

RECORD OF PROCEEDINGS

July 8, 2010

The Oil and Gas Conservation Commission met on July 8, at 9:00 a.m. in Suite 801, The Chancery Building, 1120 Lincoln Street, Denver, Colorado.

Roll Call:

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
Mike King	Commissioner
Martha Rudolph	Commissioner
Matt Lepore	Assistant Attorney General
David Neslin	Director
Carol Harmon	Hearings Manager

Those Absent:

None

Executive Director's Report:

Commissioner King reported on the following matters on behalf of the Department of Natural Resources (DNR):

- The Mined Land Reclamation Board is working on rulemaking relating to House bills passed two years ago dealing with in-situ uranium mining, issues surrounding prospecting, and matters pertaining to proprietary information. The process is going well, and the rules are expected to be finalized in August.
- Severe budget issues continue to impact the state. Budget planning is hampered by uncertainty regarding federal medical funding levels, which might not be resolved until the end of the year. Short term funding statewide has been assisted by federal ARRA funds, but when those funds expire in 2011, the state general fund shortfall could rise to between a half billion to a billion dollars. While the COGCC is not funded through the state's general fund, the history of the legislature has been to utilize the severance tax fund in order to help balance the general fund, so the COGCC budget is not without threat.
- DNR is initiating a process to resolve a 30 year-old issue of the right to float in Colorado. This is a matter that came up in this year's legislative session, but did not get resolved with the bill's death in the final days of the session. The Governor will be establishing a Task Force on this matter by Executive Order. The goal will be to seek resolution of the matter in a manner which provides reasonable access to the rivers, but that does not adversely impact private property rights.

Director's Report:

Director Neslin reported the following (from the written) Staff Report:

- Northwest Colorado: The most recent quarterly meeting of the Northwest Colorado Oil and Gas Forum was held June 3, 2010, with about 80 people in attendance. The next meeting of the Forum has been scheduled for September 2, 2010 at 10:00 a.m. at the Colorado Mountain College in Rifle.
- Project Rio Blanco will be presented later by staff.

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- Southwest Colorado: The next meeting of the Gas and Oil Regulatory Team (GORT)/ Southwest Colorado Oil and Gas Stakeholders meeting has been scheduled for July 15, 2010 at 8:30 a.m. at the La Plata County Fairgrounds in Durango.
- Fruitland Formation Outcrop mitigation and monitoring continues. An Army Corp of Engineers permit was obtained which allowed the installation of a liner under South Fork Texas Creek to allow more methane to be captured. It will continue to reduce the volume of methane released and increase the run-time and production of electricity from the gas turbine unit.
- The COGCC 4M monitoring program in La Plata and Archuleta Counties is in its final reclamation stage. The final report for 2009 field activities will be available by summer 2010. There are currently 17 wells at 11 locations in the program.
- The COGCC has hired a project contractor for the San Juan Basin coal bed methane water quality analysis. A final report was submitted last month and will be available on the COGCC website. This report is the first stage in a more detailed evaluation of the data. Further evaluation of identified well-specific trends and/or changes in methane concentrations will be conducted by the COGCC on a well-by-well basis.
- Repair and sanitation activities were completed on the Bryce 1-X Well area near Bondad, Colorado. Water wells were sampled in June 2010. Initial results indicate methane has decreased and remains well below the historic high at this location.
- Northeast Colorado: At the request of a local landowner in Weld County, a limited baseline surface and groundwater sampling program has been initiated in northern Weld County. Initial results indicate that surface water and shallow groundwater quality is excellent and exhibiting no impacts from existing oil and gas operations in the area.
- Southeast Colorado: COGCC hired a contractor to digitize the locations of historic oil and gas wells in the Florence field. These maps will be used to help identify potential hazards. COGCC Engineering, Field Inspection, GIS, and Environmental staff members are working jointly to help identify problem orphaned wells in the historic Florence Oil Field, and to ensure that proper plugging is performed as needed.
- Work continues on the Consentino Dairy Farm site.
- The Methane Investigation Monitoring and Mitigation Plan (MIMMP): Petroglyph Energy Inc. is currently supplying water to 16 homes upon request of the well owners. Methane alarms have been installed in 15 homes. Phase II of the monitoring and mitigation of this project has begun. The EPA issued permits for wells that would be used to inject a mix of treated water back into the Poison Canyon Formation. The permits issued by the EPA include a requirement that a groundwater sampling and analysis plan be submitted for approval by both the EPA and COGCC.
- Planning/Administration/Other: Mark Weems has been appointed the new Engineering Manager. Greg Deranleau accepted the Oil & Gas Location Assessment team Supervisor position.
- Electronic submittals of forms continue to be a success. In May, electronic submittals for Form 2s and 2As reached 80%.
- Variances:
 - A variance was approved for ExxonMobil Oil Corp. for 29 wells located on three well pads for production casing compressive strength requirements of Rule 317.i.
 - Three variances were granted for Kerr McGee Carma Wells pursuant to Rule 318A.a. Kerr McGee requested approval to drill 3 additional infill locations.

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- A 502.b. variance from re-contouring and regrading requirements of Rule 1003. (Interim Reclamation) has been approved for Chevron. The variance is limited to 24 months, and Chevron must re-permit the 24 wells.
- Three permits have been issued without notice or consultation per Rule 303.I.2. to Pine Ridge Oil & Gas LLC for exigent circumstances. Without the immediate action and permit approval, Pine Ridge would incur substantial expense and delays. COGCC carefully reviewed these 3 permits and determined that there was no significant wildlife or environmental issues.
- An Oil and Gas Location Assessment was issued without notice or consultation per Rule 303.I.2 to Halcyon Exploration for exigent circumstances. Without the permit Halcyon would lose the mineral lease for its well site. The County and surface owner consented to the permit, and COGCC staff determined that there were no significant environmental issues.
- Thom Kerr, Permit Manager, reported on permits and setbacks as follows:
 - Permit numbers in May declined a bit, but picked up in June.
 - Permit activity in Weld County and Garfield County is high.
 - Consultations with CDPHE regarding Form 2As are down.
- COGCC is on-track to approving a near record level of permits in Colorado for the year, and has the highest level of permitting activity in the Rocky Mountain region. Colorado is also seeing an increase in active drilling rigs. Despite all this, COGCC continues to shorten the approval times for permits. Additionally, COGCC continues to implement and enforce rules safeguarding wildlife and the environment.

Commissioner Comments:

Chairman Epel reported that he and Commissioner Cutright attended a candidate forum lunch with the three gubernatorial candidates. The work of the Commission was a significant focus of the discussion. Chairman Epel expressed his willingness to share statistics (in the form of Director Neslin's summary letter dated June 23, 2010) with all three candidates, about the Commission staff's achievements in reducing permitting time while enhancing environmental protection.

Commissioner Craig reported on a Colorado School of Mines report, discussing technically recoverable gas resources in the United States. The conclusion was that there is much more natural gas available nationwide than previously thought. She commended the Commission for its continuing efforts to develop Colorado's natural gas in an environmentally responsible manner.

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. Commissioner Cutright disclosed a professional relationship with EnCana Oil & Gas (USA) Inc., Samson Resources Company, and Petroleum Development Corporation, which have matters on the Consent Agenda, but stated that those relationships would not interfere with his ability to objectively consider the Consent Agenda matters.

Commissioner Rudolph pulled Cause No. 440, Docket No. 1006-AW-03 from the Consent Agenda.

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A motion was made by Vice Chair Dowling to approve the remaining three items on the Consent Agenda. The motion was seconded by Commissioner Compton to approve the following items:

- Cause No. 112, Docket No. 1007-EX-05, Ignacio-Blanco Field, La Plata County, Samson Resources Company: Request for an order for an exception location for the Jaques 33-8-23 #3 Well with the bottomhole location of 1,836.2 feet FSL and 647.2 feet FEL in the SE¼ NE¼ of Section 23, Township 33 North, Range 8 West, N.M.P.M., for the production of gas and associated hydrocarbons from the Fruitland coal seams.
- Cause No. 139, Docket No. 1007-SP-19, Rulison Field, Garfield County, Williams Production RMT Company: Request for an order to vacate the existing 40-acre drilling and spacing unit established in Order No. 139-73, and establish an approximate 59.42-acre drilling and spacing unit consisting of Lots 1 and 2 (N½ NE¼) of Section 17, Township 7 South, Range 94 West, 6th P.M., and continue to allow the equivalent of one well per 10 acres, for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.
- Cause No. 407, Docket No. 1007-SP-21, Unnamed/Wattenberg Fields, Morgan/Weld Counties, Petroleum Development Corporation/Swanson Production Company: Request for an order to establish eleven (11) 640-acre drilling and spacing units consisting of certain lands in Township 6 North, Range 60 West, 6th P.M., and in Townships 6 and 7 North, Range 61 West, 6th P.M., with the bottom-hole location to be no closer than 460 feet from the unit boundary, for the production of gas and associated hydrocarbons from the Niobrara Formation.

Discussion: Commissioner Cutright commented on a consistency problem with regards to spacing in the Niobrara Formation, and the question of what is appropriate spacing. Commissioner Cutright encourages Staff and the Commission to be consistent with spacing orders, since at present they appear to be inconsistent. Carol Harmon, Hearings Manager, agreed that there might need to be a rule making on spacing in the future. The motion approving the Consent Agenda was approved unanimously.

Commissioner Rudolph requests that CDPHE consultations be mentioned in the Proceedings going forward, whatever the outcome of the consultation. Commissioner Rudolph requested amendment of the following item to recognize the CDPHE consultation and that it had no objections to the matter. Commissioner Dowling requested that consultations with both the CDPHE and DOW be noted in the staff recommendations, along with the presence or absence of conditions.

Vice Chair Dowling moved for approval of the remaining Consent Agenda item as follows:

- Cause No. 440, Docket No. 1006-AW-03, Parachute Field, Garfield County, EnCana Oil & Gas (USA) Inc.: 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 unit boundary for certain lands in Township 7 South, Ranges 95 and 96 West, 6th P.M., for the production of gas and associated hydrocarbons from the Williams Fork Formation.

The motion was seconded by Commissioner Compton, and approved unanimously.

Order Finding Violation:

Cause No. 1V, Docket No. 1004-OV-02

Enforcement Officer, Rob Willis, presented the background to Docket No. 1004-OV-02 and began with an offer of proof. The offer of proof recited facts contained in the Notice of Continuation of Hearing in the

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matter, as well as in the Draft Order Finding Violation. No one appeared on behalf of Barnes Petroleum Corporation.

A motion was made by Commissioner Cutright to approve the Order Finding Violation as presented and described below, seconded by Vice Chair Dowling and approved unanimously.

- Cause No. 1V, Docket No. 1004-OV-02, Adams County: Request for an order finding Barnes Petroleum Corporation in violation of Rules 302.a., 706., 319.b(1), and 326.d., at the Rosener #1 Well located in the NW¼ NE¼ of Section 8, Township 1 South, Range 59 West, 6th P.M.

Administrative Order by Consent:

Cause No. 1V, Docket No. 1006-OV-05

Rob Willis, Enforcement Officer, presented background on the Administrative Order by Consent (AOC), reciting facts contained in the Notice of Hearing and the AOC. Staff determined that the violations did cause environmental damage and therefore the higher fines with adjustments should be approved. Attorney Michael Morgan appeared on behalf of Eddy Oil Company.

A motion was made by Vice Chair Dowling to approve the AOC as presented and described below, seconded by Commissioner Compton and approved unanimously.

- Cause No. 1V, Docket No. 1006-OV-05, Weld County: Request to approve an Administrative Order by Consent with Eddy Oil Company to resolve alleged violations of Rules 317.d., 324A.a., 324A.b., 326.d., and 906.a at the Dupper #2 Well, located in the NW¼ NW¼ of Section 26, Township 4 North, Range 65 West, 6th P.M.

Presentation - Rio Blanco Sampling and Analysis Plan:

Alex Fisher and Richard Henry explained the Sampling and Analysis Plan - Revision II. The Rio Blanco plan is based on the Rulison Sampling and Analysis Plan (SAP) – Revision II, but incorporates comments from the Commission staff, CDPHE, DOE, BLM, Rio Blanco County, and industry representatives. Mr. Henry provided a brief history of the nuclear detonation tests performed at the Rulison and Rio Blanco sites and the development of the SAP. There are numerous monitoring requirements for drilling. To date there have been 6 wells drilled for testing and have found no Rio Blanco Project nuclear isotopes. There is now a 2-mile radius from the nuclear blast site in Rio Blanco.

Executive Session:

Assistant Attorney General, Matt Lapore, explained the basis for the Commission entering into Executive session. The executive session was pursuant to C.R.S. §24-6-402(3)(a)(II), to discuss matters with the attorney representing the Commission, concerning matters that are subject to pending or imminent court action, concerning specific claims or grievances or to receive legal advice on specific legal questions. The specific legal matters to be considered in this proposed session were as follows:

- Colorado Oil & Gas Association v. COGCC
- Chase/Sutak (Moqui Meadows) v. COGCC (2 Cases)
- Grand Valley Citizens Alliance v. COGCC
- Gas Development Corporation v. COGCC
- Attorney - Client Memorandum Related to jurisdictional issue concerning Colorado Petroleum Association's Application for Rulemaking

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A motion was made to enter into executive session by Vice Chair Dowling, seconded by Commissioner Craig and approved unanimously.

[The Commission entered executive session.]

A motion was made to exit the executive session and to reconvene the public session. The motion was seconded and approved unanimously.

After returning from executive session, Matt Lapore reported that no formal action had been taken during the executive session. However, he stated he needed a decision from the Commission as to whether to seek *certiorari* review in the Grand Valley Citizens Alliance v. COGCC case.

- Grand Valley Citizens Alliance v. COGCC

Commissioner Rudolph moved to authorize a petition for *certiorari* to the Colorado Supreme Court in the Grand Valley Citizens Alliance v. COGCC case. Motion seconded by Commissioner Compton. Motion was approved 8-1 with Commissioner Hought voting nay.

Petition for Rulemaking - Colorado Petroleum Association:

Public Comment:

Mr. Jep Seman, representing the Colorado Petroleum Association, was joined by Mr. Scott Campbell, from the Polson Odell and Peterson law firm, who is co-counsel with Mr. Seman on CPA matters.

Mr. Seman stated that the petition was filed with the Commission on March 10, 2010. The petition was filed at the request of CPA members who are experiencing high costs and hardships related to the change in the pit liner disposal rules. Mr. Seman strongly urged the Commission to set this matter for the requested rulemaking hearing. He stated that he felt that there had been good progress made in narrowing the issues and that reasonable proposed solutions have been considered in discussions led by Director Neslin over the last several months. Mr. Seman also suggested continued dialogue among the stakeholders in order to reach to a solution based on consensus.

Mr. Mike Freeman appeared on behalf of Colorado Environmental Coalition and a number of other environmental and conservation groups. He expressed his clients' opposition to the CPA petition, and requested that the Commission deny the petition for rulemaking in the matter.

Mr. Freeman raised four main concerns regarding this petition. He contends: 1) this is not an implementation issue, companies are complying with the rule, but some are merely looking for a cheaper disposal option; 2) the proposal is inconsistent with Colorado solid waste disposal law; 3) COGCC staff cannot proceed in this matter without sacrificing work on higher priority matters; and 4) the current rule prevents ground water contamination and other adverse impacts of solid waste disposal and provides incentive to minimize waste, and this would be lost if the rule were amended. He stated that at a minimum, that the Commission defer setting this matter for hearing until the EPA has produced the opinion letter on the subject that has been requested and is in progress.

Commissioner Comments:

Chairman Epel commented that this petition is still pending, and that the Commission will be not acting on it at this hearing and was merely considering a jurisdictional issue.

Commissioner King moved to set the hearing on the question of whether the Commission should grant the CPA petition for rulemaking at its September 2010 meeting, specifying that the hearing would not take up the issue on the merits, and if in September, the Commission decides to take up the issue and decides that it has jurisdiction, then the full rulemaking would be set at the earliest reasonable time the

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Commission could hold the hearing on the merits, taking into consideration compliance with the Administrative Procedures Act and a reasonable briefing schedule.

The motion was seconded by Commissioner Houpt and approved 8 to 1 with Commissioner Cutright voting nay.

Presentation - Water Well Impacts in Garfield County by Staff and EnCana Oil:

Ms. Debbie Baldwin, COGCC Environmental Manager, introduced the matter, describing it as one where two water wells had been reported as having increased concentrations of methane gas. Mr. Tony Gorody, consultant for EnCana and Ms. Tina Johnson, production engineer for EnCana gave this presentation on behalf of EnCana. The presentation described the forensic investigation into an increased amount of dissolved methane in the general Divide Creek area, in an attempt to identify the source of thermogenic dissolved gas in the contaminated wells.

The Moon well was sampled first in March 2007 and quarterly thereafter. Background concentrations of methane in the water at that time was about 2 mg/l or below. There was increased amount of methane gas detected in November 2009 doubling that which would be expected, but $\frac{1}{4}$ of what would be expected at saturation. Monthly monitoring was initiated in February 2010, and no increases in dissolved gases have been detected since. Soil gas samples matched the bradenhead gas samples from a well drilled on the P3 pad. In summary, there appears to have been an episodic release of gas from the EnCana P3 pad, and there are declining concentrations of thermogenic gases since the episode, and that gas currently present is residue from the earlier release and not from current releases.

Linda O'Rourke, COGCC Environmental Protection Specialist, and Kevin King, COGCC Engineer in the Rifle office, presented for the COGCC staff. Staff initiated its investigation in February 2010. In summary, it appears that there was a release of gas from the EnCana P3 pad in November 2009, that gas appears to be the source of the Moon drinking water well problem, and COGCC will require EnCana to continue monitoring while the investigation continues as to what additional actions need to be taken. Kevin King reported that the COGCC has requested that EnCana submit mechanical integrity tests on all five wells on the P3 pad, and pressure transient analysis of the suspect well, and to work with staff to determine appropriate remedial actions.

Ms. Tina Johnson, Group Leader Production Engineer for EnCana, described the original well completion activity period on the P-3 pad from 2003 to 2006. From 2007 to the present time, there has been no major operational activity in this area. EnCana continues to perform ground water and soil gas monitoring and expand the area of testing. EnCana expects to continue to produce gas from the P3 wells and vent bradenhead gas, evaluate the 150 PSI bradenhead pressure standard to determine whether that is the right level, and to bring in a third party to help evaluate potential remedial measures.

Debbie Baldwin's assessment is that the present conditions of approval are effective in preventing these types of problems, and that the problems associated with the Moon and Miller water wells are vestiges from different standards in place at the time the wells causing the problems were completed. Linda O'Rourke stated that staff is uncertain as to whether the problems of the Moon and Miller wells are connected. The staff has seen improvement in these wells but is not certain that these wells are no longer leaking, or that they are 100% fixed. That is why the staff would like to continue monitoring and sampling these wells, along with using a third party consultant to evaluate whether the repairs resolve the problems completely, and to continue with an ongoing assessment of the condition of the wells.

In fall of 2008, COGCC staff evaluated 16 oil and gas wells in the area between the Moon and Miller water wells, including the Divide Creek area, and collected a variety of water and gas samples. Staff did not identify any new gas well anomalies, and did not identify any new thermogenic gas impacts to West Divide Creek.

In summary, problems were identified with gas leaking into water wells and seeping into the creek and soil; efforts have been successful in identifying the source of the problems; improved practices have

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been implemented to prevent similar problems from occurring in the future; staff is not certain of having resolved and remediated all of the problem yet, the new practices are resulting in better protection of health, safety and the environment; and staff is taking steps to make additional improvements.

Debbie Baldwin gave a brief report on the Miller Water well and Bill Barrett Corporation (BBC) investigations in the area. The environmental issues are similar to the Moon well problem. BBC continues to collect and assemble more data. Staff will be evaluating the additional data and analysis available to them, and then decide what steps should be taken by BBC to remedy the situation.

Request for Variance to Rule 317B.

Director Neslin explained the background for the requested variance and the application of Rule 317B. This was the first requested variance from Rule 317B. which protects public water systems. Rule 317B. is a very important environmental rule. The rule itself contemplates under sub-part c that the internal buffer zone can be modified by variance and such a variance request is subject to consultation with CDPHE and certain conditions have to be incorporated to assure that the environment is protected.

Director Neslin commended the CDPHE personnel for the onsite work and consultation with the Town of Silt, and the COGCC Oil and Gas Location Assessment staff. The result will be a number of innovative practices and conditions applied in the area to protect the environment. The CDPHE advised COGCC staff that the variance standards were satisfied, and that CDPHE would support the COGCC in granting the variance. The COGCC staff intends to issue the variance soon. Kate Fay, with CDPHE commented that Bill Barrett Corporation suggested a lot of conditions themselves that CDPHE did not come up with and thanked Bill Barrett Corporation for a fairly easy consultation.

Director Neslin invited Commission comments and inputs on the proposed variance. Director Houpt inquired what would happen to a variance request if no solution could be found to meet environmental protection standards. Director Neslin responded that no variance could be issued unless it resulted in substantially similar levels of protection. Vice Chair Dowling acknowledged the intended high level of environmental protection the Commission had in mind in adopting the rule, and requested that future Rule 317B. variances be brought similarly to the Commission for informational purposes.

Adjourned 5:18 p.m.

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Secretary was therefore authorized to issue the following orders:

Order No. 440-62, Docket No. 1006-AW-03, Parachute Field, Garfield County: Approves the 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 unit boundary for certain lands in Township 7 South, Ranges 95 and 96 West, 6th P.M., for the production of gas and associated hydrocarbons from the Williams Fork Formation.

Order No. 112-221, Docket No. 1007-EX-05, Ignacio-Blanco Field, La Plata County: Approves the request for an order for an exception location for the Jaques 33-8-23 #3 Well with the bottomhole location of 1,836.2 feet FSL and 647.2 feet FEL in the SE¼ NE¼ of Section 23, Township 33 North, Range 8 West, N.M.P.M., for the production of gas and associated hydrocarbons from the Fruitland coal seams.

Order No. 139-110, Docket No. 1007-SP-19, Rulison Field, Garfield County: Approves the request for an order to vacate the existing 40-acre drilling and spacing unit established in Order No. 139-73, and establish an approximate 59.42-acre drilling and spacing unit consisting of Lots 1 and 2 (N½ NE¼) of Section 17, Township 7 South, Range 94 West, 6th P.M., and continue to allow the equivalent of one well per 10 acres, for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

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Order No. 407-374, Docket No. 1007-SP-21, Unnamed/Wattenberg Fields, Morgan/Weld Counties: Approves the request for an order to establish eleven (11) 640-acre drilling and spacing units consisting of certain lands in Township 6 North, Range 60 West, 6th P.M., Townships 6 and 7 North, Range 61 West, 6th P.M., with the bottom-hole location to be no closer than 460 feet from the unit boundary, for the production of gas and associated hydrocarbons from the Niobrara Formation.

Order No. 1V-348, Docket No. 1004-OV-02, Adams County: Approves the request for an order finding Barnes Petroleum Corporation in violation of Rules 302.a., 706., 319.b.(1), and 326.d., at the Rosener #1 Well located in the NW¼ NE¼ of Section 8, Township 1 South, Range 59 West, 6th P.M.

Order No. 1V-349, Docket No. 1006-OV-05, Adams County: Approves the request to approve an Administrative Order by Consent with Eddy Oil Company to resolve alleged violations of Rules 317.d., 324A.a., 324A.b., 326.d., and 906.a at the Dupper #2 Well, located in the NW¼ NW¼ of Section 26, Township 4 North, Range 65 West, 6th P.M.

Carol Harmon, Secretary

Approved:

Joshua Epel, Chair