

## RECORD OF PROCEEDINGS

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January 13, 2011

The Oil and Gas Conservation Commission (“COGCC”) met on January 13, 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               |
| Martha Rudolph     | Commissioner               |
| Matt Lepore        | Assistant Attorney General |
| David Neslin       | Director                   |
| Rob Willis         | Acting Hearings Manager    |

Absent:

None

### **Approval of Proceedings:**

Vice Chair Dowling moved for the approval of the minutes of November 29, 2010. The motion was seconded by Commissioner Compton and approved unanimously.

### **Tribute to Departing Commissioner Martha Rudolph**

Chairman Epel noted that this would be the last Commission meeting for Commissioner Martha Rudolph, who will be returning to her former position of Colorado Department of Public Health and Environment (CDPHE) Director of Environmental Programs. She will be replaced on the Commission by Dr. Chris Urbina, Governor Hickenlooper’s appointee to be the Executive Director of the CDPHE. The Commissioners took turn recognizing and appreciating the contributions of Commissioner Rudolph over the past year. On behalf of the Commission and staff and in appreciation of her contributions over the past year, Director Neslin presented Commissioner Rudolph with a token gift of a miniature pump jack.

Chairman Epel noted that Kate Faye of the CDPHE has been hired by the Region 8 office of EPA to manage its energy and climate program, and leaving the CDPHE. He expressed his appreciation for her efforts in coordinating programs of the CDPHE and COGCC, particularly during the recent major rulemaking effort. Director Neslin expressed his appreciation for her efforts as well.

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

Commissioner King also expressed his appreciation for the services of Commissioner Rudolph and Kate Faye in coordinating Health Department programs with DNR and the Commission.

Commissioner King reported on the new Governor's first cabinet meeting. The Governor expressed an interest in making state government efficient, effective and elegant, with interactions between the government and its citizens uplifting for both parties. The Governor's brings a business perspective and intends to measure efforts and results. The Governor has established high expectations for all departments, some of which will be particularly challenging to meet.

Commissioner King indicated that he needed to be at the Capital for the Governor's State of the State address by 10:00 a.m. and would have to miss most of the Commission meeting.

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

Prior to his regular Director's report, Director Neslin recognized the COGCC permitting staff for their outstanding efforts in 2010 in cutting permitting backlogs and efficiency improvements.

Director Neslin reported the following regarding oil and gas activity in Colorado in 2010:

- With respect to drilling permits, Colorado remains the regional leader and among the national leaders:
  - Colorado issued 5,996 drilling permits during 2010, making it the third busiest year for permitting in the state's history notwithstanding the market and economic constraints. The five counties with the most permits issued were Weld with 2,152, Garfield with 2,037, Rio Blanco with 441, Mesa with 306, and Yuma with 299. The number of permits issued increased by 15% from 2009, and permits were issued in a total of 38 counties.
  - Colorado also issued 515 recompletion permits during 2010, which is the highest total in the state's history. As with drilling permits, many of the recompletion permits were issued in Weld and Garfield counties. This number increased by 56% from 2009.
  - In comparison, Wyoming issued approximately 5,431 permits, Kansas issued approximately 4,241 permits, New Mexico issued approximately 1,684 permits (this number omits some permits on federal land), Utah issued approximately 1,185 permits, and Montana issued approximately 329 permits.
  - Beginning in 2009, drilling permits in Colorado are valid for two years, while previously in Colorado and currently in other states they are valid for one year. Therefore, it is likely that the 2010 Colorado permitting numbers reflect fewer refilled permits than did the Colorado permitting numbers for prior years or the 2010 permitting numbers for other states. Stated differently, the 2010 permitting numbers probably understate the current operator interest in Colorado compared to prior years and other states.
  - At the end of 2010, operators held 4,735 active and unused drilling permits. This is the second largest number of active and unused permits at year end in the state's history, ranking just behind 2008 (4,897) but well ahead of 2006 (3,353), 2007 (3,451), and 2009 (4,096). These permits

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should be sufficient to accommodate a further substantial increase in drilling activity during 2011 if prices and conditions allow.

- With respect to well starts, Colorado likewise remains the regional leader:
  - According to the industry tracking firm Anderson Reports, 1,907 new wells were started in Colorado during 2010. This reflects a 28% increase from 2009. The COGCC's own records indicate that 2,311 wells were started during 2010, and that well starts during the last six months of the year were up 54% from 2009 (the COGCC did not collect such information prior to July 2009).
  - The comparable numbers for nearby states are Wyoming 1,126, Utah 732, New Mexico 172 in the San Juan Basin (Anderson does not provide information for the entire state), and Montana 129.
- With respect to active drilling rigs, Colorado likewise remains a regional leader:
  - According to Baker Hughes, Colorado had an average of 40 drilling rigs active during December 2009. By December 2010, this number had grown to 67, reflecting an increase of 27 rigs or about 68%.
  - In comparison, New Mexico went from 49 to 67 rigs for an increase of 18, Utah went from 17 to 30 for an increase of 13, Kansas went from 19 to 26 for an increase of 7, Wyoming went from 40 to 45 for an increase of 5, and Montana remained at 7.
- Despite the increasing level of activity, the COGCC has substantially decreased average permitting times:
  - The COGCC's current permitting time, from application receipt to permit issuance, averages about 21 days everywhere but northwest Colorado, where there are often more environmental issues and more wells per pad. In northwest Colorado, the average permitting time is approximately 30 to 33 days.
  - For example, during October and November 2010, the COGCC received a total of 718 permit applications. By year end, the COGCC had processed 93% of these applications, and the average processing time was 27.5 days. Only 3 applications (0.3%) took more than 50 days.
  - By way of comparison, it took the COGCC an average of 41.5 days to process the permit applications received during October and November 2009. The average processing time for permit applications received during 2008, 2007, and 2006 was 65, 53, and 50 days, respectively.
- The COGCC has also increased protections for the environment and wildlife under the amended rules:
  - Specific areas of improvement include increased use of closed loop drilling systems and lined pits to protect ground water, improved storm water management to protect surface water, additional baseline and periodic water well sampling to compile data, and the development of various site-specific permit conditions to provide additional protection for nearby residents.
  - Ten companies have developed wildlife mitigation plans or similar measures in collaboration with the CDOW covering approximately 560 square miles of high value habitat in western Colorado. These plans allow for the drilling of hundreds of future wells while protecting sage grouse, cutthroat trout, elk, and other wildlife.

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- A total of 375 environmental remediation projects were completed during the year, which is the highest total in the state's history. By way of comparison, the number of such projects completed in 2009, 2008, 2007, and 2006 was 133, 113, 85, and 97, respectively. Even if some of the projects recorded in 2010 were actually completed during 2009, the difference between the numbers is of sufficient magnitude to indicate that more remediation projects were completed in 2010 than in any prior year.
- In addition, 16,228 inspections were completed during the year, which is likewise the highest total in the state's history. By way of comparison, the number of inspections completed in 2009, 2008, 2007, and 2006 was 9,991, 9,454, 10,120, and 9,667, respectively.

Director Neslin highlighted the following from the written Staff Report (available on the web page):

- 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 March 3, 2011.
- 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.
- 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.
- 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.
- COGCC staff continues to monitor groundwater from 4 domestic water wells in the vicinity of the plugged & abandoned Bryce 1-X in Bondad, Colorado. The next full-scale sampling event is scheduled for sometime this month. Methane has not been detected in the shallow soils since July 2007, as confirmed by a September 2010 soil gas survey.
- 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.
- Beneficial Use of Drill Cuttings - Recently there have been several violations in Weld County regarding improper disposal of drill cuttings. Staff is increasing its dialogue with operators in the area to improve the level of understanding of the

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operators as to what is permissible and required under the Rules.

- COGCC has initiated discussions with a number of operators regarding a surface and ground water sampling program in Elbert, Jackson, Park and Weld Counties. In particular this proposal would apply to un-spaced areas where the Director has approved drilling permits for horizontal wells in the Niobrara Formation and where the Commission has issued recent spacing orders for horizontal wells in the Niobrara Formation.
- The Financial Assurance Supervisor position that has been vacant since June, 2010 has been filled by Sharon Schoepflin. She brings more than 10 years of experience in the lending industry with experience in management, accounting and auditing.
- Public outreach activities are increasing with numerous requests from county and municipal governments seeking information about COGCC regulatory programs.
- Variances
  - Three permits were issued without full notice or consultation per rule 303.I.(2) for Black Raven Energy Inc. Permits for the Olsen 943-31-24 Well, (Sedgewick County), Fulscher 943-15-14 Well, (Phillips County), and Oltjenbruns Farms 844-2-44 Well (Phillips County) were approved on December 16, 2010.
  - EnCana was granted a variance from Rule 317.i. with regard to cement requirements for its Keinath Federal 9-11 (K9OU) well in Mesa County.
  - ExxonMobil was granted a variance from Rule 317.i., as its production casing cement design for 30 wells on two pads in Rio Blanco County does not meet the technical temperature requirements of the Rule, but satisfies required compressive strengths within the required timeframes at the expected downhole temperatures.
- Thom Kerr, Permit & Technical Services Manager reviewed permitting statistics.

Director Neslin and Debbie Baldwin met with the Water Quality Control Commission and presented the COGCC's S.B. 181 Report for 2010. They were complimented on its thoroughness.

Director Neslin had a coordination meeting On January 12, 2011 with the Division of Wildlife Director and staff for purposes of assessing and improving the working relationships between the agencies.

EPA continues to plan its national fracking report. If the EPA report includes case studies, a Colorado case will likely be included.

Director Neslin reported on a program assessment opportunity by a nonprofit organization called State Review of Oil and Natural Gas Environmental Regulations (STRONGER). The Commission has the option of participating in either of two review processes including: 1) general regulatory program for oil & gas; and 2) regulatory program for hydraulic fracturing. The organization is comprised of  $\frac{1}{3}$  state regulators,  $\frac{1}{3}$  industry representatives, and  $\frac{1}{3}$  conservation or environmental organization representatives. The expense of participating in either programmatic review would be in-kind staff time.

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Commission King left during the Director's Report.

### **Commissioner Comments:**

Commissioner Cutright reported that the national report on the BP oil spill in the Gulf of Mexico was recently released and provided particularly useful insights into the industry and its regulation. He also reported that the Texas Railroad Commission, the oil and gas regulatory agency for Texas, and national leader in regulation of the industry, is being evaluated for reorganization from a three person elected board, to an appointed board, similar to the COGCC.

Commissioner Craig reported that she had recently read the rebuttal on the COGCC website prepared by staff to the *Gasland* documentary, and greatly appreciated the effort to correct much of the misinformation contained in the documentary.

Commissioner Rudolph reported that there had been six recent well density consultations between staff of the COGCC and CDPHE. Four had been resolved without the CDPHE requesting conditions of approval. Two remaining cases involve Antero and Garfield County, docketed for hearing in February. Efforts continue to work out remaining issues.

Chairman Epel requested that staff set up a Commission two-day retreat for the end of February 2011. He proposed a Friday-Saturday combination, with one day for education, and the other day for considering policy issues for the Commission 2011 agenda.

### **Audience Comments:**

Ken Wonstolen, Beatty & Wozniak, P.C commented that if the Commission revisits setback distances from structures, that it also consider the flip side, developer encroachment on oil and gas facilities.

### **Consent Agenda**

Chairman Epel asked if any Commissioners had a conflict of interest with any of the items on the Consent Agenda. No disclosures were reported.

Chairman Epel asked if any Commissioners wanted to have any matter pulled from the Consent Agenda. No such request was made.

Vice Chair Dowling moved for the approval of the following Rule 511. Recommendation matters on the Consent Agenda:

Cause No. 407, Docket No. 1010-UP-58 , Wattenberg Field, Weld County,  
Applicant: Great Western Oil and Gas Company LLC: Request for an order to pool all nonconsenting interests in various drilling and spacing units designated within the SW¼ of Section 2, Township 4 North, Range 67 West, 6th P.M., for the development and operation of the Codell and Niobrara Formations.

Cause No. 371, Docket No. 1101-AW-02, Buzzard Field, Mesa County,  
Applicant: Laramie Energy II, LLC: Request for an order to: (1) vacate the

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160-acre drilling and spacing units, established under Order No. 371-1, for Section 24, Township 9 South, Range 95 West, 6th P.M., (2) place the lands in said Section 24 as unspaced, under Rule 318.a., and (3) approve the equivalent of one well per 10 acres for said Section 24.

Cause No. 191, Docket No. 1101-SP-01, Mamm Creek Field, Garfield County, Applicant: EnCana Oil & Gas (USA) Inc.: Request for rules for certain lands in the Hunter Mesa Unit and Middleton Creek Unit, federal exploratory units, located in Townships 7 and 8 North, Range 93 West, 6th P.M.

Cause No. 421, Docket No. 1101-SP-03, Hereford Field, Weld County, Applicant: EOG Resources, Inc.: Request for an order to: (1) vacate the approximate 640-acre drilling and spacing units established under Order No. 421-1 for Sections 9, 10, 14, 15, and 16, Township 11 North, Range 63 West, 6th P.M., and (2) establish three approximate 1,280-acre laydown drilling and spacing units, and approve of up to two horizontal wells within each unit, for those same lands with overlapping units in said Section 15.

Cause No. 409, 232 & 407, Docket No. 1101-UP-01, Eaton and Greater Wattenberg Field, Weld County, Applicant: Noble Energy, Inc.: Request for an order to pool all nonconsenting interests within the drilling and spacing unit designated for the NW¼ of Section 35, Township 7 North, Range 66 West, 6th P.M., for the Wilson #35-25 Well.

Cause Nos. 409, 232 & 407, Docket No. 1101-UP-02, Eaton Field, Weld County, Applicant: Great Western Oil and Gas Company LLC: Request for an order to pool all nonconsenting interests in the designated approximate 160-acre drilling and spacing unit for the NW¼ of Section 35, Township 7 North, Range 66 West, 6th P.M., to accommodate the Gustafson #31-52 Well.

Cause No. 407, Docket No. 1101-UP-06, Wattenberg Field, Weld County, Applicant: Petroleum Development Corporation: Request for an order to: (1) pool all nonconsenting interests within a 160-acre designated wellbore spacing unit for certain lands located in Section 29, Township 4 North, Range 67 West, 6th P.M., for the Reichart #29PDU Well, and (2) pool all nonconsenting interests within a 160-acre designated wellbore spacing unit for certain lands located in said Section 29, for the Reichart #29SDU Well.

Cause Nos. 409, 232 & 407, Docket No. 1101-UP-07, Eaton Field, Weld County, Applicant: Great Western Oil and Gas Company LLC: Request for an order to pool all nonconsenting interests for the designated approximate 80-acre drilling and spacing unit for the W½ NW¼ of Section 31, Township 7 North, Range 65 West, 6th P.M., for the Gustafson #31-11 Well and an additional unpermitted well.

The motion was seconded by Commissioner Rudolph. The motion was approved unanimously.

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### **Administrative Orders By Consent**

Cause No. 1V, Docket No. 1101-OV-01, Rio Blanco County, Whiting Oil and Gas Corporation

Enforcement Officer, Rob Willis introduced the proposed Administrative Order By Consent (AOC) against Whiting Oil and Gas Corporation for a violation of Rule 303.a., for its oil and gas operations at the Boies Well Pad, located in the NE¼ SE¼ of Section 30, Township 2 South, Range 97 West, 6th P.M.

Rob Willis recited the factual background included in the AOC. He indicated that the proposed fine in the AOC was \$7,000 for the single violation of Rule 303.a for constructing a well pad at a different location than what was permitted.

Vice Chair Dowling moved for the approval of the AOC, seconded by Commissioner Craig. The motion was approved unanimously.

Cause No. 1V, Docket No. 1101-OV-02, Las Animas County, Pioneer Natural Resources

Enforcement Officer, Rob Willis introduced the proposed Administrative Order By Consent against Pioneer Natural Resources (USA) Inc. for violations of Rule 324A.a.and 324A.b., for its oil and gas operations at the Molokai #13-36TR Well (API No. 05-071-08837), located in the NW¼ SW¼ of Section 36, Township 32 South, Range 68 West, 6th P.M.

He recited the factual background included in the AOC. He indicated that the proposed fine in the AOC was \$10,000 for the two violations related to the contamination of a domestic water well owned by Ms. Gopa KA-Ross.

Ms. Ross made a Rule 510 Statement. She generally supported the enforcement action taken by the COGCC in this matter, but she expressed a number of concerns including the following: 1) This enforcement action is four and a half years after the episode creating the problem; 2) material facts were left out of the Notice of Hearing; 3) there needs to be ongoing dialog between the COGCC staff and landowners whose property is damaged by oil and gas operations; 4) there were ongoing problems with her original water well, and no suitable replacement well site existed on her property due to the geographic extent of the contamination to the aquifer; 5) she was forced to move from her ranch due to lack of potable water supply; 6) she lost her business and suffered significant financial losses; 7) the \$10,000 included in the AOC was an inadequate deterrent for the operator in preventing future similar violations; and 8) there need to cooperative efforts to better protect citizens, environment and other natural resources while extracting natural gas with adequate precautions and safety. She asked the Commission to review a package of documents and monitoring reports she presented, with an eye towards increasing the fine to be imposed on the operator in this case.

Commission discussion on the AOC focused on calculation of the fine, including mitigating and aggravating factors. Staff established that \$13,000 was the maximum fine that could be assessed under the applicable statute. While Commission members expressed frustration that the statutory limitation lacked material deterrent effect, the question for Commissioners boiled down to whether the balancing of aggravating and mitigating factors was worth fighting over the \$3,000 difference between the maximum fine and the staff recommendation.



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Commissioner Cutright moved to approve the AOC as presented, seconded by Commissioner Alward. The motion was approved 5-2, with Commissioners Dowling and Compton voting against the motion. Vice Chair Dowling's dissent was based on the concept that the fine was merely symbolic anyway, and there was no need to mitigate a symbolic fine. He supported assessing the maximum fine permitted under law. Chair Epel responded that the decision of the Commission merely reflected the will of the legislature, in applying the law as written.

### **Cause No. 1V, Docket No. 1101-OV-03, Las Animas County, Energy Oil & Gas**

Enforcement Officer, Rob Willis introduced the proposed Administrative Order By Consent against Energy Oil & Gas, for a violation of Rule 325.a., for its oil and gas operations at the Garcia #3-5 Well (API No. 05-071-07234) located in the SW¼ NW¼ of Section 9, Township 34 South, Range 62 West, 6th P.M.

He recited the factual background included in the Administrative Order By Consent. He indicated that the proposed fine in the AOC was \$5,000 for the violation related to injecting gas into a Class II well without authorization from the Director. He noted that the violation did not result in a significant adverse impact on public health, safety, welfare or the environment.

Commissioner Cutright moved to approve the AOC as presented, seconded by Commissioner Compton. The motion was approved unanimously.

### **Commission Retreat Topic**

Before breaking for lunch, Commissioner Rudolph suggested that the Commission consider its role in deciding enforcement actions and assessing fines at its upcoming retreat. Director Neslin suggested that staff would compile statistics on past fines as an aid in the Commission's discussion on the matter.

### **Lunch/Executive Session**

Assistant Attorney General, Matt Lepore, 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:

- COGA v. COGCC
- Hilton v. COGCC
- GDC v. Black Resources

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

After lunch and at the conclusion of the executive session, a motion was made to return to open session from the executive session by Vice Chair Dowling, seconded by Commissioner Craig, and approved unanimously.

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Assistant A.G., Matt Lepore indicated that no formal decisions were made or actions taken during the executive session.

Commissioner Rudolph left the meeting at the conclusion of the executive session.

### **Orders Finding Violation**

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

Enforcement Officer, Rob Willis introduced this matter as one continued from the November 2010 hearing to add an additional charge of a pattern of violations. Staff alleges violations of Rules 206., 210.b.(1), 309., 319.b.(1), 326.b.(1), 604.d., 706., and 525.b 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.

Rob Willis asked the Commission to take administrative notice of the prior proceedings in this matter from the November 2010 hearing. Staff is seeking authorization to: 1) plug and abandon the subject well; 2) foreclose on the security bond of \$5,000; and 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. He stated the proposed fine was calculated based on six violations assessed at a maximum of \$10,000 each and one violation assessed at a maximum of \$5,000, for a total fine of \$65,000. He also stated that the proposed Order would disqualify the entity and the principals from being issued any permits or other approvals until the fines are paid and violations cleared.

Neither principal, Allen Stout or Melvin Richards, appeared in person or through legal counsel.

Commissioner Cutright moved for approval of the proposed order, seconded by Commissioner Alward. The motion was approved unanimously.

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

Enforcement Officer, Rob Willis introduced this matter as one continued from the November 2010 hearing to add an additional charge of a pattern of violations. Staff seeks an Order Finding Violation against Provide Energy, LLC for violations of Rules 205.a., 206., 301., 309., 706., 1002.d., 1002.e.(1), 1003.b., 1003.e.(2), 1003.f., and 525.b 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. 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.

Rob Willis stated the proposed fine was calculated based on seven violations assessed at a maximum of \$10,000 each and three violations assessed at a maximum of \$5,000, for a total fine of \$85,000. He also stated that the proposed Order would disqualify the entity and the principals from being issued any permits or other approvals until the fines are paid and violations cleared.

Commissioner Cutright moved for approval of the proposed order, seconded by Commissioner Alward. The motion was approved unanimously.

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### Cause No. 1E, Docket No. 1101-GA-02, Fremont County

COGCC staff members, Debbie Baldwin (Environmental Manager), Peter Gintautas (Southeast Region Environmental Protection Specialist), and Mike Leonard (South Region Field Inspection Supervisor) gave a PowerPoint presentation explaining an emergency request to approve the expenditure of \$67,000 from the \$1,500,000.00 Emergency Response Fund for the investigation of significant adverse impacts to public health, safety, welfare, and the environment in the Florence residential area that may be associated with the conduct of oil and gas operations. Numerous wells exist in the Florence area dating back to the 1800's were not properly plugged, and continue to vent natural gas in a residential area. The proposal is to investigate gas seeps, identify the source(s) of seeping gas, and to develop a remedial action plan. Actual plugging operations are not part of this request.

Commissioner Cutright moved for approval of the request and draft order as submitted, seconded by Commissioner Craig. The motion was approved unanimously.

### Cause No. 1, Docket No. 1101-GA-01, Unnamed Field, Montezuma County

Chair Epel disclosed that he has served on a non-profit board with Jack Grynberg, one of the principals of the parties to this matter, and thus knows him personally, but stated that the relationship would not interfere with his ability to decide the matter fairly and objectively.

Assistant Attorney General, Matt Lepore, explained the procedural history of this matter, which is also recited in his proposed Draft Report of Commission and Order. He stated that the two parties in the matter, Gas Development Corporation and Black Resources have agreed to the terms of the draft Order that he was presenting to the Commission for approval. Both parties appeared by counsel, and verbally confirmed their approval of the proposed draft Commission Order, which changes the operator of the Mary Akin No. 2 Well for purposes of Commission administration from Black Resources, Inc., to Gas Development Corporation. This action renders moot the current litigation in Denver District Court involving the COGCC, and is expected to trigger a dismissal of the lawsuit.

Commissioner Cutright moved for approval of the draft order as submitted, seconded by Commissioner Craig. The motion was approved unanimously.

### Cause No. 191, Docket No. 1010-SP-37, and Cause No. 191, Docket No. 1101-SP-02 Mamm Creek Field, Garfield County

Director Neslin reported the status of these two matters. Prehearing conference orders were issued on January 12, 2011 in both cases, which ruled on numerous outstanding procedural issues. As a result of the January 12 orders, the cases were consolidated. The parties had asked for some time at this Commission meeting to address the Commission on rulings made in the orders, even though the hearing on the merits of the applications is continued to the February 2011 Commission meeting.

Counsel for Applicant, (Antero Resources Piceance Corporation), Ken A. Wonstolen and Intervenor, (Garfield County), Cassie Coleman appeared. Mr. Wonstolen renewed his written motion requesting that the Commission request a staff presentation at the hearing on the merits in these matters at the February Commission meeting. Garfield

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County took no position on the Antero motion. Director Neslin committed to having a staff presentation, and having staff available to answer Commission questions during the hearing. Mr. Wonstolen withdrew his motion.

The parties raised no objections to the procedural rulings in the two prehearing conference orders issued January 12, 2011.

### Cause No. 1R, Statewide

Director Neslin explained a staff memo requesting authorization to proceed with a rulemaking for purposes of amending Rule 904.a. The proposal is to defer for an additional two years, the requirements for lining: 1) production pits; and 2) multi-well pits used to contain produced water, drilling fluids, or completion fluids that will be recycled, or reused, except where reuse consists only of moving fluids from one oil and gas location to another location for reuse there, for Washington, Yuma, Logan and Morgan Counties.

The memo provided the draft amendment language and a proposed statement of basis and purpose.

Commissioner Cutright moved to authorize the rulemaking to amend Rule 904.a as generally described in the staff memo presented to the Commission, seconded by Vice Chair Dowling. The motion was approved unanimously.

### Closing Comments

Director Neslin noted that staff has prepared a memorandum on its evaluation of potential Geographic Area Plans (GAP) for the 2011 calendar year and suggested that this be considered as a Commission retreat topic. Vice Chair Dowling suggested that it would be helpful to have DOW and CDPHE input as part of the GAP discussion.

There was no additional business before the Commission.

Adjourned 2:30 p.m.

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The Acting Secretary was therefore authorized to issue the following orders:

Order No. 407-382, Docket No. 1010-UP-58, Wattenberg Field, Weld County, Applicant: Great Western Oil and Gas Company LLC: Order to pool all nonconsenting interests in various drilling and spacing units designated within the SW¼ of Section 2, Township 4 North, Range 67 West, 6th P.M., for the development and operation of the Codell and Niobrara Formations.

Order No. 371-10, Docket No. 1101-AW-02, Buzzard Field, Mesa County, Applicant: Laramie Energy II, LLC: Order to: (1) vacate the 160-acre drilling and spacing units, established under Order No. 371-1, for Section 24, Township 9 South, Range 95 West, 6th P.M., (2) place the lands in said Section 24 as unspaced, under Rule 318.a., and (3) approve the equivalent of one well per 10 acres for said Section 24.

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Order No. 191-83, Docket No. 1101-SP-01, Mamm Creek Field, Garfield County,  
Applicant: EnCana Oil & Gas (USA) Inc.: Order for rules for certain lands in the Hunter Mesa Unit and Middleton Creek Unit, federal exploratory units, located in Townships 7 and 8 North, Range 93 West, 6th P.M.

Order No. 421-4, Docket No. 1101-SP-03, Hereford Field, Weld County, Applicant: EOG Resources, Inc.: Order to: (1) vacate the approximate 640-acre drilling and spacing units established under Order No. 421-1 for Sections 9, 10, 14, 15, and 16, Township 11 North, Range 63 West, 6th P.M., and (2) establish three approximate 1,280-acre laydown drilling and spacing units, and approve of up to two horizontal wells within each unit, for those same lands with overlapping units in said Section 15.

Order No. 409-5, 232-265 & 407-383, Docket No. 1101-UP-01, Eaton and Greater Wattenberg Fields, Weld County, Applicant: Noble Energy, Inc.: Order to pool all nonconsenting interests within the drilling and spacing unit designated for the NW¼ of Section 35, Township 7 North, Range 66 West, 6th P.M., for the Wilson #35-25 Well.

Order Nos. 409-3, 232-263 & 407-384, Docket No. 1101-UP-02, Eaton Field, Weld County, Applicant: Great Western Oil and Gas Company LLC: Order to pool all nonconsenting interests in the designated approximate 160-acre drilling and spacing unit for the NW¼ of Section 35, Township 7 North, Range 66 West, 6th P.M., to accommodate the Gustafson #31-52 Well.

Order No. 407-385, Docket No. 1101-UP-06, Wattenberg Field, Weld County, Applicant: Petroleum Development Corporation: Order to: (1) pool all nonconsenting interests within a 160-acre designated wellbore spacing unit for certain lands located in Section 29, Township 4 North, Range 67 West, 6th P.M., for the Reichart #29PDU Well, and (2) pool all nonconsenting interests within a 160-acre designated wellbore spacing unit for certain lands located in said Section 29, for the Reichart #29SDU Well.

Order Nos. 409-4, 232-264 & 407-386, Docket No. 1101-UP-07, Eaton Field, Weld County, Applicant: Great Western Oil and Gas Company LLC: Order to pool all nonconsenting interests for the designated approximate 80-acre drilling and spacing unit for the W½ NW¼ of Section 31, Township 7 North, Range 65 West, 6th P.M., for the Gustafson #31-11 Well and an additional unpermitted well.

Order No. 1V-359, Docket No. 1101-OV-01, Rio Blanco County  
Order approving an Administrative Order By Consent against Whiting Oil and Gas Corporation for a violation of Rule 303.a., for its oil and gas operations at the Boies Well Pad, located in the NE¼ SE¼ of Section 30, Township 2 South, Range 97 West, 6th P.M.

Order No. 1V-360, Docket No. 1101-OV-02, Las Animas County  
Order approving an Administrative Order By Consent against Pioneer Natural Resources (USA) Inc. for violations of Rule 324A.a. and 324A.b., for its oil and gas operations at the Molokai #13-36TR Well (API No. 05-071-08837), located in the NW¼ SW¼ of Section 36, Township 32 South, Range 68 West, 6th P.M.

Order No. 1V-361, Docket No. 1101-OV-03, Las Animas County  
Order approving an Administrative Order By Consent against Energy Oil & Gas, Inc. for a violation of Rule 325.a., for its oil and gas operations at the Garcia #3-5 Well (API No. 05-071-07234) located in the SW¼ NW¼ of Section 9, Township 34 South, Range 62 West, 6th P.M.

## RECORD OF PROCEEDINGS

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Order No. 1V-362, Docket No. 1011-OV-15 - Premier Oil & Gas

Order Finding Violation against Premier Oil & Gas, Inc. for 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.

Order No. 1V-364, Docket No. 1011-OV-16 - Provide Oil & Gas

Order Finding Violation against Provide Energy, LLC 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.

Order No. 1E-10, Docket No. 1101-GA-02, Fremont County

Order approving the expenditure of \$67,000 from the \$1,500,000.00 Emergency Response Fund for the investigation of significant adverse impacts to public health, safety, welfare, and the environment in the Florence residential area that may be associated with the conduct of oil and gas operations.

Order No. 1-163, Docket No. 1101-GA-01, Unnamed Field, Montezuma County

Order approving the GDC Application for Change of Operator originally requested on October 30, 2009 in which Commission jurisdiction was initially relinquished by Order No. 1-150, due a BLM protest, where the protest has now been vacated.

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