

RECORD OF PROCEEDINGS

February 22, 2010

The Oil and Gas Conservation Commission met on February 22, at 9:00 a.m. in Suite 801, The Chancery Building, 1120 Lincoln Street, Denver, Colorado, for a hearing in Cause Nos. 1, 1V, 191 (2 matters), 407 (4 matters), 421 (1 matter), 440 (2 matters), 513 and 523, 535.

Those present were:

Joshua Epel	Chair
Michael P. Dowling	Vice Chair
Richard D. Alward	Commissioner
Tom Compton	Commissioner
Deann Craig	Commissioner
Mark Cutright	Commissioner
Trési B. Houpt	Commissioner
James B. Martin	Commissioner
Martha Rudolph	Commissioner
Matt Lepore	Assistant Attorney General
David Neslin	Director
Carol Harmon	Hearings Manager

Executive Director's Report: Commissioner Martin stated that the department is pursuing some legislation to address problems related to implementing the *Vance* opinion from the Colorado Supreme Court. The bill that has been introduced deals with two specific and narrow issues: (1) provide more time for both the submission of permit applications and substitute water supply plans, and (2) clarify that a permit is not required for non-tributary, non-CBM wells where the water will be used in the actual process of producing oil and gas. The bill was reported out of the Senate Agriculture, Energy and Natural Resources Committee unanimously, passed its second reading and is now up for its third reading after which it will go onto the House.

There is continued work with the Governor's budget office and the Joint Budget Committee to increase staff and resources for the Commission. Due to personnel and budget limitations the temporary and contractor staff services to the Commission will end soon, creating a significant hole in the permitting staff. The parties are deciding whether there can be authorization for four additional FTE and, if so, how to fund those positions.

Director's Report: Director Neslin

Northwest Colorado: The next meeting of the Northwest Colorado Oil and Gas Forum has been scheduled for March 4, 2010 at 10:00 a.m. at the Colorado Mountain College in Rifle.

The Colorado School of Public Health is proposing to undertake the Battlement Mesa Health Impact study and is seeking funding. They have been coordinating with the Garfield County Health Department and the Battlement Mesa community. The COGCC will also be coordinating with them regarding their potential undertaking.

COGCC staff are developing a sampling and analysis plan for Project Rio Blanco. They are working with many of the same parties as they did when developing the sampling and analysis plan for Project Rulison (CDPHE, Department of Energy, various operators and landowners in Garfield County) plus the Bureau of Land Management. The Project Rulison plan sets forth a comprehensive real-time sampling regime as well as emergency response protocols that govern drilling within three miles of the nuclear blast site. Staff are developing a comparable plan for Project Rio Blanco.

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Southwest Colorado: The Commission has developed a substantial database of water quality samples in the San Juan Basin for the San Juan Basin coalbed methane water quality analysis. These samples are obtained by operators pursuant to Commission orders that require both baseline water quality sampling and periodic subsequent sampling after wells are drilled. COGCC has retained AMEC-Geomatrix to examine the data and determine whether there are long-term trends or areas of concern regarding changes in water quality. An initial briefing by AMEC-Geomatrix did not identify any significant upward trends in methane or other potential contaminants. Work is proceeding. This information contains an unusual quality and quantity of data to focus on potential impacts to ground water quality by substantial oil and gas development over the years. Karen Spray, Environmental Protection Specialist in the San Juan Basin/Southwest Colorado area, is the project manager and the person to contact on this project. A presentation of the results of this study will be provided at a later time and date. There has been a previous briefing on this study to the Gas and Oil Regulatory Team in La Plata County that included BLM members, concerned citizens, industry, and the Southern Ute Indian Tribe.

Southeast Colorado: Remediation work continues on the Corsentino Dairy Farm. COGCC has helped create an agreement between Corsentino and Petroglyph Energy Inc. to investigate and remediate the land. Peter Gintautas is the COGCC's Environmental Protection Specialist for this part of the state and has been overseeing the project. The fields on the farm have been ripped and disked. Gypsum has been applied and disked into four of the fields. Gypsum is being used to amend the soil since the fields absorbed too much sodium. Next month there will be another round of sampling analysis to determine soil conditions.

Planning/Administration/Other: Under the policy for onsite inspections on lands where the surface owner is not a party to a surface use agreement, the COGCC has received 134 requests for onsite inspections. Steve Lindblom oversees the onsite inspection program. Of the 134 requests, 88 have been withdrawn, in the opinion of Mr. Lindblom, because the operator and owner have reached a surface owner agreement.

The COGCC is continuing to update to electronic form submissions. Currently in electronic format are: Bradenhead test form (Form 17); Application for Permit-to-Drill (Form 2); and the Oil and Gas Location Assessment (Form 2A). Next month the drilling completion report (Form 5) and the completed interval report (Form 5A) should be available in electronic submission format. Through last year 50% of the forms were submitted electronically. Since January about two-thirds of the submissions have been electronic – thus contributing to timely and efficient permit processing. In the interest of maximizing resources, efforts will be made to get the electronic submissions up to 90%. Additional efforts will be made to have the submissions with requests for consultation forwarded or copied to the CDPHE to maximize their efficiency as well.

ExxonMobil was granted variances from production casing/compressive strength requirements for approximately 40 wells out on the West Slope in Piceance Basin.

Meetings are held periodically to talk about the implementation of the amended rules and to insure that there are not unintended consequences. The meetings are well-attended and a number of representatives are present from the industry, the local government, community groups, and property ownership groups. A stakeholders meeting was held two weeks ago; questions about the Table 910 standards are being addressed and posted on the website.

There has been an increase in APD submissions, which are now coming in at the rate of approximately 160 per week. Temporary staff are being utilized to reduce the backlog and further bring down the average processing times of APDs. However, budget cuts will reduce staff. Therefore, COGCC is working with the industry to talk about ways to reduce average permitting times, such as via electronic submissions. The permit manual is also being updated to provide some guidance when dealing with the amended rules.

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Thom Kerr, Permit Manager, responded to a Commission question from last month's hearing and included in the Staff Report a breakdown of Form 2As by county, whether informational or required approval, location in a CDP, sensitive wildlife habitat area, or restricted surface occupancy area, and whether they required CDPHE consultation. Additional information was included regarding the proximity of locations to buildings.

Under the amended rules for Form 2As, the COGCC has consulted on proposed locations in seven instances where it was in a restricted surface occupancy area. In four of those instances, the proposed location was approved, with support from the Division of Wildlife. In two or three of those instances, DOW and the operator worked out alternative mitigation and management practices that allowed DOW to support development of that location. In another instance DOW determined that the habitat was no longer in use. In one instance the operator withdrew the proposed location. The last two instances are still under review. Feedback on the Form 2As and consultation with DOW and CDPHE will occur in the future.

In January and February there have been nine opportunities to consult with CDPHE. The consultations have been timely and efficient from CDPHE's perspective.

CDPHE's guidance on background sampling will be cited as a reference as part of COGCC's questions and answers for Table 910. Industry had no objections.

In regards to the Prather issue, the investigation is focused on two operators, Williams and Oxy. In the near future there will be specific deadlines for any further testing or reporting by those operators. There will also be deadlines for either the completion of an administrative order by consent (a settlement agreement) or the withdrawal of the notices of alleged violation against those operators. In the absence of either event, a date will be set for an order finding violation hearing before this Commission. Under either a settlement agreement or an order finding violation, Staff will seek an assurance that the Prathers will continue to receive potable water during the coming year and that meaningful remediation work will begin this spring.

Beginning in April 2011, entities that apply pesticides in or around waters of the U.S. will need a permit. There is a recent court decision that overturned an EPA regulation; EPA is in the process of determining the nature of the permit.

Hearings Manager Harmon noted that Rob Willis had been appointed the new enforcement officer.

Staff Presentation: Peter Gintautas, COGCC Environmental Protection Specialist for southeastern Colorado, provided an update on the status of the cease and desist order relating to Petroglyph's operations in Huerfano County. Petroglyph is currently in Phase 1 of a three-phase process for relief from the cease and desist order, and it has requested permission from Staff to proceed to Phase 2. There have been eleven water wells impacted by methane. In Phase 1, water from the impacted aquifer is pumped, treated and re-injected. To get to Phase 2, EPA needs to issue a change to the Class 5 injection permits because there would be additional water supplied from a CBM well. Also, the Division of Water Resources will need to approve the use of the CBM water for this use. Monitoring at homes and four water wells in the area is part of Phase 1 and would continue into Phase 2.

Petroglyph's engineering consultants have modeled the impacted aquifer, and the model may support moving to Phase 2. Petroglyph has drilled the monitoring wells, removal wells, and reinjection wells. They have continued gas seep monitoring, mostly by aerial survey. All of the tasks in Phase 1 are completed, and COGCC Staff recommend that Phase 2 could be started. Paul

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Powell, Chief Operating Officer of Petroglyph Energy, supports the Staff's recommendation to continue to Phase 2 since the EPA is close to making a decision on the permit.

Debbie Baldwin, COGCC Environmental Manager, discussed Table 910 and the boron concentration. Other than boron, the levels listed on Table 910-1 were derived from the soil evaluation values developed by the CDPHE's hazardous waste group. The boron value is a vestige of a table developed by the American Petroleum Institute. The Staff would like to revise the table to include boron values by asking the CDPHE to come up with a boron standard for their soil evaluation table. EPA Region 9 has a boron standard of 16,000 milligrams per kilogram in for residential soils. Michael Freeman, of Colorado Environmental Coalition, suggested that while the levels of boron being found are below any of the risk screening standards for health, the Commission should still consider the cumulative impacts boron can have on plant life and possible reclamation when the Commission establishes a new boron standard through a rulemaking.

Commissioner Comments: Commissioner Alward informed the Commission that he would report at the next hearing on the DOW presentation in Grand Junction of the updated research in the Piceance Basin. Commissioner Alward also suggested that the Commission schedule hearings outside of Denver. He also wanted the Commission to consider changes to the Commission's mission statement to comport with the legislative declaration from the House Bill 1341 in 2007. Chairman Epel stated that Assistant Attorney General Lepore had redrafted the mission statement and would be ready to circulate it in the near future. Assistant Attorney General Lepore mentioned that proposed changes to the redrafted mission statement could be done by the Commission and not in a rulemaking.

Commissioner Martin indicated that the agenda during out-of-town hearings should be limited in order to limit the amount of staff required at the hearings because it can be costly. Commissioner Houpt relayed the request to have a hearing in Battlement Mesa.

Commissioner Compton thanked the Staff for the valuable input at the Pagosa Springs and Durango meetings regarding the new water permit laws.

Audience Comments: none

Consent Agenda: Chairman Epel asked if any Commissioners had a conflict of interest with any of the items on the consent agenda, and Commissioner Houpt stated that she would be recusing herself and would not vote on Cause No. 191, Docket No. 1002-AW-01, and Cause No. 440, Docket No. 1002-SP-04 and SP-05. Due to the nature of the recusal, under the Administrative Procedure Act, it was determined that there should be an executive session at this time. A motion was made by Commissioner Dowling to have an executive session, whereupon the Commission went into Executive Session. Assistant Attorney General Lepore informed the public on the discussion during the executive session. The subject of the executive session was a procedural clarification for the Commission as to the practice regarding consent agenda items, and if a Commissioner intends to recuse him or herself, when the appropriate time to do that is with respect to considering the consent agenda.

Chairman Epel asked again if any Commissioners had a conflict of interest with any of the items on the consent agenda and Commissioner Houpt recused herself from the above mentioned matters. Commissioner Cutright stated that either his, or a sister company, has business relationships with Antero, Noble, Bill Barrett, EOG, PDC and possibly Pioneer but that those relationships would not have a bearing on his ability to vote impartially.

Commissioner Rudolph pulled Cause No. 440, Docket No. 1002-SP-04 and Cause No. 440, Docket No. 1002-SP-05 from the consent agenda.

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Commissioner Cutright pulled Cause No. 421, Docket No. 1002-SP-06 from the consent agenda.

A motion was made by Commissioner Cutright to approve the consent agenda, seconded, and approved unanimously for the adjudicatory items (unless otherwise indicated) as follows:

Cause Nos. 513 & 523, Docket No. 1001-SP-02, request for an order to establish various approximate drilling and spacing units consisting of certain lands in Section 12, Township 6 South, Range 92 West 6th P.M. and Sections 7 and 18, Township 6 South, Range 91 West, 6th P.M. and allow the equivalent of one well per 10 acres for said units, for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Cause No. 407, Docket No. 1001-UP-09, request for an order to establish an approximate 160-acre wellbore spacing unit consisting of the E½ SE¼ of Section 35 and the W½ SW¼ of Section 36, Township 6 North, Range 65 West, 6th P.M. and to pool all nonconsenting interests in said unit for the development and operation of the Codell and Niobrara Formations.

Cause No. 191, Docket No. 1002-AW-01, request for an order to allow the equivalent of one well per 10 acres, with the permitted well to be located no closer than 100 feet from the lease line, for certain lands in Township 6 South, Range 91 West, 6th P.M. for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations. (Commissioner Houpt did not vote.)

Cause No. 191, Docket No. 1002-SP-08, request for an order to establish one approximate 120-acre drilling and spacing unit consisting of certain lands in Sections 13, 14 and 23 of Township 6 South, Range 92 West, 6th P.M. for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Cause No. 535, Docket No. 1002-SP-09, request for an order to establish two standup 320-acre drilling and spacing units consisting of certain lands in Township 7 North, Range 94 West, 6th P.M. for the production of gas and associated hydrocarbons from the Mancos and Niobrara Formations with the option of drilling an additional well. A horizontal well has been drilled in one proposed unit, and a vertical well is planned for the other.

Cause No. 407, Docket No. 1002-UP-12, request for an order to establish a 160-acre wellbore spacing unit consisting of the W½ SW¼ of Section 6, Township 4 North, Range 65 West, 6th P.M. and the E½ SE¼ of Section 1, Township 4 North, Range 66 West, 6th P.M. and to pool all nonconsenting interests in said unit for the development and operation of the Codell and Niobrara Formations.

Cause No. 407, Docket No. 1002-UP-13, request for an order to pool all nonconsenting interests in the established 80-acre drilling and spacing unit consisting of the S½ NW¼ of Section 30, Township 4 North, Range 67 West, 6th P.M. for the development and operation of the Codell and Niobrara Formations.

Cause No. 407, Docket No. 1002-UP-14, request for an order to pool all nonconsenting interests in the established 80-acre drilling and spacing unit consisting of the S½ NW¼ of Section 30, Township 4 North, Range 67 West, 6th P.M. for the development and operation of the Codell and Niobrara Formations.

Commissioner Rudolph requested amendment of the following two items to include CDPHE consultation in the absence of an approved CDP:

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Cause No. 440, Docket No. 1002-SP-04, request for an order to establish a 320-acre drilling and spacing unit consisting of the S½ of Section 18, Township 73 South, Range 95 West, 6th P.M., for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Cause No. 440, Docket No. 1002-SP-05, request for an order to establish a 320-acre drilling and spacing unit consisting of the S½ of Section 8, Township 7 South, Range 95 West, 6th P.M., for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Commissioner Martin moved for approval of the foregoing two matters; Commissioner Rudolph seconded. The voting Commissioners voted in favor of the amended draft orders. (Commissioner Houpt did not vote.)

Cause No. 421, Docket No. 1002-SP-06, request for an order to establish 58 approximate 640-acre drilling and spacing units consisting of certain lands in Townships 11 and 12 North, Range 62 West 6th P.M. and Townships 11 and 12 North, Range 63 West, 6th P.M. and allow one horizontal well per said unit for the production of gas and associated hydrocarbons from the Niobrara Formation. Commissioner Cutright expressed concern about the number of drilling and spacing units approved, considering the number of wells drilled in the area. Hearing Officer Harmon explained that the matter was heard by Staff members from several COGCC units. Applicant's attorney, Michael Wozniak, explained the reasoning behind 640-acre drilling and spacing units for the horizontal wells planned. The vote was called, and the matter passed unanimously.

Cause No. 1V, Docket No. 1002-OV-01, staff executed an administrative order by consent with Pioneer Natural Resources USA Inc. to resolve a notice of alleged violation of Rule 324A.a. for not taking adequate precautions to prevent significant adverse environmental impacts to water resources at the Molokai #13-36 TR well site located in the NW¼ SW¼ of Section 36, Township 32 South, Range 68 West, 6th P.M. Motion passed 8 to 1.

Assistant Attorney General Lepore reported on the executive session held during lunch. The Commission discussed the Colorado Oil and Gas Association versus COGCC case and the Grand Valley Citizens Alliance case against COGCC. No substantive decision or action was taken during the executive session.

Cause No. 1, Docket No. 1001-GA-02, application by Wendy Chase and Mike Sutak for an order to designate portions of the W½ SE¼ of Section 36, Township 5 North, Range 68 West, 6th P.M., known as Moqui Meadows, as a Designated Outside Activity Area. The matter was protested by Magpie Operating Company and the Colorado State Land Board. After hearing and considering parties' sworn testimony and exhibits, the Commission denied the application, 6 to 3. The Commissioners voted to hear Magpie's Applications for Permit-to-Drill on Moqui Meadows at the next regular hearing.

The hearing adjourned at approximately 5:30 p.m. on February 22, 2010.

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The Secretary was therefore authorized to issue the following orders:

Order Nos. 513-6 and 523-6, Mamm Creek and Kokopelli Fields, Garfield County: Approves the request of Antero Resources Piceance Corporation for an order to establish various approximate drilling and spacing units consisting of certain lands in Section 12, Township 6 South, Range 92 West 6th P.M. and Sections 7 and 18, Township 6 South, Range 91 West, 6th P.M., and allow the equivalent of one well per 10 acres for said units, for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Order No. 407-350, Wattenberg Field, Weld County: Approves the request of Noble Energy, Inc. for an order to establish an approximate 160-acre wellbore spacing unit consisting of the E½

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SE $\frac{1}{4}$ of Section 35 and the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 36, Township 6 North, Range 65 West, 6th P.M., and to pool all nonconsenting interests in said unit for the development and operation of the Codell and Niobrara Formations.

Order No. 191-70, Mamm Creek Field, Garfield County: Approves the request of Dejour Energy (USA) Corporation for an order to allow the equivalent of one well per 10 acres, with the permitted well to be located no closer than 100 feet from the lease line, for certain lands in Township 6 South, Range 91 West, 6th P.M., for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Order No. 191-71, Mamm Creek Field, Garfield County: Approves the request of Bill Barrett Corporation for an order to establish one approximate 120-acre drilling and spacing unit consisting of certain lands in Sections 13, 14 and 23 of Township 6 South, Range 92 West, 6th P.M. for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Order No. 534-1, Ridgeline Field, Moffat County: Approves the request of Durango Pipeline Corporation for an order to establish two standup 320-acre drilling and spacing units consisting of certain lands in Township 7 North, Range 94 West, 6th P.M., for the production of gas and associated hydrocarbons from the Mancos and Niobrara Formations, with the option of drilling an additional well. A horizontal well has been drilled in one proposed unit, and a vertical well is planned for the other.

Order No. 407-351, Wattenberg Field, Weld County: Approves the request of Noble Energy, Inc. for an order to establish a 160-acre wellbore spacing unit consisting of the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 6, Township 4 North, Range 65 West, 6th P.M., and the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 1, Township 4 North, Range 66 West, 6th P.M. and to pool all nonconsenting interests in said unit for the development and operation of the Codell and Niobrara Formations.

Order No. 407-352, Wattenberg Field, Weld County: Approves the request of Petroleum Development Corporation for an order to pool all nonconsenting interests in the established 80-acre drilling and spacing unit consisting of the S $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 30, Township 4 North, Range 67 West, 6th P.M. for the development and operation of the Codell and Niobrara Formations.

Order No. 407-353, Wattenberg Field, Weld County: Approves the request of Petroleum Development Corporation for an order to pool all nonconsenting interests in the established 80-acre drilling and spacing unit consisting of the S $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 30, Township 4 North, Range 67 West, 6th P.M. for the development and operation of the Codell and Niobrara Formations.

Order No. 440-60, Parachute Field, Garfield County: Approves the request of Antero Resources Piceance Corporation, for an order to establish a 320-acre drilling and spacing unit consisting of the S $\frac{1}{2}$ of Section 18, Township 73 South, Range 95 West, 6th P.M. for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Order No. 440-59, Parachute Field, Garfield County: Approves the request of Antero Resources Piceance Corporation for an order to establish a 320-acre drilling and spacing unit consisting of the S $\frac{1}{2}$ of Section 8, Township 7 South, Range 95 West, 6th P.M. for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Order No. 421-1, Hereford Field, Weld County: Approves the request of EOG Resources, Inc. for an order to establish 58 approximate 640-acre drilling and spacing units consisting of certain lands in Townships 11 and 12 North, Range 62 West 6th P.M. and Townships 11 and 12 North, Range 63 West, 6th P.M., and allow one horizontal well per said unit, for the production of gas and associated hydrocarbons from the Niobrara Formation.

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Order No. 1V-345, Las Animas County: Approves an administrative order by consent with Pioneer Natural Resources USA Inc. to resolve a notice of alleged violation of Rule 324A.a. for not taking adequate precautions to prevent significant adverse environmental impacts to water resources at the Molokai #13-36 TR well site located in the NW¼ SW¼ of Section 36, Township 32 South, Range 68 West, 6th P.M

Order No. 1-147, Larimer County: Denies an application by Wendy Chase and Mike Sutam for an order to designate portions of the W½ SE¼ of Section 36, Township 5 North, Range 68 West, 6th P.M., known as Moqui Meadows, as a Designated Outside Activity Area.

Approved:

Joshua Epel, Chair

Carol Harmon, Secretary