

WORRELL, DURRETT & JAYNES, P.C.
ATTORNEYS AT LAW

Stephen J. Worrell
Anthony J. Durrett
Kenneth H. Jaynes
Robert C. Gavrell

201 Eighth Street - P.O. Box 1089
Glenwood Springs, CO 81602
Telephone: (970) 945-0494
Facsimile: (970) 945-8449

FAX TRANSMITTAL

DATE: 9-20-10
TO: COGCC
ATTN: Greg Deranleau
FAX NO.: 303-894-2109
RE: Public Comment re: McLin Pad A - Robert Regulski
NO. OF PAGES (including COVER): 4
FROM: Robert C. Gavrell, Esq.
COMMENTS: Please accept this written comment in opposition to the McLin A Pad to be located at SESW Sec 12 T. 65, R. 92W. This comment is on behalf of Mr. Regulski.

 Original to follow by mail

 xx Original not to follow by mail

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Glenwood Springs, CO 81602
Telephone: (970) 945-0494
Facsimile: (970) 945-8449
www.wdillaw.net

September 20, 2010

Greg Deranleau
Colorado Oil and Gas Conservation Commission
Fax No.: (303) 894-2109

Re: Public Comment re: McLin Pad A - Robert Regulski

Mr. Deranleau:

Please accept this letter as a written comment in opposition to the proposed location of the McLin Pad A, submitted by this firm on half of our client, Mr. Robert Regulski. This letter has been prepared based on comments Mr. Regulski has previously made verbally to you and others at the COGCC, and is based on his knowledge and understanding, as he has explained the same to us.

Robert Regulski is a landowner in Newcastle, CO with 80 acres along the river, adjacent to and just downhill of the McLin Pad A (located on a hill above his property) at the intersection of the frontage road and Divide Creek Road. He has called the COGCC offices in Denver and personally visited the Rifle office numerous times related to his serious concerns about the McLin Pad A and related pipeline.

Mr. Regulski negotiated a SUA with Antero for a pipeline to cross his property. Mr. Regulski is extremely unhappy with that work Antero has done in installing this pipeline. He claims that the easement has been intentionally mis-located on his property and is being constructed in such a quality as creates an unacceptable danger to groundwater and to the public. He has filed litigation against Antero for trespass, negligent construction, fraud and negligent misrepresentation in Garfield County District Court (Case No. 10 CV 246). He has successfully sought and been granted a restraining order, for now, and is further seeking a preliminary injunction. Hearings on the injunction were held September 7 and September 14.

Testifying on his behalf at the hearings for a preliminary injunction were the Assistant City Engineer of Glenwood Springs (a neighbor) and the contract County Engineer for Garfield County. The opinion of both of these individuals is that the ditch and pipeline is being installed negligently and in a manner that presents a danger to the public.

In the midst of that ongoing litigation, Mr. Regulski has recently received a 500' notification regarding the McLin Pad A pad from Antero. He understands that this pad will actually be served by the very pipeline he is in litigation over with Antero. Mr. Regulski has reviewed the documents he

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has been provided and copied from Garfield County's Planning Department, including the Grading Permit for the pad, and had an engineering review conducted. He believes that construction of the referenced pad will have severe negative environmental impacts.

For instance, the McLin Pad A is shown as being placed at the very edge of a steep and unstable hill. The hill on which it is proposed to be located has suffered collapses before, in recent memory. There is also a decreed, multi-user irrigation ditch (the Ward-Reynolds Ditch) underneath the pad (downslope) that is not marked on any of Antero's maps. While there is an irrigation ditch shown on the maps, the ditch shown (on the cliff-top) is an irrigation ditch owned by and utilized by a single individual - McLin. However, a second ditch, lower on the slope, called the Ward-Reynolds Ditch, carries one of the oldest water rights off of Divide Creek and operates on an easement within 100 feet of the proposed location. Mr. Regulski is the majority owner of that ditch, which runs mid-slope on the hill, between the proposed pad and his property. He believes it is in jeopardy, and would certainly be impacted by anything flowing downhill. Despite its proximity Mr. Regulski does not believe the Ward-Reynolds Ditch Company received notification, and expressed concern that when McLin's hay pasture is flood irrigated (the field above the hill), the pipeline trench coming off of the hill will act as a conduit for flow, causing significant erosion. Mr. Regulski is especially concerned about this because the observed quality of the construction and installation of the pipeline on his property is so poor. Mr. Regulski is concerned that the location has not been properly engineered to prevent environmental damage.

Mr. Regulski is also upset at other inaccuracies in the application, some of which are obvious and glaring:

- As mentioned above, the application fails to indicate the existence of the Ward-Reynolds Ditch, a senior water-right, multi-user irrigation ditch located less than 100 feet and immediately downslope of the proposed pad.
- The entire area is in 315B buffer zones, it appears to be in partially intermediate buffer, definitely outer buffer zone.
- The "current land use" and "future land use" for the location of the pad on the 2A form is incorrect – the form lists "rangeland" but the pad will sit in the midst of a historically irrigated field, with decreed water rights. Both the current and future use should therefore be "Irrigated."
- The 2A form also reports in error that there are no noxious weeds present; this is untrue – noxious weeds, including knapweed, are present on the hill just below the pad's proposed location and upon information and belief in the field as well.
- The 2A form also reports in error that the area is not a sensitive area: this is untrue since the nearest surface water is only 170 feet away; and it is in a 317B zone.

In sum, Mr. Regulski's concerns include as follows:

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- Concern about negative environmental impacts as a result of pad construction and oil and gas activities at the proposed McLin A pad, and the construction thereof, and the pipeline(s) leading therefrom.
- Concern about negative impacts to surface owner's property as a result of pad construction and oil and gas activities at the proposed McLin A pad.
- Failure of Antero to document all visible surface water features on the submitted Form 2A Hydrology Map. Specifically, Mr. Regulski identified the presence of two irrigation ditches, one as identified by Antero running along the cliff-top and one (not identified) as partially down the slope below the cliff.
- Incorrect Land Use designation by Antero on the Form 2A. Specifically, Mr. Regulski indicated that the location is not rangeland, as identified, but is irrigated hay meadow.
- Failure of Antero to identify presence of noxious weeds on the Form 2A, specifically Knapweed.
- Failure of Antero to identify the location as a sensitive area with respect to water resources on the Form 2A.
- Concern about environmental and property impacts due to pipeline failure caused by damage during installation.
- Concern about siting of oil and gas location at the edge of a cliff prone to erosion and long-term damage caused by lack of proper engineering.

This written comment is filed as a supplement to other comments filed earlier on Mr. Regulski's behalf.

Sincerely,

WORRELL, DURRETT & JAYNES, P.C.



Robert C. Gavrell, Esq.

RCG/rg

cc: R. Regulski