several pilot gas seep mitigation projects on which to proceed, to develop work plans for these, and to identify sources of funding. Senate Bill 07-198, the recently approved legislation to secure the funding for the Fruitland Formation Seep Mitigation Project in La Plata County and the Fruitland Formation Outcrop Monitoring Project in Archuleta County, requires a COGCC mill levy increase under §34-60-129, C.R.S. in order for the project to be adequately funded. The rulemaking hearing is set for tomorrow's Commission hearing.

Northeast Colorado: COGCC staff contracted with Lepert Associates, Inc., of Golden, Colorado to conduct baseline ground water quality sampling of twenty-five (25) water wells completed in the Arapahoe Aquifer in Adams County in Townships 1 and 2 South, Ranges 59 through 64 West, 6<sup>th</sup> P.M. Field sampling was completed in late June 2007. Water wells were sampled for general water quality parameters and dissolved methane concentrations. Laboratory analytical results have been submitted and the COGCC staff is reviewing the results, and will prepare and send letters to each individual well owner discussing their water sample results.

The Ogallala Aquifer Baseline Study consisted of collecting samples from water wells in selected townships in Washington and Yuma Counties for organic and inorganic laboratory analyses. Seventy-five (75) water wells were sampled and COGCC staff has recently reviewed the draft report.

Limited subsurface investigations were performed by the COGCC at seven historic O-Sand/heavy oil sites in Logan County in May 2007. The purpose of the investigations was to evaluate the extent of hydrocarbon-impacted soil associated with the historic use of earthen production pits at these sites. The information will be used to determine rough order of magnitude estimates of the volume of hydrocarbon-impacted material at each site. In addition to the site assessments, a feasibility study is being prepared to evaluate potential remediation options. The site assessment report and feasibility study are being prepared by URS Corporation and are expected to be finalized by September 2007.

The Fort Morgan Gas Storage Field (Field) is located approximately 5 miles south of Fort Morgan, Colorado in Morgan County and is operated by Colorado Interstate Gas (CIG), an El Paso Corporation. On October 22, 2006, COGCC staff was notified of a casing leak on Well #26 that had necessitated the evacuation of nearby residents. The gas flow from the well was safely shut off on October 22, 2006, and there were no personal injuries. CIG estimates that between 650 and 700 MMcf were lost based on inventory analysis, flow calculations, and chart measurement. Two nearby residences remain evacuated; residence H100 located approximately 1,000 feet east of the compressor facility, and residence H101 located approximately 1,400 feet southeast of the facility. CIG has collected samples from over 50 domestic water wells within a 3-mile radius of Well #26. Residence H100 is the only domestic water well where dissolved methane was detected at concentrations greater than 2 milligrams per liter (mg/l), which is a theoretical threshold concentration at which there exists a potential for methane to accumulate to potentially explosive levels in unventilated areas. Methane was detected in the samples collected on February 20, March 23, May 15, June 21, and July 19, 2007, at concentrations of 19 mg/l, 26 mg/l, 9.9 mg/l, 23 mg/l and 21 mg/l, respectively. Benzene was also detected in the sample collected from the water well at residence H100 on February 20, May 15, and June 21, 2007, at a concentration of 2.0 micrograms per liter (µg/l), 2.7 µg/l, and 3.0 µg/l, respectively. The Colorado Basic Standards for Ground Water for benzene is 5.0 µg/l. Trace concentrations of BTEX compounds were also detected in four other water wells. A total of 85 cone penetrometer test (CPT) borings were advanced across the field area. Seventy-eight of these were completed in the shallow aquifer zone and 7 were completed in the deep aquifer zone. Dissolved methane was detected in 15 CPT piezometers at concentrations greater than 2 mg/l during the pre-irrigation sampling event in March 2007 and in 9 CPT piezometers during the post-

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irrigation sampling event in June 2007. Benzene was detected in 3 CPT piezometers during the June 2007 sampling event. The benzene concentration in CPT 41D was 6.0 µg/l, which exceeds the Colorado Basic Standard for Ground Water. Preliminary results from the post-irrigation sampling events have been provided to the COGCC on a regular basis. It is anticipated that the Interim Report will be submitted to the COGCC in late August 2007. In addition, COGCC staff has initiated an enforcement action against CIG.

Management of Drilling Fluids Rule 907.d.(3). sets forth additional authorized disposal options for water-based bentonitic drilling fluids. One of the most widely used options in Weld County and along the Front Range is the spreading of these drilling fluids as a soil amendment. This year there have been numerous incidents where the application of the drilling fluids have been managed improperly, resulting in offsite impacts and citizen complaints. Given the high level of drilling activity in the Greater Wattenberg Area and along the Front Range, COGCC staff urges operators to properly manage drilling mud applications in a prudent manner, follow-up with the surface owner to verify incorporation of the drilling fluids into soils, and to ensure that the drilling mud is actually used as a soil amendment. Impacts to surface waters will result in a Notice of Alleged Violation (NOAV). Significant environmental impacts will result in additional enforcement.

Southeast Colorado: An update on Phase II of the Raton Basin Methane Seep Mapping Project in Las Animas and Huerfano Counties was provided, describing Task 1 and Task 2, which have been completed. Task 3 field work will begin once the contract amendment for this work is approved by the appropriate state agencies.

A small well house in south-central Huerfano County was damaged by what is thought to have been a methane explosion on June 1, 2007. COGCC staff found methane gas venting from the cap of the water well. Samples of water were collected from the well by COGCC staff and the water contained over 5 mg/L of dissolved methane. COGCC staff has found methane venting from 5 other water wells within a few mile radius of the well house explosion. Five of the 6 wells that have been found to have methane are in one subdivision and the local property owners association and a county official have been helping locate wells in the area. COGCC has hired a third-party contractor to determine if methane is venting from any other water wells in a 14 square mile area surrounding the 6 venting wells. Comparison of isotopic composition of the methane from the water wells to isotopic composition of methane produced in the northern portion of the Raton Basin is underway and additional samples are being collected for analysis.

Demolition and removal of the debris remains of the Las Animas County House Explosion were conducted by T. Decker Inc. A final report of the COGCC's investigation of the cause of the explosion was completed in late June 2007 and copies were submitted to interested parties. After review of COGCC records and data collected in response to this event, a Notice of Alleged Violation ("NOAV") was issued to the City of Trinidad. The MGP #1 Well was to be re-entered and re-plugged and abandoned by August 1, 2007. This has not happened. The City of Trinidad requested a variance to this requirement because they believe that plugging the well will damage evidence necessary to determine the actual cause of methane leak. They proposed putting a well head on the MGP #1 Well to control the flow of gas from the well while they conduct their investigation. COGCC staff believes that putting a well head on the well might cause more methane to migrate into the shallow aquifer or nearby structures. In addition, COGCC staff believes that information about the cause of the methane leak can be collected while the well is being re-entered in preparation for plugging. Therefore, COGCC staff will notify the City of Trinidad's attorney that the city's request for a variance is denied.

In response to complaints from landowners regarding the appearance of methane in their water wells, the COGCC staff recommended and the Commission approved an emergency order at the July 2007 hearing to use environmental emergency response funds to conduct an investigation of Huerfano County Water Wells Venting Methane. The COGCC retained a third-party contractor to conduct weekly methane screening of water wells in a 14 square mile area surrounding the 12 impacted water wells. To date all of the water wells have been surveyed 4 times. Comparison of isotopic composition of the methane from the water wells to isotopic composition of methane produced in the northern portion of the Raton Basin indicates that the gas in the water wells is similar to the thermogenic gas produced by the coalbed

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methane wells. Petroglyph Energy Inc. voluntarily agreed to shut in its 52 wells in the area and to conduct an Investigation, Monitoring and Mitigation Program. The objective of the program is to determine whether the CBM reservoir in this area can be produced without creating significant impact to public health, safety and the environment.

**Staff Organization:** The COGCC is pleased to announce that Mark Weems has accepted the position of Professional Engineer I for the Durango area, after 19 years of being the field inspector for the area. The Information Technology team welcomes Ken Robertson to the Commission as the first full time Application Developer on its staff. Ken has worked with the COGCC for over 6 years as a contractor in developing and maintaining the Colorado Oil and Gas Information System. The COGCC is pleased to announce the addition of Cheryl Sundseth to the staff in the Public Room. Cheryl comes to us with 22 years of experience with the Colorado Department of Revenue. The COGCC is pleased to announce the addition of Ruiping Ou to our staff. She was selected from a large pool of qualified candidates to fill a new accounting position. Ruiping has three years of experience as a land assistant and lease analyst at Prima Energy Corporation and one year of experience as an accountant at the Colorado United Credit Union. The COGCC is pleased to announce our newest Permit Technician, Bill Yokley. Bill has his Masters Degree in Geology and has spent the last 7 years teaching and consulting, bringing over 25 years of experience in the oil and gas industry.

**Planning/Administration:** The eleven-year anniversary COGCC 2006 Outstanding Operations Awards were presented by Department of Natural Resources Executive Director Harris Sherman at the Rocky Mountain Natural Gas Strategy Conference and Investment Forum hosted by the Colorado Oil and Gas Association during the keynote luncheon on August 14, 2007. COGCC Director Brian Macke and Colorado Division of Wildlife Energy Liaison Kim Kaal assisted with the awards presentations. The awards were for oil and gas operations that occurred during calendar year 2006. Several nominations were provided by the oil and gas industry, and the award winners were recommended by the COGCC staff and approved by the COGCC Commissioners.

Information regarding the recent rulemaking related to oil and gas operations is available on the AQCC website at [www.cdphe.state.co.us/op/aqcc](http://www.cdphe.state.co.us/op/aqcc). The COGCC and APCD will continue to work together cooperatively on air quality related matters.

S.S. Papadopoulos & Associates, Inc. (Papadopoulos) is continuing their work with the Colorado Geological Survey (CGS) on the Coalbed Methane Stream Depletion Assessment Study of the Raton and Piceance Basins. The purpose of this study is to develop a quantitative assessment of the levels of stream depletion (or reduction in formation outflows) that may be occurring as a result of the removal of water by CBM wells. This work is similar to the study done last year in the San Juan Basin and extends the assessment to other CBM producing basins of Colorado. Peer review comments are being incorporated into the Raton Basin report. The Piceance Basin report is undergoing peer review. This study is being performed in cooperation with the Division of Water Resources and the CGS. Funding for the project is being provided by the CGS.

An investigation of oil and gas wells abandoned under the supervision of the COGCC Environmental Response Fund (ERF) program has been completed. The investigation was intended to screen for potentially hazardous environmental conditions in the vicinity of these wells. The field investigation phase was completed during the week of June 11, 2007. Final reports were submitted to the COGCC in July, 2007.

A statewide pit investigation to assess the status of permitted pits is being undertaken. The investigation is intended to determine if permitted pits are currently active or if they have been closed and adequate reclamation has been performed. The initial phase of the investigation will consist of a pilot project to evaluate strategies for determining pit status for approximately 160 permitted pits in Elbert County. Strategies developed during the pilot study will be applied in subsequent investigations statewide. A scope of work for the pilot study in Elbert County is currently being developed by COGCC staff.

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Mark Weems and Karen Spray staffed an informational exhibit display booth at the 2<sup>nd</sup> Annual San Miguel County Energy Fair in Norwood, Colorado on July 22, 2007.

Brian Macke provided a presentation on oil and gas development in Colorado and COGCC regulation during a panel discussion on oil and gas development that was sponsored by the Colorado School of Mines Energy and Minerals Field Institute (CSM-EMFI) in Parachute on August 7, 2007. In addition to the COGCC, the panel included representatives from the Colorado state legislature, local government, the wildlife/sportsmen community, and the U.S. Bureau of Land Management. The CSM-EMFI was primarily attended by U.S. congressional staff members, and also included field tours of a multiple well pad tight gas sand drilling operation, a visit to the New Paraho experimental oil shale retort operation, and a visit to the heart of the Piceance Basin energy development area.

Mark Weems and Karen Spray attended a public outreach meeting hosted by Star Acquisitions VIII, LLC (Star) on August 9, 2007, at Fort Lewis Elementary School in Kline, Colorado. Over 100 people attended the meeting including COGCC Commissioners Kim Gerhardt and Tom Compton, State Senator Jim Isgar, and Brett Sherman and Krista Wilson of the La Plata County Planning Department. Star intends to begin drilling 20-40 new wells in the area beginning fourth quarter 2007 at a rate of approximately 2-3 wells per month with the potential for a deep test well in 2008. Tom Stover, President, discussed Star's planned operational practices that included surface damage agreements, protection of the shallow fresh water aquifer, well designs, cementing, fracturing, and production facilities. Following Star's presentation a question and answer session was held with the public.

Peter Gintautas presented educational information on the potential for methane seepage adjacent to coal outcrops to the Zoning and Planning Commission of Huerfano County on August 14, 2007. The County Administrator and the Huerfano County Building Inspector were also in attendance.

The COGCC staffed an exhibit display booth at the Colorado Oil and Gas Association Rocky Mountain Natural Gas Strategy Conference and Investment Forum that was held in Denver on August 14 and 15, 2007. This was an excellent opportunity to provide information about oil and gas development in Colorado as well as the extensive amount of oil and gas related data and other information that is available through the COGCC interactive Internet web site.

The COGCC will have an informational exhibit display in the Department of Natural Resources building at the Colorado State Fair that will be open from August 24 through September 3, 2007. Several COGCC employees have volunteered to staff the exhibit display each weekend to greet the public and provide information about oil and gas operations in Colorado and about COGCC activities.

Brian Macke has been invited to provide a presentation on current oil and gas development in western Colorado and recent COGCC regulatory activities at the Colorado River District annual water seminar in Grand Junction on September 14, 2007. There are expected to be between 150-200 members of the water community as well as the general public at the event.

The COGCC has been invited to participate in the Delta-Gunnison County Natural Gas Collaborative Group Meeting that will be held on September 26, 2007, in Montrose, Colorado. The purpose of the meeting is to bring together representatives of the natural gas industry and federal, state, and local government officials to disseminate information about natural gas development in the area and to develop ways to address community issues and concerns with natural gas development. The group will be debriefed on the successful Public Informational Forum on Gas Development Activities that the group organized on July 18, 2007, at the Crystal Meadows resort in the North Fork of the Gunnison River Valley, and will hear a presentation by the Western Slope Environmental Resource Council and the High Country Citizens Alliance on environmental perspectives and issues.

Under the Policy For Onsite Inspections On Lands Where The Surface Owner Is Not A Party To A Surface Use Agreement, which was effective for Applications for Permits-to-Drill (APDs) submitted after February 15, 2005, the COGCC has received to date a total of 91 requests for onsite inspections. Twenty onsite inspections have been conducted, 47 requests for inspections have been withdrawn, and 24 onsite

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inspections are pending and will be scheduled, if necessary, after the APD is received, or after issues related to local governmental designee consultation, location change, or surface use agreements are resolved. Of the 91 requests for Onsite Inspection, 48 were for locations in Weld County, 16 for Las Animas County, 7 for Adams County, 5 for La Plata County, 4 for Garfield County, 3 each for Boulder and Yuma Counties, 2 for Archuleta County and 1 each for Kiowa, Logan, and Morgan Counties.

A preliminary docket for the October 2007 hearing has been provided. There was a brief discussion on the logistics for the October hearing in Grand Junction.

Assistant Attorney General's Report: Assistant Attorney General Rees reported that there are several matters that need an Executive Session, perhaps tomorrow during the lunch break.

Commissioner Comments: Commissioner Gerhardt congratulated Mark Weems on his promotion and is expressed her gratitude about the work that is being done by LTE in La Plata County.

A hearing was held on the application of Kerr-McGee Oil & Gas Onshore LP ("Kerr McGee"), in Cause No. 1, Docket No. 0705-AW-11, request for an order to vacate Order No. 1-41, which established a high density area for the N½ of Section 8, Township 1 North, Range 68 West, 6<sup>th</sup> P.M. and to place the lands under the provisions of the Rules & Regulations of the Commission and applicable orders in Cause Nos. 232, 407, 493, 496 and 499, for the production of gas and associated hydrocarbons from the Cretaceous Age Formation. In the alternative the applicant is seeking an exception to the location requirements set out in Order No. 1-41, as provided in Rule 603.e.(6), or a variance under Rule 502.b.

Prior to testimony and exhibits being presented, the Motion for Summary Judgment filed by the Protestants was presented to the Commission by Michael Morgan, attorney for the Protestants. Chris Hayes, attorney for Kerr-McGee responded to the Motion. Deputy Attorney General Sphall described what the Commission should consider when deliberating on the Motion. After deliberation, a motion to deny the Motion for Summary Judgment was made by Commissioner Martin, seconded by Commissioner Compton, and approved unanimously.

Chris Hayes made an opening statement on behalf of Kerr-McGee and presented four witnesses along with exhibits. John Eisele, Petroleum Engineer, testified about the estimated reserves underlying the N½ of Section 8, Township 1 North, Range 68 West, 6<sup>th</sup> P.M. Terry Enright, Petroleum Engineer and Surface Negotiator, testified about the surface development from 1977 through present day, the proposal presented to the Parkland Estates Homeowners in November 2005, the distance from proposed wells to occupied buildings and the length of time to drill and complete wells in this area. Tim Spencer, Safety and Health Analyst, testified that he has visited Parkland Estates and is prepared to address safety issues if drilling occurs in the subdivision, as Kerr-McGee has operations near Denver International Airport and has adequately addressed operations there. The witnesses were cross examined by Mr. Morgan and questioned by the Commission.

Mike Morgan made an opening statement on behalf of the Protestants and presented four witnesses along with exhibits. Cheryl Randel, Vice President of Parkland Estates Homeowners Association, testified about the number of homes that have been build or remodeled in Parkland since the 1993 high density order was entered by the Commission, about the HOA's concerns regarding safety, emergency response and constant disturbance from oil and gas operations. Kim Hughes, Parkland resident, testified about her concerns for the safety of her grandchild who lives with her. Ernest Eason, private pilot, Professional Engineer and Parkland resident, testified about safety issues that oil and gas operations pose to an active airpark. Diane Black, Parkland resident, testified about the improvements she made to her home, relying on the 1993 high density order, and that her home is 271 feet from one of Kerr-McGee's proposed well locations. The witnesses were cross examined by Mr. Hayes and questioned by the Commission.

Testimony and exhibits were presented by representatives of the homeowners affected by the four oil and gas development areas, or those areas for which Kerr-McGee is seeking waivers or variances. Charles Clement testified that the 17-8 Well is proposed to be 27 feet from his home. Lon Waddell testified that the 17-8 Well as proposed would be 37 feet from his hangar, would interfere with his taxiway, and would result

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in his losing access to the runway. James Hollis testified that he was one of the original applicants seeking the high density order in 1993, and that some of his land is affected by the proposed 7-8 Well. Mark Williams testified about his concern with proposed wells near the surface of his land. Mr. Ernst testified that his parents live in Parkland, that he wants to move back with his children, and that Kerr-McGee is asking for three variances that affect his parents' land. The witnesses were cross examined by Mr. Hayes and questioned by the Commission.

Doris McFeeters testified that she has been involved with Parkland since 1971 and that the entire easement is on her land. John Seebury testified that he began building his home in 1994 based on the high density order. The witnesses were cross examined by Mr. Hayes and questioned by the Commission.

Closing statements were made by Mr. Hayes and Mr. Morgan. After the record was closed and the Commission deliberated, Vice Chair Epel made a motion to continue the matter for 60 days to give the parties an opportunity to negotiate. Chair Sherman suggested an amendment to the motion that David Neslin, Kate Fay and Brian Macke be involved in the negotiations as mediators. Commissioner Martin seconded the motion. Further discussion among the Commissioners ensued about whether the matter should be continued or Kerr-McGee's application denied. When the vote was called on the amended motion, it was approved by all Commissioners except Commissioner Alward. Commissioner Houpt stated her belief that offsetting surface owners should be included in the negotiations, and Chair Sherman urged Kerr-McGee to include the offsetting surface owners, as well as a specific schedule for drilling proposed wells and a total number of wells proposed. The matter was continued to the November hearing.

The hearing adjourned at 6:55 p.m. and reconvened 9:05 a.m. on August 28, 2007 in the COGCC Conference Room.

A motion was made by Commissioner Dowling to approve the July minutes, seconded by Commissioner Compton, and the minutes were unanimously approved.

Consent Agenda: In response to Chair Sherman's question regarding whether any Commissioners have a conflict of interest with any of the matters on the Consent Agenda, Commissioner Cutright stated that he does business with all of the operators on the Consent Agenda except Chevron and BP, and that he has a relationship with the Beatty & Wozniak law firm. Commissioner Cutright recused himself from Cause No. 51, Docket No. 0706-UP-12, which was changed to Cause No. 9. Vice Chair Epel indicated that his company has a working relationship with most of the companies on the Consent Agenda. Commissioner Houpt disclosed that she is a Garfield County Commissioner but the County has not intervened on any of the matters. Commissioner Houpt questioned which Consent Agenda items are in the three mile notice area of Project Rulison, and asked about the difference in requests for well density of 20 acres versus 10 acres. Director Macke described the background on data presented in support of increased density for 10 acres.

A motion was made by Commissioner Martin to approve the Consent Agenda, seconded by Commissioner Houpt, except for Cause No. 9, Docket No. 0706-UP-12 and the 2 AOCs, and the Consent Agenda was approved unanimously except for the aforementioned matters.

Another motion was made by Commissioner Martin to approve Cause No. 9, Docket No. 0706-UP-12, seconded by Commissioner Dowling, and approved unanimously except by Commissioner Cutright who recused himself from this matter.

A discussion was held on the two AOCs between the Commission and the COGCC Enforcement Officer to clarify the rules violated, the proposed fines and the coordination between the COGCC and the Water Quality Control Commission.

A motion was made by Commissioner Gerhardt to approve Cause No. 1V, Docket No. 0708-OV-04, seconded by Commissioner Martin, and approved unanimously.

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After responses to Commissioner Houpt's questions on Cause No. 1V, Docket No. 0708-OV-05, she made a motion to approve the matter, seconded by Commissioner Martin, and it was approved unanimously.

The following matters were approved on the Consent Agenda:

Cause No. 191, Docket No. 0706-SP-15, request for an order to establish a 10-acre drilling and spacing unit for certain lands in Section 36, Township 6 South, Range 92 West, 6<sup>th</sup> P.M., for production from the Williams Fork Formation from the Scott 2-36 Well.

Cause No. 440, Docket No. 0708-UP-25, request to pool all nonconsenting interests in the 320-acre drilling and spacing unit consisting of the S½ of Section 19, Township 7 South, Range 95 West, 6<sup>th</sup> P.M., for the development and operation of the Williams Fork and Iles Formations.

Cause No. 9, Docket No. 0706-UP-12, request for an order to establish 40-acre drilling and spacing units for certain lands in Sections 20, 21, 28, and 29 of Township 9 North, Range 53 West, 6<sup>th</sup> P.M., for production from the "O" Sand Formation, and to pool all nonconsenting interests in the 40-acre drilling and spacing unit consisting of the NE¼ SE¼ of said Section 20.

Cause Nos. 139 & 510, Docket No. 0707-SP-17, request for an order to vacate the 640-acre drilling and spacing unit in Section 22, Township 7 North, Range 96 West, 6<sup>th</sup> P.M. established in Order No. 139-16, and establish 40-acre drilling and spacing units for production from the Williams Fork and Iles Formations, and allow one (1) well per 20 acres for said lands.

Cause No. 112, Docket No. 0708-AW-20, request for an order to allow two additional wells for a total of four (4) in the 320-acre drilling and spacing units in certain lands in Townships 33 and 34 North, Range 10 West, N.M.P.M., and Township 33 North, Range 11 West, N.M.P.M., with the permitted well to be located no closer than 660 feet from the outer unit boundary, for the production of gas and associated hydrocarbons from the Fruitland coal seams.

Cause No. 527, Docket No. 0708-SP-20, request for an order to vacate the 400 foot setbacks established in Order No. 527-2 and establish 100 foot setbacks from the outside boundary for certain lands in Township 2 South, Range 97 West, 6<sup>th</sup> P.M. and Townships 2 and 3 South Range 98 West, 6<sup>th</sup> P.M., and allow one (1) well per 10 acres for said lands, for the production of gas and associated hydrocarbons from the Iles and Se-go Formations.

Cause No. 133, Docket No. 0708-AW-21, request for an order to allow two additional wells for a total of seven (7) wells, in the 320-acre drilling and spacing units in Section 30, Township 12 North, Range 100 West, 6<sup>th</sup> P.M. and in Section 25, Township 12 North, Range 101 West, 6<sup>th</sup> P.M., with the permitted well to be located no closer than 600 feet from the outside boundary for the production of gas and associated hydrocarbons from the Mesaverde Formation.

Cause No. 510, Docket No. 0708-SP-22, request for an order to establish 40-acre drilling and spacing units for certain lands in Township 7 South, Range 96 West, 6<sup>th</sup> P.M., and allow the equivalent of one (1) well per 10 acres, with the permitted well to be located no closer than 100 feet from the outside boundary, for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Cause No. 440, Docket No. 0708-SP-24, request for an order to vacate the 320-acre drilling and spacing units established in Order No. 440-12 and establish 40-acre drilling and spacing units for the E½ E½ of Section 17, Township 7 South, Range 95 West, 6<sup>th</sup> P.M., and allow the equivalent of one (1) well per 20 acres, with the permitted well to be located no closer than 200 feet from the outside boundary, for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

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Cause No. 112, Docket No. 0708-UP-26, request to pool all nonconsenting interests in the 320-acre drilling and spacing unit consisting of the E $\frac{1}{2}$  of Section 30, Township 34 North, Range 7 West, N.M.P.M., for the development and operation of the Fruitland coal seams.

Cause No. 1V, Docket No. 0708-OV-04, request to approve an Administrative Order by Consent for failure by Lone Pine Gas, Inc. to comply with Rule 324A.b., violating the WQCC's Basic Standards for Surface Waters, and violation of Rule 906.a., release of crude oil from a flowline associated with the Spaulding No. 1 Well located in the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 28, Township 9 North, Range 81 West, 6th P.M.

Cause No. 1V, Docket No. 0708-OV-05, request to approve an Administrative Order by Consent for failure by Petrogulf Corporation to comply with Rule 903.a.(1), requiring permits for drilling pits and production pits, and violation of Rule 1003.d.(2), requiring the drilling pit to be sufficiently dry prior to backfilling, for the Hooker #30-10 Well located in the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 30, Township 6 South, Range 93 West, 6<sup>th</sup> P.M.

The following matters have been continued as indicated:

Cause No. 9, Docket No. 0706-UP-11, request for an order to establish 40-acre drilling and spacing units for certain lands in Sections 23 through 26, Township 11 North, Range 53 West, 6<sup>th</sup> P.M., for production from the "O" Sand and "J" Sand Formations and to pool all nonconsenting interests in the 40-acre drilling and spacing unit consisting of the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 26, was continued to the October hearing.

Cause No. 530, Docket No. 0706-UP-16, request for an order to establish 40-acre drilling and spacing units for certain lands in Sections 23 through 26, Township 11 North, Range 53 West, 6<sup>th</sup> P.M., for production from the Baxter and Nugget Formations, and to pool all nonconsenting interests in the 40-acre drilling and spacing unit consisting of the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 26, was continued to the October hearing.

Cause No. 191, Docket No. 0708-SP-21, request for an order to establish a 40-acre drilling and spacing unit consisting of the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 16, Township 6 South, Range 92 West, 6<sup>th</sup> P.M., and allow the equivalent of one (1) well per 10 acres, with the permitted well to be located no closer than 100 feet from the outside boundary for the production of gas and associated hydrocarbons from the Iles Formation, was continued to the October hearing.

Cause No. 407, Docket No. 0708-UP-24, request for an order to establish a 160-acre drilling and spacing unit in the NE $\frac{1}{4}$  of Section 26, Township 6 North, Range 67 West, 6th P.M., and to pool all nonconsenting interests in said unit for the drilling of the Great Western 26-51 Well, and to pool all nonconsenting interests in the 80-acre drilling and spacing unit consisting of the W $\frac{1}{2}$  NE $\frac{1}{4}$  of said Section 26, for the drilling of the Great Western 26-31 and Great Western 26-32 Wells for the development and operation of the Codell and Niobrara Formations, was continued to the October hearing.

Cause No. 139, Docket No. 0708-SP-25, request for an order to establish 40-acre drilling and spacing units for certain lands in Section 34, Township 7 South, Range 96 West, 6th P.M. and in Sections 3 and 4, Township 8 South, Range 96 West, 6th P.M., allow increased well density, and modified well location setbacks, for the production of gas and associated hydrocarbons from the Williams Fork Formation, was continued to the October hearing.

Cause No. 1, Docket No. 0707-GA-01, request for an order to amend or rescind Order No. 1V-238 which required re-entry and re-plugging of the Bucklen #2-34 Well, was continued to the November hearing.

Rulemaking Update: David Neslin presented update on the rulemaking process by describing the stakeholders input, drafting of the rules, the five public meetings planned around the state, the incorporation of statements of position by interested parties, and the proposed rulemaking hearings beginning in April and

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concluding by July. Commissioner Alward expressed his desire to be involved in the process. Commissioner Cutright expressed concern about the term "interested parties". Vice Chair Epel described the Air Pollution Control Commission rulemaking process as a good one to follow. Commissioner Gerhardt prefers to see science brought into these rulemakings. Director Macke mentioned HB07-1180 which focuses on gas measurement issues and how he is identifying stakeholders to develop rule language to address this issue. This matter will be noticed by October 31<sup>st</sup> for the December 2007 hearing.

Audience Comments: Jim Hollis, a Parkland Estates resident, commented that he is hopeful that the 60 day continuation of the Kerr-McGee application will result in positive negotiations. He stated that the Homeowners' Association can only make decisions on the 40-acre common area in Parkland Estates.

Don Black, a Parkland Estates resident, commented that the Parkland residents have been characterized as land grabbers by building around the four oil and gas development areas, and he wanted to correct this misconception.

Mark Palmer, North Fork Ranch homeowner in Las Animas County, commented that operators should be encouraged to step lightly on the land, that operators should be proactive on the issue of produced water and water quality, and that extraction at all costs is not smart. He does not know what should be done with produced water but does not believe it should be considered a waste.

Josh Joswick, representing the San Juan Citizens Alliance and residents of La Plata County, commented that he wanted to meet the new Commissioners, and he stated that there is a lot of hope for change resting on the new Commissioners. Commissioner Houpt stated that she intended to travel to La Plata County to visit and invited other Commissioners to join her there.

Diane Black, a Parkland Estates resident, described why the initial Kerr-McGee proposal was turned down, since the Homeowners Association cannot negotiate on behalf of Mr. Ernst. She stated that she would like to be involved in the settlement discussions, as would other affected residents, that Mr. Neslin, Ms. Fay and Mr. Macke will be holding.

Brett Sherman, Local Governmental Designee for La Plata County, introduced himself and offered his assistance on any of the issues that the Commission believes he can help out on.

A hearing was held in Cause No. 1R, Docket No. 0708-RM-01, request for an order to amend the Conservation Mill Levy established in Rule 310. from \$0.0005 to \$0.000925. COGCC staff Wendy Schultz, Financial Manager and Debbie Baldwin, Environmental Manager presented this request by describing the financial position of the COGCC currently and as projected, along with decline curve data to show that gas production is rising about 6% and oil production is staying level.

Bill Hawkins, Petroleum Engineer for BP, expressed his company's support of the increase in mill levy as proposed. He stated that BP has spent in the millions of dollars on Fruitland seep issues, and that BP is comfortable with the 1.5 mile moratorium on the drilling near the Fruitland outcrop.

A motion was made by Commissioner Martin to adopt the proposed mill levy increase and the statement of Basis and Purpose, seconded by Vice Chair Epel, and approved unanimously.

A motion was made by Chair Sherman to go into Executive Session to discuss pending litigation, without the need for a record to be kept, seconded by Commissioner Dowling and approved unanimously.

The meeting adjourned at 12:47 p.m.

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The Secretary was therefore authorized to issue the following orders:

Order No. 440-47, Parachute Field, Garfield County: Approves the request to pool all nonconsenting interests in the 320-acre drilling and spacing unit consisting of the S½ of Section 19,

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Township 7 South, Range 95 West, 6<sup>th</sup> P.M., for the development and operation of the Williams Fork and Iles Formations.

Order No. 9-5, Armstrong Field, Logan County: Approves the request for an order to establish 40-acre drilling and spacing units for certain lands in Sections 20, 21, 28, and 29 of Township 9 North, Range 53 West, 6<sup>th</sup> P.M., for production from the "O" Sand Formation, and to pool all nonconsenting interests in the 40-acre drilling and spacing unit consisting of the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 20.

Order Nos. 139-79 & 510-49, Rulison Field, Garfield County: Approves the request for an order to vacate the 640-acre drilling and spacing unit in Section 22, Township 7 North, Range 96 West, 6<sup>th</sup> P.M. established in Order No. 139-16, and establish 40-acre drilling and spacing units for production from the Williams Fork and Iles Formations, and allow one (1) well per 20 acres for said lands.

Order No. 112-203, Ignacio-Blanco Field, La Plata County: Approves the request for an order to allow two additional wells for a total of four (4) in the 320-acre drilling and spacing units in certain lands in Townships 33 and 34 North, Range 10 West, N.M.P.M., and Township 33 North, Range 11 West, N.M.P.M., with the permitted well to be located no closer than 660 feet from the outer unit boundary, for the production of gas and associated hydrocarbons from the Fruitland coal seams.

Order No. 527-4, Sulphur Creek Field, Rio Blanco County: Approves the request for an order to vacate the 400 foot setbacks established in Order No. 527-2 and establish 100 foot setbacks from the outside boundary for certain lands in Township 2 South, Range 97 West, 6<sup>th</sup> P.M., Townships 2 and 3 South Range 98 West, 6<sup>th</sup> P.M., and allow one (1) well per 10 acres for said lands, for the production of gas and associated hydrocarbons from the Iles and Sejo Formations.

Order No. 133-26, Hiawatha West Field, Moffat County: Approves the request for an order to allow two additional wells for a total of seven (7) wells, in the 320-acre drilling and spacing units in Section 30, Township 12 North, Range 100 West, 6<sup>th</sup> P.M. and in Section 25, Township 12 North, Range 101 West, 6<sup>th</sup> P.M., with the permitted well to be located no closer than 600 feet from the outside boundary for the production of gas and associated hydrocarbons from the Mesaverde Formation.

Order No. 510-36, Rulison Field, Garfield County: Approves the request for an order to establish 40-acre drilling and spacing units for certain lands in Township 7 South, Range 96 West, 6<sup>th</sup> P.M., and allow the equivalent of one (1) well per 10 acres, with the permitted well to be located no closer than 100 feet from the outside boundary, for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Order No. 440-48, Parachute Field, Garfield County: Approves the request for an order to vacate the 320-acre drilling and spacing units established in Order No. 440-12 and establish 40-acre drilling and spacing units for the E $\frac{1}{2}$  E $\frac{1}{2}$  of Section 17, Township 7 South, Range 95 West, 6<sup>th</sup> P.M., and allow the equivalent of one (1) well per 20 acres, with the permitted well to be located no closer than 200 feet from the outside boundary, for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Order No. 112-206, Ignacio-Blanco Field, La Plata County: Approves the request to pool all nonconsenting interests in the 320-acre drilling and spacing unit consisting of the E $\frac{1}{2}$  of Section 30, Township 34 North, Range 7 West, N.M.P.M., for the development and operation of the Fruitland coal seams.

Order No. 1V-310, Jackson County: Approves the Administrative Order by Consent for failure by Lone Pine Gas, Inc. to comply with Rule 324A.b., violating the WQCC's Basic Standards for Surface Waters, and violation of Rule 906.a., release of crude oil from a flowline associated with the Spaulding No. 1 Well located in the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 28, Township 9 North, Range 81 West, 6<sup>th</sup> P.M.

Order No. 1V-311, Garfield County: Approves the Administrative Order by Consent for failure by Petrogulf Corporation to comply with Rule 903.a.(1), requiring permits for drilling pits and production pits,

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and violation of Rule 1003.d.(2), requiring the drilling pit to be sufficiently dry prior to backfilling, for the Hooker #30-10 Well located in the NW¼ NE¼ of Section 30, Township 6 South, Range 93 West, 6<sup>th</sup> P.M.

Order No. 1R-104, Statewide: Approves the request to amend Rule 310. to increase the mill levy to \$0.0007 of a mill per dollar effective September 30, 2007, for levy payments assessed for the third quarter beginning July 1, 2007.

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Patricia C. Beaver, Secretary

Approved:

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Harris Sherman, Chair