

## RECORD OF PROCEEDINGS

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November 29, 2010

The Oil and Gas Conservation Commission ("COGCC") met on November 29, 2010, in Suite 801 of The Chancery Building, 1120 Lincoln Street, Denver, Colorado.

### **Roll Call of Commissioners**

Present:

Joshua Epel	Chairman
Michael P. Dowling	Vice Chairman
Richard D. Alward	Commissioner
Deann Craig	Commissioner
Mark Cutright	Commissioner
Tom Compton	Commissioner
Mike King	Commissioner
Tresi Hout	Commissioner
Martha Rudolph	Commissioner
Matt Lepore	Assistant Attorney General
David Neslin	Director
Carol Harmon	Hearings Manager

Absent:

None

### **Approval of Proceedings:**

Commissioner Compton moved for the approval of the minutes of April 29, 2010; June 1, 2010; July 8, 2010; and October 21, 2010. The motion was seconded by Commissioner Alward and approved unanimously.

### **Tribute to Departing Commissioner Tres Hout:**

Chairman Epel noted that this would be the last Commission meeting for Commissioner Tres Hout. The Commissioners each took their turn recognizing and appreciating the contributions of Commissioner Hout over the past four years. Chairman Epel presented Commissioner Hout with a resolution of appreciation from the Commission, a photo of the Commission on a field tour, and a token gift of a miniature pump jack.

### **Tribute to Retiring Hearings Manager, Carol Harmon:**

Chairman Epel recognized the contributions of Hearings Manager, Carol Harmon, whose retirement is effective December 1, 2010. Director Neslin also commended Carol on her ten year professional service to the Commission, first as its legal counsel as Assistant Attorney General, then as Enforcement Officer, and most recently, as Hearings Manager.

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### **DNR Executive Director's Report:**

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

- The challenge to the rulemaking on produced nontributary groundwater remains unresolved. The legal issues have been briefed in the Denver District Court case. A decision on the briefed legal issues is expected in spring 2011.
- A dispute regarding mine pool dewatering requirements for Cotter Corporation's Swartzwald Mine in Jefferson County, is being litigated in Denver District Court. DNR is working closely with the Colorado Department of Public Health and Environment to work through the issue dealing with radioactive mine drainage water.
- The State Land Board Director position vacancy recruitment period remains open through December 10, 2010. DNR staff is setting up the process for the position to be filled after the new governor takes office.
- The DNR Executive Director's Office is assisting the governor-elect's transition team in preparing for the new administration.
- DNR is pleased with the recent hiring of a new DNR Communications Director, Todd Hartman.

### **Director's Report:**

Director Neslin reported the following:

- The Northwest Colorado Oil and Gas Forum (Forum) is an informal gathering of local, state, and federal government officials, oil and gas industry representatives, and citizens that have met regularly since 1989. The purpose of the Forum is to share information about oil and gas development in northwest Colorado and to make government officials and oil and gas industry representatives easily accessible to the public. The next meeting is scheduled for December 2, 2010.
- East Mamm Creek Area Investigation- COGCC staff continues work on a project to evaluate existing data and review past and present drilling and completion practices in the East Mamm Creek area of Garfield County. A progress report is expected in December 2010.
- Silt-Mesa and Peach Valley Area Activities - Staff has received numerous requests from Silt Mesa and Peach Valley residents in Garfield County to have domestic water wells, and streams serving livestock, sampled in advance of drilling activity nearby. Staff responded as quickly as possible to accommodate the requests before drilling commenced in the area of concern. A third-party contractor was used to assist in sample collection due to the volume of requests. Staff is also providing copies of the Rifle, Silt, New Castle (RSNC) Community Development Plan to residents who are not familiar with it, as well as information regarding Garfield County's Energy Advisory Board (EAB) meetings.

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- The next GORT/Southwest Colorado Oil and Gas Stakeholders meeting is scheduled for January 20, 2011, at 8:30 am at the La Plata County Fairgrounds in Durango, Colorado.
- Baseline Water Quality Sampling – Montezuma & Dolores Counties - A baseline water quality sampling of surface and groundwater has been initiated in areas where additional development may occur in the Gothic Shale play in Montezuma and Dolores Counties.
- Baseline Water Quality Sampling – Rio Grande County - A baseline water quality sampling program has been initiated in advance of proposed drilling activities in the Del Norte area of the San Luis Valley. Early results have been provided to the COGCC for inclusion in the water quality database.
- Organization Changes:
  - Hearings Manager, Carol Harmon will be retiring on December 1, 2010. Carol has worked with the COGCC for the last decade, first as Assistant Attorney General from 2001 to 2007, then as Enforcement Officer from 2007 to 2009, and finally as Hearings Manager from 2009 to the present. She has served with distinction in all of these positions and will be greatly missed.
  - Diana Burn has been appointed to the position of Supervising Professional Engineer the Eastern Colorado. Diana has been the COGCC Northeastern Area Engineer for nearly 4 years. Prior to joining the COGCC, Diana was with a private oil and gas company. Diana holds both a Bachelor and Master of Science degrees in engineering.
- Public Outreach Activities:
  - Dave Campin of the Queensland Department of Environment and Resource Management (Australia) visited the Raton Basin operations of XTO Energy, Petroglyph Energy, and Pioneer Natural Resources, to gain better understanding of water disposal practices associated with the coalbed methane (CBM) operations in the basin. Mr. Campin and Peter Gintautas, COGCC SE Environmental Protection Specialist, also toured Petroglyph's Phase 2 reverse osmosis treatment system and the Class V UIC wells being operated as part of the Methane Investigation Monitoring, and Mitigation Plan. Mr. Campin reported that Queensland currently has about 500 CBM wells, and expects 20,000 additional wells to be drilled in the future.
  - Karen Spray (COGCC) and Andy Hawk (BP) led a tour of the South Fork Texas Creek Mitigation site on November 8, 2010. Josh Joswick of the San Juan Citizens Alliance (SJCA) participated in the tour. The tour demonstrated the success the COGCC has had in collecting methane gas previously escaping into the environment, and using the gas for generating rural electricity.
  - Gunnison County Planning Commission Meeting - Linda Spry-O'Rourke, COGCC's NW Environmental Protection Specialist, attended the Gunnison County Planning Commission meeting on November 5, 2010, in Gunnison. SG Interests' contractors provided a detailed presentation regarding the use of light detection and ranging laser (LIDAR) imaging to

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site well pads, and reclamation monitoring of the Bull Mountain Pipeline corridor. Gunnison Energy explained steps it takes to protect natural resources and discussed its ongoing water quality testing program. The next meeting of the Gunnison County Planning Commission is December 3, 2010.

- Garfield County Commissioners Meeting - COGCC's Dave Kubezco, Western Oil & Gas Location Assessment Specialist, and Linda Spry-O'Rourke, NW Environmental Protection Specialist, attended the Garfield County Commissioners public hearing on November 9, 2010, on the topic of Antero's application to change downhole well density from one well per 160 acres to one well per 10 acres. Staff responded to Commissioners' questions concerning the conditions of approval that will be placed on Applications to Drill (APDs) wells and the baseline groundwater quality testing that was done in the area in 2006.
- eForm - The next COGCC form scheduled to be released in electronic format is Well Abandonment, Form 6. Final testing of the Form 6 is underway and the goal is to release the form to the operators by early December 2010.
- Variances.
  - An Oil and Gas Location Assessment Form 2A was approved for Manzano LLC., Permit #2590422, under Rule 303.I on October 19, 2010, due to exigent circumstances resulting in economic hardship. Manzano had a rig drilling in the immediate area and it would have cost them \$25,000-\$30,000 per day in standby charges for each day they had to wait for permit approval. The operator provided waivers from the local government designee and has a Surface Use Agreement from the surface owner.
  - An Oil and Gas Location Assessment Form 2A was approved for Slawson Exploration Company, Inc. under 303.I(1) due to special circumstances and without full notice or consultation. Due to pending expiration of a mineral lease, Slawson Exploration had to expedite its drilling schedule of available leases or possibly lose its lease. The Form 2A was approved November 2, 2010.
- Permitting Statistics - Thom Kerr explained tables depicted on pages 15-23 of Staff Report. The backlog on permit processing is at an all-time low. There has also been a 50% increase in field inspections to about 15,000. The total number of active permits is around 4,500.
- Director Neslin attended the Interstate Oil and Gas Compact Commission meeting earlier in November. A major topic of discussion involved EPA's nationwide study on fracing. The final EPA report is due in December 2012, with an interim draft study plan expected in early 2011.
- Director Neslin also reported on a stakeholders meeting on fine tuning Commission Rules. There was interest among industry groups and local government representatives to consider delaying the final implementation of Rule 904 and extending the May 1, 2011 compliance date another two years. This would require a Commission rulemaking proceeding in the first quarter of 2011.

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**Horizontal Wells- Staff Presentation** Jim Milne, COGCC Senior Research Scientist/GIS Specialist, provided an overview of the nature of the recent increase in horizontal well drilling across the state. Horizontal permitting is at an all-time high, with 276 permits issued so far this year. This is 36% of the state's historical total of horizontal wells. Most targeted formations include the Niobrara Formation and Fruitland Coal Formation, but other formations include the Gothic Shale, Dakota Sandstone, Leadville Limestone, Pierre Shale, Mancos Shale and Vermejo Coal. Most active counties include Weld, La Plata and Mesa, but permits were issued across 15 counties in 2010. In the Niobrara, horizontal drilling is opening up drilling activity in areas where vertical wells would not necessarily be drilled in the absence of horizontal drilling. In the Fruitland Coal, horizontal wells are in substitution for more numerous vertical wells, and are thus reducing drilling footprints.

### **Commissioner Comments:**

Commissioner Compton inquired of Director Neslin whether there were any attempts being made to link increased disease reported in dairy herds in the area of the Corsentino Dairy Farms site investigation with pollution of coal bed methane operations. Director Neslin responded no.

### **Audience Comments:**

John Seman, attorney for the Colorado Petroleum Association, echoed positive comments previously made in recognition of the service to the COGCC of Commissioner Houpt and Hearings Manager, Carol Harmon.

Charles Montgomery, attorney for the Colorado Environmental Coalition, expressed his organizations' general concern about the prospect of extending the May 1, 2011 compliance date of Rule 904 as discussed earlier in Director Neslin's report. His client groups are concerned with possible ground water contamination, and would prefer to have the present rule continue in place, while the matter is studied further.

### **Consent Agenda**

Chairman Epel asked if any Commissioners had a conflict of interest with any of the items on the Consent Agenda. Director Cutright disclosed that his company has a professional relationship with Kerr-McGee, Anadarko, Noble Energy and Petro-Canada, none of which would interfere with his ability to fairly consider the matters. He also disclosed a relationship with Bonanza Creek, requiring him to recuse himself in that matter (Docket No. 1010-SP-31). No other disclosures were reported.

Chairman Epel asked if any Commissioners wanted to have any matter pulled from the Consent Agenda. Bonanza Creek (Docket No. 1010-SP-31) was pulled due to Commissioner Cutright's conflict of interest. Commissioner Rudolph requested that Docket No. 1010-GA-19 - Wellington Operating Company, be pulled for discussion.

Vice Chair Dowling moved for the approval of the following matter:

Cause No. 407, Docket No. 1010-SP-31, Wattenberg Field, Weld County,  
Applicant: Bonanza Creek Energy Operating Company, LLC: Request for  
an order to establish twenty-one approximate 640-acre drilling and  
spacing units for various lands in Township 5 North, Ranges 61 and 62

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West, 6th P.M. and Township 6 North, Range 62 West, 6th P.M., and allow one horizontal well in each of the units, with initial penetration of the Codell and Niobrara Formations, lateral, and bottomhole location not closer than 460 feet from the boundaries of the unit.

The motion was seconded by Commissioner Compton. The motion was approved unanimously by participating Commissioners, with Commissioner Cutright abstaining.

Vice Chair Dowling moved for the approval of all remaining Rule 511 matters on the Consent Agenda as follows:

Cause No. 112, Docket No. 1008-UP-51, Ignacio-Blanco Field, La Plata County, Applicant: BP America Production Company: Request for an order to pool all nonconsenting interests for the 320-acre drilling and spacing unit consisting of the S½ of Section 21, Township 34 North, Range 9 West, N.M.P.M.

Cause No. 112, Docket No.1011-AW-08, Ignacio-Blanco Field, La Plata County, Applicant: BP America Production Company & Red Willow Production Company: Request to allow an optional second well in established 320-acre drilling and spacing units for certain lands in Township 32 North, Ranges 9 and 10 West, N.M.P.M. (S.U.L.) and Township 33 North, Ranges 9 and 10 West, N.M.P.M. (S.U.L.)

Cause No. 112, Docket No.1011-AW-09, Ignacio-Blanco Field, La Plata County, Applicant: BP America Production Company & Red Willow Production Company: Request to allow up to four optional wells in established 320-acre drilling and spacing units for certain lands in Township 32 North, Range 9 West, N.M.P.M. (S.U.L.) and Township 33 North, Ranges 9 and 10 West, N.M.P.M. (S.U.L.)

Cause No. 112, Docket No.1011-AW-10, Ignacio-Blanco Field, Archuleta County, Applicant: Red Willow Production Company: Request to amend Order No. 112-210 to approve an optional second horizontal well for the 356.62-acre drilling and spacing unit established for the W½ E½ and W½ of Section 21, Township 32 North, Range 4 West, N.M.P.M.

Cause No. 191, Docket No.1011-AW-11, Mamm Creek Field, Garfield County, Applicant: Bill Barrett Corporation: Request to approve the equivalent of one well per 10 acres well density for the production of gas and associated hydrocarbons from the Iles Formation in the N½ N½ of Section 19, Township 6 South, Range 91 West, 6th P.M.

Cause No. 112, Docket No.1011-SP-40, Ignacio-Blanco Field, Archuleta County, Applicant: Red Willow Production Company: Request to amend Order No. 112-210 to combine a 359.02-acre drilling and spacing unit established for the E½ E½ of Section 21 and the W½ of Section 22, Township 32 North, Range 4 West, N.M.P.M. and a 360.00-acre drilling and spacing unit established for the E½ of Section 22 and the W½ W½ of Section 23 Township 32 North, Range 4 West, N.M.P.M. into a 719.02-acre drilling and spacing unit for those same lands and approve two horizontal wells on the combined unit for the production of gas and associated hydrocarbons from the Fruitland coal seams.

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Cause No. 191, Docket No.1011-SP-41, Ignacio-Blanco Field, Archuleta County, Applicant: Bill Barrett Corporation: Request to establish an approximate 140-acre drilling and spacing unit for the N $\frac{1}{2}$  NE $\frac{1}{4}$ , the N $\frac{1}{2}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ , and the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 24, Township 6 South, Range 92 West, 6th P.M.

Cause No. 191, Docket No.1011-SP-42, Mamm Creek Field, Garfield County, Applicant: Bill Barrett Corporation: Request to establish an approximate 100-acre drilling and spacing unit for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations in the S $\frac{1}{2}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ , NE $\frac{1}{4}$  SE $\frac{1}{4}$ , and the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 24, Township 6 South, Range 92 West, 6th P.M.

Cause No. 5, Docket No.1011-UP-59, Peetz West Field, Logan County, Applicant: East Cheyenne Gas Storage, LLC: Request for an order to make effective the establishment of the enhanced recovery unit and enhanced recovery operations approved by Order No. 5-1 for the "J"-Sand Formation in certain lands located in Section 6 in Township 11 North, Range 52 West, 6th P.M., Section 31 in Township 12 North, Range 52 West, 6th P.M., Section 1 in Township 11 North, Range 53 West, 6th P.M., and Section 36 in Township 12 North, Range 53 West, 6th P.M., based on the written approval and consent of 80% or more of the royalty interest owners.

Cause No. 5, Docket No.1011-UP-60, Peetz West Field, Logan County, Applicant: East Cheyenne Gas Storage, LLC: Request for an order to make effective the establishment of the enhanced recovery unit and enhanced recovery operations approved by Order No. 5-2 for the "D" Sand Formation in certain lands located in Section 3, 5 and 7 in Township 11 North, Range 52 West, 6th P.M., Section 31 in Township 12 North, Range 52 West, 6th P.M., and Section 36 in Township 12 North, Range 53 West, 6th P.M., based on the written approval and consent of 80% or more of the royalty interest owners.

Cause No. 232 & 407, Docket No.1011-UP-62, Wattenberg Field, Logan County, Applicant: Kerr-McGee Oil & Gas Onshore LP: Request to pool specifically named nonconsenting interests for certain described wells and future wells drilling in designated drilling and spacing units and wellbore spacing units located within portions of Sections 7, 8, 17, 18, and 19 in Township 3 North, Range 66 West, 6th P.M.

The motion was seconded by Commissioner Compton and approved unanimously.

Vice Chair Dowling moved for the approval of the following matter:

Cause No. 1, Docket No. 1010-GA-19, Boxelder Creek Alluvium, Larimer County, Applicant: Wellington Operating Company, LLC: Request to extend the duration of the current discharge permit, previously granted under Order No. 1-108, to discharge treated produced water from the Wellington Muddy Unit into the Boxelder Creek Alluvium in the SE $\frac{1}{4}$  of Section 7, Township 9 North, Range 68 West, 6th P.M., until such time as

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the permit renewal process can be completed and authorized by the Commission at a regularly scheduled hearing.

The motion was seconded by Commissioner Compton. Commissioner Rudolph noted that the requested benzene limit of 10 ppb was higher than the applicable standard and inquired as to whether staff supported this requested limit. Debbie Baldwin responded that staff did not support the applicant's requested limit. She further clarified, that the staff requested action was merely to extend the term of the current permit until such time that the new permit could be finalized and brought to the Commission for approval, probably at the next meeting in January 2011. Debbie Baldwin further indicated that the Water Quality Control Commission would be consulted on the permit renewal. The motion was approved unanimously.

### **Administrative Orders By Consent**

#### **Cause No. 1V, Docket No. 1009-OV-07- Magpie Operating, Inc.**

Enforcement Officer, Rob Willis introduced this matter as one where the parties have entered into an Administrative Order by Consent for a violation of Rule 326.b.(1), for failure to perform a mechanical integrity test as required, and assessing a total administrative fine of \$10,000.

Vice Chair Dowling moved to approve the proposed Administrative Order by Consent as presented. The motion was seconded by Commissioner Compton and approved unanimously.

#### **Cause No. 1V, Docket No. 1011-OV-10 - Pioneer Natural Resources**

Enforcement Officer, Rob Willis introduced this matter as one where the parties have entered into an Administrative Order by Consent for a violation of Rule 303 for commencing operations to drill a well in the period between the expiration of an approved APD and the issuance of a new APD, and assessing a total administrative fine of \$5,000.

Vice Chair Dowling moved to approve the proposed Administrative Order by Consent as presented. The motion was seconded by Commissioner Compton and approved unanimously.

#### **Cause No. 1V, Docket No. 1011-OV-11- Noble Energy Production**

Enforcement Officer, Rob Willis introduced this matter as one where the parties have entered into an Administrative Order by Consent for violations of Rules 324A(a), 324.A.(b), 907.a(1), 907.a(2) and 907.d(3)B related to the disposal of drilling mud and discharge into the Cache la Poudre River, and assessing a total administrative fine of \$20,000.

Commissioner Alward moved to approve the proposed Administrative Order by Consent as presented. The motion was seconded by Vice Chair Dowling and approved unanimously.

#### **Cause No. 1V, Docket No. 1011-OV-12 - Petro-Canada Resources**

Enforcement Officer, Rob Willis introduced this matter as one where the parties have entered into an Administrative Order by Consent for violations of Rules 324A(a), 324.A.(b), 907.a(1), 907.a(2) and 907.d(3)B related to the disposal of drilling mud and discharge into the Cache la Poudre River, and assessing a total administrative fine of \$20,000. This is a



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companion case to the matter previously heard, as both Noble Energy and Petro-Canada were similarly responsible in the same episode giving rise to the violations.

Commissioner Alward moved to approve the proposed Administrative Order by Consent as presented. The motion was seconded by Vice Chair Dowling and approved unanimously.

### **Cause No. 1V, Docket No. 1011-OV-13 - ExxonMobil Oil Corporation**

Enforcement Officer, Rob Willis introduced this matter as one where the parties have entered into an Administrative Order by Consent for a violation of Rule 303.a for commencing operations to drill a well in a three-day period between the expiration of an approved APD and the issuance of a new APD, and assessing a total administrative fine of \$1,500.

Vice Chair Dowling moved to approve the proposed Administrative Order by Consent as presented. The motion was seconded by Commissioner Craig and approved unanimously.

### **Cause No. 1V, Docket No. 1011-OV-14 - Noble Energy Production**

Enforcement Officer, Rob Willis introduced this matter as one where the parties have entered into an Administrative Order by Consent for a violation of Rule 303.a for commencing operations to drill a well in a five-day period between the expiration of an approved APD and the issuance of a new APD, and assessing a total administrative fine of \$2,500.

Commissioner Cutright moved to approve the proposed Administrative Order by Consent as presented. The motion was seconded by Commissioner Compton and approved unanimously.

## **Hearing Matters**

### **Orders Finding Violation**

### **Cause No. 1V, Docket No. 1011-OV-15 - Premier Oil & Gas**

Enforcement Officer, Rob Willis introduced this matter as one where the staff alleges violations of Rules 206., 210.b.(1), 309., 319.b.(1), 326.b.(1), 604.d., and 706., for its oil and gas operations at the Church Ranch #1W Well (API No. 05-059-06026), located in the NW¼ SW¼ of Section 9, Township 2 South, Range 70 West, 6th P.M., Jefferson County. Enforcement in this matter is complicated by the fact that the operator has filed for bankruptcy. Staff is seeking authorization to: 1) plug and abandon the subject well; 2) foreclose on the security bond of \$5,000; 3) utilize funds from the Oil and Gas Conservation and Environmental Response Fund (CERF) to complete the plugging and abandonment of the well for costs in excess of the posted bond; and 4) assess a fine of \$10,000 per violation for each of the seven alleged violations, for a total of \$70,000.

Commissioner Rudolph suggested that due to the operator's bankruptcy case, staff confer with the Office of the Attorney General for guidance as to appropriate procedures to follow for assessing fines, foreclosing on the posted bond, seeking recovery of the costs of plugging and abandonment of the well, and consequences of initiating legal action under section 34-60-124(7) C.R.S. to seek reimbursement for any CERF funds that might be expended to plug or abandon the well.

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Commissioner Alward moved to continue this matter to allow further consultation with the Office of the Attorney General, regarding the bankruptcy implications of this case. The motion was seconded by Commissioner Houpt and approved unanimously.

### **Cause No. 1V, Docket No. 1011-OV-16 - Provide Oil & Gas**

Enforcement Officer, Rob Willis introduced this matter as one where staff requests an Order Finding Violation against Provide Oil & Gas, Inc. for violations of Rules 205.a., 206., 301., 309., 706., 1002.d., 1002.e.(1), 1003.b., 1003.e.(2), and 1003.f., for its oil and gas operations at the State 16-4 #1 Well (API No. 05-059-06024), located in the NW¼ NW¼ of Section 16, Township 2 South, Range 70 West, 6th P.M., Jefferson County. He indicated that Provide Oil and Gas has the same principals as Premier Oil & Gas, as described in the previous matter just considered by the Commission.

Commissioner Alward moved to continue this matter to allow further consultation with the Office of the Attorney General, in this case. The motion was seconded by Commissioner Houpt and approved unanimously.

### **Lunch/Executive Session**

Assistant Attorney General, Matt Lapore, explained the basis for the Commission entering into executive session. The purpose of the executive session, pursuant to C.R.S. §24-6-402(3)(a)(II), was 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:

- BP American Production and Lois Hood, Docket No. 1010-UP-57
- GDC v. Black

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

Vice Chair Dowling left the meeting during the lunch break, after the conclusion of the executive session. No decisions were made or actions taken during the executive session.

### **Hearing Matters**

The Commission reconvened at 1:00 p.m.

### **Cause No. 1, Docket No. 1010-GA-21- Prather Spring Monitoring & Mitigation Workplan**

This matter was initiated by petition by Ned Prather, Richard Prather, William Lyle Prather, Donna J. Koehler and JOJO Properties, LLC, for an expedited hearing pursuant to the terms of an Administrative Order by Consent (Order No. 1V-350). Prior to the hearing, petitioners withdrew their request.

Attorney, Lloyd Landreth, and consultant, Gerald Daub, for Williams Production RMT, (Williams) appeared before the Commission, seeking Commission approval of a proposed time frame for the submission and work initiation of a Monitoring and Mitigation Workplan (Plan) that Williams has been negotiating with COGCC staff. After

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Commission discussion of technical details of the monitoring program, COGCC staff members Debbie Baldwin and Chris Canfield confirmed that staff is in support of the request by Williams. Williams requested that it be given until December 18, 2010 to submit a final Plan for COGCC approval, and be given until May 1, 2011 to commence actions under the Plan, weather permitting.

Commissioner Houpt moved that under Order No. 1V-350, Williams be given until December 18, 2010 to submit a final Monitoring and Mitigation Workplan for COGCC approval, and be given until May 1, 2011 to commence actions under the Workplan, weather permitting. The motion was seconded by Commissioner Compton and approved unanimously. Chris Canfield confirmed that Commission staff would be receiving progress reports on Williams' efforts under the Plan, and that those reports would be available to the Commission if the Commission was interested in reviewing them.

### Cause No. 1, Docket No. 1010-GA-18, Yuma County

Yuma County Attorney, Michael Grinnan appeared by telephone to explain the Yuma County (County) application for relief from the September 1, deadline of Rule 804. The Rule requires that production facilities, regardless of construction date, that are observable from any public highway be painted by September 1, 2010 with uniform, non-contrasting, non-reflective color tones and with colors matched to but slightly darker than the surrounding landscape.

Mr. Grinnan stated that the County believes that enforcement the September 1, 2010 deadline of Rule 804 is not necessary for the protection of public health, safety, welfare, or the environment, and thus the County should be exempted from this rule. He cited the following reasons behind the County request:

- a) Oil and gas production facilities are not located where they will distract drivers on public highways.
- b) The county, particularly in those areas where the affected oil and gas facilities are located, is not densely populated. Consequently, aesthetics of the tanks and other production facilities are not a significant concern.
- c) Oil and gas production facilities which are not painted in earth tone colors facilitate the response of emergency services to the sites.
- d) The public, as represented by the Board of County Commissioners of Yuma County, has expressed a desire for an exemption from enforcement of Rule 804.
- e) Many of the facilities which have not already been painted in earth tone colors pursuant to the previous version of Rule 804 are low producing "stripper" wells which are of marginal economic viability. Of the 3,545 gas wells in Yuma County, 81% are stripper wells. Enforcement of the present version of Rule 804 could result in wells being shut in which will reduce County revenues and resource production, and will increase unemployment. In 2009 nearly 200 gas employees lost their jobs within the County. This caused an adverse economic impact to local businesses. Enforcement of the current version of Rule 804 will only exacerbate this economic decline.

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The County is not seeking an entire exemption from the provisions of Rule 804. The County is only requesting an exemption from the September 1, 2010 requirement. The Applicant has no objection to the enforcement of Rule 804 as it existed prior to the 2009 amendments. That is, any oilfield equipment, including tank batteries, must be painted in earth tone colors upon installation or repainting as part of regular maintenance.

Commissioner Alward moved for the approval of the Yuma County application. The motion was seconded by Commissioner Houpt. Commissioner Cutright recused himself from this matter. The motion was approved unanimously by the participating Commission members, with Vice Chair Dowling absent and Commissioner Cutright abstaining.

### Cause No. 112, Docket No.1010-UP-57 - BP and Lois Hood

This matter was set for oral arguments on a motion for partial dismissal by Samson Resources Company, protestant in the matter. Two legal issues are at issue under the motion: 1) whether the Commission has authority to apply the forced pooling statute (section 34-60-116 C.R.S.) retroactively to a date that precedes the date of application; and 2) whether Lois Hood has standing as a Co-Applicant in this matter. The parties had previously submitted briefs in support of their respective positions. The Commission reviewed the briefs prior to the argument. The Commission also had received a briefing from Assistant Attorney General, Matt Lapore on the contested legal issues during its executive session earlier in the day.

Appearing for the Co-Applicants were Tom Niebrugge and Jon Lehmann for Co-Applicant, BP; Jeffrey Robbins (by telephone) for Lois Hood. Appearing for Co-Applicant, Samson Resources was Scott Campbell.

Both parties highlighted points made in their respective briefs.

Deliberations by the Commission upon the closing of the arguments focused on the fact that several Commission members felt that they wanted to hear testimony on evidence beyond the current pleadings, in order to apply the statutory standard of section 34-60-116(6) C.R.S., requiring the Commission to issue involuntary pooling orders on terms and conditions that are just and reasonable under the facts of the case. Commissioners felt that further development of the facts was necessary before the Commission could assess terms and conditions of a forced pooling order, relating to the date to which the pooling order should be retroactive.

Commissioner Compton felt it was important that Ms. Hood be granted standing in the case so that she could adequately protect her royalty interests. This is so, particularly in light of the fact that her royalty interest is non-cost bearing, whereas BP's working interest is cost bearing. A decision on the retroactive application of costs and revenues in the matter will impact Ms. Hood and BP differently, and this is an adequate basis for providing Ms. Hood with standing in this matter.

Commissioner Rudolph moved to deny the Samson motion for partial dismissal and grant Lois Hood standing in the case. This action was to preserve the ability of the Commission to apply its forced pooling decision in this case retroactively to a date preceding the date of application in this matter, if the facts of the case require it for a just and reasonable result. It was the intent of the Commission not to decide the retroactivity legal issue, based on the pleadings alone. The motion was seconded by

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Commissioner Compton, and approved unanimously by the Commissioners present, with Vice Chair Dowling absent.

### Cause No. 1E, Docket No. 1010-GA-20 – Emergency PAWR Funds

COGCC Engineering Manager, Stuart Ellsworth explained a staff emergency request to approve the expenditure of additional Plugging, Abandonment and Well Reclamation (PAWR) monies up to \$180,000 from the Conservation and Environmental Response Fund to plug two orphaned wells that are leaking fluid to the surface within the Town of DeBeque. Four wells dating back to the early 1900's were discovered leaking oil, gas and contaminated water in the DeBeque Field. The four wells are the Ballpark #7, Homestead #2, Pasture #1, and Buckeye #1. Remedial work has been initiated and the Homestead #2 and the Ballpark #7 have been safely plugged. Additional funds are necessary to safely plug the Pasture #1 and Buckeye #1 Wells. The request is for an amount not to exceed \$180,000. Staff expects to be able to complete the work for less than this amount, but seeks authorization up to this amount to be sure to have sufficient funds to complete the job without having to return for further authorization.

Commissioner Craig moved to authorize the sum of not to exceed \$180,000, from the Conservation and Environmental Response Fund, for the purpose of properly plugging and abandoning the orphaned Pasture #1 Well and Buckeye #1 Well as requested by staff. The motion was seconded by Commissioner King, and approved by the Commission members present with Vice Chair Dowling absent.

There was no additional business before the Commission.

Adjourned 2:30 p.m.

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The Secretary was therefore authorized to issue the following orders:

Order No. 112-222, Docket No. 1008-UP-51, Ignacio-Blanco Field, La Plata County,  
Applicant: BP America Production Company: Order pooling all nonconsenting interests for the 320-acre drilling and spacing unit consisting of the S½ of Section 21, Township 34 North, Range 9 West, N.M.P.M.

Order No. 407-380, Docket No. 1010-SP-31, Wattenberg Field, Weld County, Applicant: Bonanza Creek Energy Operating Company, LLC: Order establishing twenty-one approximate 640-acre drilling and spacing units for various lands in Township 5 North, Ranges 61 and 62 West, 6th P.M. and Township 6 North, Range 62 West, 6th P.M., and allowing one horizontal well in each of the units, with initial penetration of the Codell and Niobrara Formations, lateral, and bottomhole location not closer than 460 feet from the boundaries of the unit.

Order No. 112-223, Docket No. 1011-AW-08, Ignacio-Blanco Field, La Plata County,  
Applicant: BP America Production Company & Red Willow Production Company: Order allowing an optional second well in established 320-acre drilling and spacing units for certain lands in Township 32 North, Ranges 9 and 10 West, N.M.P.M. (S.U.L.) and Township 33 North, Ranges 9 and 10 West, N.M.P.M. (S.U.L.)

Order No. 112-224, Docket No. 1011-AW-09, Ignacio-Blanco Field, La Plata County,  
Applicant: BP America Production Company & Red Willow Production Company: Order

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allowing up to four optional wells in established 320-acre drilling and spacing units for certain lands in Township 32 North, Range 9 West, N.M.P.M. (S.U.L.) and Township 33 North, Ranges 9 and 10 West, N.M.P.M. (S.U.L.)

Order No. 112-225, Docket No.1011-AW-10, Ignacio-Blanco Field, Archuleta County, Applicant: Red Willow Production Company: Order amending Order No. 112-210 to approve an optional second horizontal well for the 356.62-acre drilling and spacing unit established for the W $\frac{1}{2}$  E $\frac{1}{2}$  and W $\frac{1}{2}$  of Section 21, Township 32 North, Range 4 West, N.M.P.M.

Order No. 191-80, Docket No.1011-AW-11, Mamm Creek Field, Garfield County, Applicant: Bill Barrett Corporation: Order approving the equivalent of one well per 10 acres well density for the production of gas and associated hydrocarbons from the Iles Formation in the N $\frac{1}{2}$  N $\frac{1}{2}$  of Section 19, Township 6 South, Range 91 West, 6th P.M.

Order No. 112-226, Docket No.1011-SP-40, Ignacio-Blanco Field, Archuleta County, Applicant: Red Willow Production Company: Order amending Order No. 112-210 combining a 359.02-acre drilling and spacing unit established for the E $\frac{1}{2}$  E $\frac{1}{2}$  of Section 21 and the W $\frac{1}{2}$  of Section 22, Township 32 North, Range 4 West, N.M.P.M. and a 360.00-acre drilling and spacing unit established for the E $\frac{1}{2}$  of Section 22 and the W $\frac{1}{2}$  W $\frac{1}{2}$  of Section 23 Township 32 North, Range 4 West, N.M.P.M. into a 719.02-acre drilling and spacing unit for those same lands and approving two horizontal wells on the combined unit for the production of gas and associated hydrocarbons from the Fruitland coal seams.

Order No. 191-81, Docket No.1011-SP-41, Ignacio-Blanco Field, Archuleta County, Applicant: Bill Barrett Corporation: Order establishing an approximate 140-acre drilling and spacing unit for the N $\frac{1}{2}$  NE $\frac{1}{4}$ , the N $\frac{1}{2}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ , and the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 24, Township 6 South, Range 92 West, 6th P.M.

Order No. 191-82, Docket No.1011-SP-42, Mamm Creek Field, Garfield County, Applicant: Bill Barrett Corporation: Order establishing an approximate 100-acre drilling and spacing unit for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations in the S $\frac{1}{2}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ , NE $\frac{1}{4}$  SE $\frac{1}{4}$ , and the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 24, Township 6 South, Range 92 West, 6th P.M.

Order No. 5-3, Docket No.1011-UP-59, Peetz West Field, Logan County, Applicant: East Cheyenne Gas Storage, LLC: Order finalizing the establishment of the enhanced recovery unit and enhanced recovery operations approved by Order No. 5-1 for the "J"-Sand Formation in certain lands located in Section 6 in Township 11 North, Range 52 West, 6th P.M., Section 31 in Township 12 North, Range 52 West, 6th P.M., Section 1 in Township 11 North, Range 53 West, 6th P.M., and Section 36 in Township 12 North, Range 53 West, 6th P.M., based on the written approval and consent of 80% or more of the royalty interest owners.

Order No. 5-4, Docket No.1011-UP-60, Peetz West Field, Logan County, Applicant: East Cheyenne Gas Storage, LLC: Order finalizing the establishment of the enhanced recovery unit and enhanced recovery operations approved by Order No. 5-2 for the "D" Sand Formation in certain lands located in Section 3, 5 and 7 in Township 11 North, Range 52 West, 6th P.M., Section 31 in Township 12 North, Range 52 West, 6th P.M., and Section 36 in Township 12 North, Range 53 West, 6th P.M., based on the written approval and consent of 80% or more of the royalty interest owners.

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Order No. 232-262 & Order No. 407-381, Docket No.1011-UP-62, Wattenberg Field, Logan County, Applicant: Kerr-McGee Oil & Gas Onshore LP: Order pooling specifically named nonconsenting interests for certain described wells and future wells drilling in designated drilling and spacing units and wellbore spacing units located within portions of Sections 7, 8, 17, 18, and 19 in Township 3 North, Range 66 West, 6th P.M.

Order No. 1-161, Docket No. 1010-GA-19, Boxelder Creek Alluvium, Larimer County, Applicant: Wellington Operating Company, LLC: Order extending the duration of the current discharge permit, previously granted under Order No. 1-108, to discharge treated produced water from the Wellington Muddy Unit into the Boxelder Creek Alluvium in the SE¼ of Section 7, Township 9 North, Range 68 West, 6th P.M., until such time as the permit renewal process can be completed and authorized by the Commission at a regularly scheduled hearing.

Order No. 1V-353, Docket No. 1009-OV-07, Morgan County, Magpie Operating, Inc.: Order approving the Administrative Order by Consent as presented by staff for a violation of Rule 326.b.(1), for failure to perform a mechanical integrity test as required and assessing a total administrative fine of \$10,000.

Order No. 1V-354, Docket No. 1011-OV-10, Las Animas County, Pioneer Natural Resources: Order approving the Administrative Order by Consent as presented by staff for a violation of Rule 303 for commencing operations to drill a well in the period between the expiration of an approved APD and the issuance of a new APD, and assessing a total administrative fine of \$5,000.

Order No. 1V-355, Docket No. 1011-OV-11, Weld County, Noble Energy Production: Order approving the Administrative Order by Consent as presented by staff for violations of Rules 324A(a), 324.A.(b), 907.a(1), 907.a(2) and 907.d(3)B related to the disposal of drilling mud and discharge into the Cache la Poudre River, and assessing a total administrative fine of \$20,000.

Order No. 1V-356, Docket No. 1011-OV-12, Weld County; Petro-Canada Resources: Order approving the Administrative Order by Consent as presented by staff for violations of Rules 324A(a), 324.A.(b), 907.a(1), 907.a(2) and 907.d(3)B related to the disposal of drilling mud and discharge into the Cache la Poudre River, and assessing a total administrative fine of \$20,000.

Order No. 1V-357, Docket No. 1011-OV-13, Rio Blanco County, ExxonMobil Oil Corporation: Order approving the Administrative Order by Consent as presented by staff for a violation of Rule 303 for commencing operations to drill a well in a three-day period between the expiration of an approved APD and the issuance of a new APD, and assessing a total administrative fine of \$1,500.

Order No. 1V-358, Docket No. 1011-OV-14, Garfield County, Noble Energy Production: Order approving the Administrative Order by Consent as presented by staff for a violation of Rule 303 for commencing operations to drill a well in a five-day period between the expiration of an approved APD and the issuance of a new APD, and assessing a total administrative fine of \$2,500.

Order No. 1-162, Docket No. 1010-GA-18, Yuma County: Order exempting Yuma County from the September 1, 2010 deadline requirement of Rule 804 for all lands within its boundaries.

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Order No. 112-227, Docket No.1010-UP-57, Ignacio-Blanco Field, La Plata County,  
Applicant: BP and Lois Hood: Order denying the Samson Resources Company motion for partial dismissal, and granting Lois Hood standing in the case.

Cause No. 1E-9, Docket No. 1010-GA-20, Mesa County

Order authorizing the expenditure of a figure not to exceed \$180,000, from the Conservation and Environmental Response Fund, for the purpose of properly plugging and abandoning the abandoned Pasture #1 Well and Buckeye #1 Well in the Town of DeBeque as requested by staff.

Order No. 1-166, Docket No. 1010-GA-21, Garfield County, Prather Spring Monitoring:

Order authorizing that Williams Production under Order No. 1V-350, be given until December 18, 2010 to submit a final Monitoring and Mitigation Workplan for COGCC approval, and be given until May 1, 2011 to commence actions under the final COGCC approved Monitoring and Mitigation Workplan, weather permitting.

FOR THE COLORADO OIL AND GAS  
CONSERVATION COMMISSION

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Robert A. Willis, Acting Secretary

Approved:

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Joshua Epel, Chair