

Scan No 2033415

Public Comment from Bob Regulski Correspondence Summary;
September 2, 2010 to January 12, 2011

Antero Resources, McLin A Pad, SESE Sec 12 T6S R92W, Garfield County, Form
2A (#400076537)

Public Comment Received

Operator: Antero Resources

Location Name: McLin A (A-1 – A-19),
SESW Section 12, T6S, R 92W. Doc # 400076537

Received From: Bob Regulski

Received Date: 9/2/2010

Comments Received:

9/2/2010 – Carol Harmon & Greg Deranleau received call from Mr. Regulski's attorney, Mr. Rob Couhig. According to Mr. Couhig, his client is a landowner in Newcastle, CO with 80 acres along the river. Client had negotiated a SUA with Antero for a pipeline to cross his property. Client was unhappy with that work and had filed suit against Antero. Client received 500' notification regarding the referenced proposed pad, an adjacent location. Client had reviewed documents, and had an engineering review conducted and had reason to believe that construction of the referenced pad could have negative environmental impacts. Client intended to file a public comment and was instructed on eForm procedure.

9/2/2010 – Bill Yokley received a call from Mr. Regulski. Mr. Regulski is upset about the pad constructed by Antero in the SWSW Sec 7 6S 91W that is located in a quarry (outlined in blue) the Frei Location ID 417777, but more concerned about the proposed McLin Location ID 416722, located in the NENE Sec 13 6S 92W (outlined in yellow) and is within 500 feet of his property. Bill informed Mr. Regulski that he had 15 days to submit comment/objections to the McLin location. Apparently, Mr. Regulski has legal actions against Antero on pipeline easement issues.

9/9/2010 – Mr. Regulski visited the Rifle COGCC office, bringing documents. He owns land at the frontage road and Divide Creek Road and Antero has an easement for a pipeline across his property, along the road. His concern related to the Form 2A is that the pipeline leads to a wellpad (McLin A) which is adjacent and uphill from his property. He was notified by Antero, via letter, that per Rule 305, he may submit comments concerning the permit application. He is not certain how to do this. It appears that there is an unmapped ditch (Ward-Reynolds Ditch) that Rob is majority owner of that goes along hillside between the proposed pad and his property. He believes it is in jeopardy, and would certainly be impacted by anything flowing downhill. The entire area is in 315B buffer zones, it appears to be partially in intermediate buffer, definitely outer buffer zone. Rob provided a copy of the 2A, which has 'current land use' marked as Rangeland; Rob states there are historic water rights to the property and it should be marked as irrigated for both current and future use. The 2A also reports that is not in a sensitive area, yet nearest surface water is within 170 feet; and it's in a 317B zone(s). You guys may already be working on this one. It looks to me like his 20-day period to comment started on August 30, 2010. He also has concerns about pipeline backfill and the potential for damage to the pipeline which could cause a release.

9/14/2010 – Greg Deranleau received a call from Bob Regulski. Mr. Regulski described the pipeline and easement concerns, and extended the discussion to concerns about pipeline construction and integrity. Mr. Regulski stated that the pipeline of concern does serve the McLin A Pad. Mr. Regulski expressed concern regarding the siting of the oil and gas location at the edge of the cliff, with respect to long-term structural stability at the edge of the silt cliffs, potential impacts to the water supply of the developed homesites below the cliff, and visual impacts to the homesites. Mr. Regulski clarified that the cliff-top ditch is an irrigation ditch owned by McLin, and that the second ditch, lower on the slope, is the Ward-Reynolds Ditch, which operates on an easement within 100 feet of the proposed location. Mr. Regulski expressed concern that the Ward-Reynolds Ditch Company did not receive notification, and expressed concern that when the hay pasture is flood irrigated, the pipeline trench will act as a conduit for flow, causing significant erosion. Mr. Regulski is concerned that the location has not been properly engineered to prevent environmental damage.

Comment Summary:

The following comments summary is COGCC's interpretation of the information received by various people. No written public comment was received.

- Concern about negative environmental impacts as a result of pad construction and oil and gas activities at the proposed McLin A pad.
- 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.
- Possible 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 edge of cliff prone to erosion and long-term damage caused by lack of proper engineering.

From: [Robert Gavrell](#)
To: [Neslin, David](#)
Cc: [Deranleau, Greg](#)
Subject: RE: McLin Public Comment
Date: Wednesday, September 15, 2010 4:38:19 PM
Attachments: [DOC.PDF](#)

Director Neslin:

I am an attorney who represents Robert Regulski, the owner of real property within 500 feet of the McLin A Pad. Mr. Regulski received a letter from Antero Resources dated August 30, 2010, which informed him of the 20 day comment period on the McLin A Pad, per COGCC Rule 305. A copy of the letter from Antero that he received is attached to this e-mail.

Please note that the letter dated August 30 announces to the recipient (in this case Mr. Regulski) that he will have 20 days from the date of the notice to submit comments, or until September 19. I have today learned from Greg Deranleau in your office that the information provided by Antero is incorrect, and untrue. Mr. Deranleau today confirmed that the public comment actually ends today.

Antero's letter to Mr. Regulski misinforms him of the ending date for the comment period. It is entirely unclear how many other land owners may have been similarly misinformed by Antero's misrepresentation, and how many comments may not be timely received as a result of Antero's misrepresentation.

On behalf of Mr. Regulski and all similarly situated landowners, I therefore formally request that the comment period be extended to and until September 19 to accommodate this misrepresentation, so that no comments in opposition may go unregistered with the COGCC. Mr. Deranleau has instructed me to direct my communication to you.

Separately, and in addition, Mr. Regulski wishes to add to his previously submitted public comments summarized by Mr. Deranleau this letter as an additional comment. The very misrepresentation is itself indicative of Mr. Regulski's concerns and allegations related to Antero's trespass, negligent construction of a pipeline on his property (related to the McLin A pad) and fraud. He has sued Antero on these grounds and that litigation is ongoing. A temporary restraining order has been entered from the Garfield County District Court related to Antero's construction at his property. Presently all work there is stopped. Regardless of whether his request for public comment to be extended is granted, he wishes that this letter, his requested, and the copy of Antero's letter to him attached hereto be added to the public comments submitted by him on this matter.

Sincerely,

Robert C. Gavrell, Esq.

Worrell, Durrett & Jaynes, P.C.
201 8th Street
P.O. Box 1089
Glenwood Springs, CO 81601
Ph: (970) 945-0494; Fax: (970) 945-8449
email: rgavrell@wgdj.com
www.wdjlaw.net

CONFIDENTIALITY NOTICE: This electronic mail transmission comes from an attorney and may contain information that is confidential, privileged, proprietary, or otherwise legally exempt from disclosure. If you are not the intended recipient, you are hereby notified that you are not authorized to read, print, retain, copy or disseminate this message, any part of it, or any attachments. If you have received this message in error, please delete this message and any attachments from your system

without reading the content and notify the sender immediately of the inadvertent transmission. There is no intent on the part of the sender to waive any privilege, including the attorney-client privilege, that may attach to this communication. Thank you for your cooperation.

From: Deranleau, Greg [mailto:Greg.Deranleau@state.co.us]
Sent: Wednesday, September 15, 2010 9:15 AM
To: rgavrell@wgdj.com
Subject: McLin Public Comment

Gentlemen,

The public comment period for the McLin A Pad (COGCC document #400076537) is scheduled to expire today. COGCC has entered a draft comment on your behalf based on the conversations we've had and the information you've provided. I am attaching a copy of the draft comment for your review and comment.

If you wish to request an extension to the public comment period, you may do so by submitting a written request to Director Neslin. I've copied him on this correspondence. At your request, I will forward separately a recently received request to extend the public comment period. Please reference the communication you received from Antero Resources in your request.

If you wish to view the Oil and Gas Location Form 2A and submit additional comment while the period is open, please do so using the COGCC website as follows:

1. Go to our homepage at <http://cogcc.state.co.us/>
2. On the toolbar on the left side click "**PERMITS**"
3. The bottom choice is "All Pending Location Assessments for ??? County". Select "**Garfield**" from the drop-down menu. Click "**GO!**"
4. Find the Location Name you are looking for, in this case "McLin A Pad" and click the Document Number in the STATUS column (in this case [400076537](#))
5. You will be automatically logged in to eForms and can view the status of the Form 2A. You will be viewing a summary of this Form 2A on the "dashboard page."
6. Click any item in the row specific to this location and information about the processing and review of the Form 2A will drop down. You can see at this time that the public comment period closes on 9/15/2010, which is 20 days following determination of completeness notification to Antero.
7. Click the "..." cell under Attachments to view all documents attached to this application, including the correspondence attached above. When finished click "**Close**" to return to the dashboard page.
8. Click the "**View**" cell under View to see the Form 2A. This view is updated, and will include internal comments pertinent to the COGCC review of the Form 2A, proposed conditions of approval, and will include information as modified during the review process. To exit, simply close the window, and you can go back to the dashboard.
9. Click the "**Comment**" cell under Comment to add or view public comments. Click

“New Comment” to create a new public comment. You will be asked to enter a verification code and can then enter a formal comment. When finished make sure to click **“Save”**, then click **“Exit Comments”** to return to the dashboard.

Please don't hesitate to contact me with any additional questions on the process or comments pertaining to this issue.

Thanks,

Greg Deranleau
Oil and Gas Location Assessment Supervisor
Colorado Oil and Gas Conservation Commission
303-894-2100 ext. 5153

From: Deranleau, Greg
To: ["Robert Gavrell"](#)
Cc: [Kerr, Thom](#)
Subject: RE: McLin Public Comment
Date: Thursday, September 16, 2010 5:24:00 PM

Rob,

We have extended the public comment period through September 20, 2010 as requested. Because we have granted this extension request, the COGCC Permitting Manager suggests that you formalize your client's comment in writing and submit to us either using the eForms comment tool, as I've previously explained, or via e-mail or fax. Upon receipt of your formal comment, I will remove my summary from the record.

At this time, COGCC is working on resolution of the issues I've summarized. We look forward to receiving your comment and will be in touch if we need additional clarification, information or assistance.

Thank you,

Greg Deranleau
Oil & Gas Location Assessment Supervisor
303-894-2100 ext. 5153



From: Robert Gavrell [mailto:rgavrell@wgdj.com]
Sent: Wednesday, September 15, 2010 4:40 PM
To: Deranleau, Greg
Subject: RE: McLin Public Comment

Greg – We agree with the form of your draft comment and accept it as Mr. Regulski's comment. It is accurate, subject to some clarifications that Mr. Regulski may make when and if given the opportunity to testify. Please keep us posted on the date and time of any hearings at which he may do so.

Robert C. Gavrell, Esq.

Worrell, Durrett & Jaynes, P.C.
201 8th Street
P.O. Box 1089
Glenwood Springs, CO 81601
Ph: (970) 945-0494; Fax: (970) 945-8449
email: rgavrell@wgdj.com
www.wdjlaw.net

CONFIDENTIALITY NOTICE: This electronic mail transmission comes from an attorney and may

contain information that is confidential, privileged, proprietary, or otherwise legally exempt from disclosure. If you are not the intended recipient, you are hereby notified that you are not authorized to read, print, retain, copy or disseminate this message, any part of it, or any attachments. If you have received this message in error, please delete this message and any attachments from your system without reading the content and notify the sender immediately of the inadvertent transmission. There is no intent on the part of the sender to waive any privilege, including the attorney-client privilege, that may attach to this communication. Thank you for your cooperation.

From: Deranleau, Greg [mailto:Greg.Deranleau@state.co.us]
Sent: Wednesday, September 15, 2010 9:15 AM
To: rgavrell@wgdj.com
Subject: McLin Public Comment

Gentlemen,

The public comment period for the McLin A Pad (COGCC document #400076537) is scheduled to expire today. COGCC has entered a draft comment on your behalf based on the conversations we've had and the information you've provided. I am attaching a copy of the draft comment for your review and comment.

If you wish to request an extension to the public comment period, you may do so by submitting a written request to Director Neslin. I've copied him on this correspondence. At your request, I will forward separately a recently received request to extend the public comment period. Please reference the communication you received from Antero Resources in your request.

If you wish to view the Oil and Gas Location Form 2A and submit additional comment while the period is open, please do so using the COGCC website as follows:

1. Go to our homepage at <http://cogcc.state.co.us/>
2. On the toolbar on the left side click "**PERMITS**"
3. The bottom choice is "All Pending Location Assessments for ??? County". Select "**Garfield**" from the drop-down menu. Click "**GO!**"
4. Find the Location Name you are looking for, in this case "McLin A Pad" and click the Document Number in the STATUS column (in this case [400076537](#))
5. You will be automatically logged in to eForms and can view the status of the Form 2A. You will be viewing a summary of this Form 2A on the "dashboard page."
6. Click any item in the row specific to this location and information about the processing and review of the Form 2A will drop down. You can see at this time that the public comment period closes on 9/15/2010, which is 20 days following determination of completeness notification to Antero.
7. Click the "..." cell under Attachments to view all documents attached to this application, including the correspondence attached above. When finished click "**Close**" to return to the dashboard page.
8. Click the "**View**" cell under View to see the Form 2A. This view is updated, and will include internal comments pertinent to the COGCC review of the Form 2A, proposed conditions of approval, and will include information as modified during

the review process. To exit, simply close the window, and you can go back to the dashboard.

9. Click the **“Comment”** cell under Comment to add or view public comments. Click **“New Comment”** to create a new public comment. You will be asked to enter a verification code and can then enter a formal comment. When finished make sure to click **“Save”**, then click **“Exit Comments”** to return to the dashboard.

Please don't hesitate to contact me with any additional questions on the process or comments pertaining to this issue.

Thanks,

Greg Deranleau
Oil and Gas Location Assessment Supervisor
Colorado Oil and Gas Conservation Commission
303-894-2100 ext. 5153

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

CONFIDENTIALITY NOTE: This information contained in this facsimile is or may be attorney privileged and confidential information, intended only for the use of the individual or entity named above. If the reader of this message is not THE intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited.

IF YOU EXPERIENCE DIFFICULTY IN RECEIVING THIS TRANSMISSION OR HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE CONTACT (970) 945-0494.

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
www.wdilaw.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

Comments Related to the McLin Pad A
September 20, 2010

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:

Comments Related to the McLin Pad A

September 20, 2010

- 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

From: [Kellerby, Shaun](#)
To: [Ash, Margaret](#)
Subject: Antero Gas line complaint.
Date: Friday, September 24, 2010 12:44:16 PM
Attachments: [Shaun Kellerby.vcf](#)

On Wednesday September 9th was contacted by Linda Spry O'Rourke who has Mr. Robert Regulski in the Rifle office. I did not speak directly with Mr. Regulski ,however Linda stated that Mr. Regulski wished to file a complaint with regards to a pipe line that was under construction on his property at county rd 335 and 311 in Garfield County. The complaint was directed at the construction practices of the pipe line being installed by Antero resources.

I contacted Jon Black at the Antero office in rifle, and Jon put me in contact with Mike Garrett who is the construction manager for the pipe line project. Mike accompanied me on a tour of the pipe line project. Due to a current legal matter Mike was not able to enter the property of Mr. Regulski. Mike Garrett stated that the pipe line installation was conducted by best management practices that he had normally used in the past. The pipe line trench was constructed to remove all sharp rocks or objects that could damage the pipe line. Padding was placed on top of the pipe, and no objects larger than an inch and a half are allowed to be included in the padding material. After the padding is in place, the native material is placed back into the trench, and the disturbed area will be reseeded. In addition the pipe line is pressure tested before being placed into service.

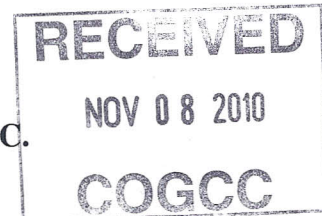
Mr. Regulski was concerned with a portion of pipe line on his property that has large rocks in the trench, and lying on the pipe. At the time of this inspection the contractor was not able to enter the property and could not verify if the rocks had been placed there as a part of the normal construction process, or if the trench had collapsed causing the rocks to enter the trench. Mr. Garrett did state that the rocks would normally be placed into the trench as native material, and that he would have to supplement the back fill with some top soil to complete the re seeding process.

This is an ongoing project with a gas line and plastic water line in the trench. I did not observe any violations on the active portion of the pipe line, and the portion contained on Mr. Regulski property has been halted due to legal action. I will close this complaint out with no violations found based on the implementation of best practices by the contractor, and the absence of activity on the section of property that was specified in this complaint.



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
www.wdjlaw.net

November 4, 2010

Via Hand Delivery

Mr. Fred Jarman
Director, Building and Planning Department
Garfield County
108 8th St., Suite 401
Glenwood Springs, CO 81601

Re: Antero Resources Pipeline Corp.; Grading Permits 6-10-1611 & 5-10-1564

Dear Mr. Jarman:

This letter is responsive to the letter sent to you October 28, 2010 from David Neslin of the COGCC (the "COGCC Letter"). It is also partially responsive to Andrew Schwaller's and Marv Stephens' letter to Tim Thulson and myself dated October 21, 2010, concerning the County's proposal for plan of action to address the stop work order ("County's Letter"). My client has separately responded to the County's letter on his own behalf by correspondence dated October 26, and his comments are relevant to the concerns raised by the COGCC letter.

Mr. Regulski agrees that pressing matters of public safety must take precedence over all other matters. These include issues related to the public road addressed in the County's Letter and issues related to the hillside discussed in the COGCC Letter.

Mr. Regulski has agreed to cooperate with the County to ensure the safety concerns related to the public road are promptly addressed, and he is working with the County on matters related to fixing the public road.

Regarding the problems with the hillside described by the COGCC Letter, Mr. Regulski shares those concerns. As he expressed in his October 26, 2010 letter:

During a side visit to my property on Friday, October 22, 2010 with three COGCC members, we observed several more issues that have to be addressed. After the "Stop Work" order was issued, Antero redid a portion of the upper ranch irrigation ditch in the same negligent manner. The ditch will not work. COGCC members present also observed that the proposed gas pad itself, which sits above my property, drains towards the problematic hillside. Engineering for berming, ditches and the proper way to do this project should be added to your list of requirements. I would like to schedule a site visit with a representative of Garfield County's Building Department at your earliest convenience to inspect these new problems.

The COGCC Letter recommends that erosion control and site stability best management practices be implemented in the area around the hillside, and that ongoing inspections ought to be conducted throughout the winter until the underlying issues are resolved. Mr. Regulski agrees. An independent third-party ought to be retained to do this work. But before beginning anything, a site management plan that includes both short term solutions and identification of long-term problems and solutions related to hillside drainage generally must be approved by the County. Mr. Regulski suggests that review and approval of any such plan should be conducted as part of a site visit where Mr. Regulski would have the right to participate and offer his own comments, and to point out the causes of deficiencies he noted with the COGCC personnel. Short term solutions could be implemented immediately; but long term solutions must be added to the list of criteria that Antero needs to address before the stop-work order is lifted.

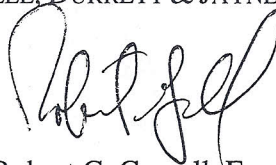
With the rapid onset of winter approaching, it is imperative that this work and investigation be performed immediately, that it be performed thoroughly, and that its short-term erosion control and site stability BMPs be executed without delay. Mr. Regulski will cooperate to any extent reasonably necessary to ensure that this is done quickly and well.

It is critical to realize that none of the work described above requires the lifting of the stop work order. The stop work order and the County's Letter laid out a well-reasoned systematic approach to confirming that Antero's construction covered by the Grading Permits has been performed acceptably well in a way that preserved public safety. The risk to public safety from a potentially exploding pipeline or catastrophic produced water leak and public drinking water contamination represents a threat far worse than one slippery hillside.

It would be not make sense to remove the stop work order and all that it is designed to protect to enable the stabilization of one slope. Mr. Regulski will cooperate in any manner reasonably necessary that DOES NOT involve lifting the stop work order, and he hopes that the County recognizes that it does not need to do so in order to fulfill the important suggestions of the COGCC. I understand that this matter has been placed on the agenda for the BOCC meeting scheduled for November 15, 2010, and Mr. Regulski and I will attend to discuss these suggestions and concerns.

Sincerely,

WORRELL, DURRETT & JAYNES, P.C.



Robert C. Gavrell, Esq.

RCG

cc: David Neslin (by U.S. Mail)
Andrew Schwaller (by hand delivery)
Marvin Stephens (by U.S. Mail)
Cassie Coleman (by e-mail only)
Tim Thulson (by e-mail only)



DEPARTMENT OF NATURAL RESOURCES

Bill Ritter, Jr., Governor
1120 Lincoln St. Suite 801
Denver, CO 80203
Phone: (303) 894-2100
FAX: (303) 894-2109
www.colorado.gov/cogcc

December 22, 2010

Mr. Robert Regulski
c/o Mr. Robert Gavrell, esq.
via e-mail
rgavrell@wgdj.com

Mr. King Lloyd
Ward-Reynolds Ditch Co.
0323 Mid Valley Drive
New Castle, CO 81647

Re: Antero Resources Piceance Corporation, McLin A Pad Oil and Gas Location
Assessment, Form 2A (Document ID 400076537)

Dear Mr. Regulski,

The Colorado Oil and Gas Conservation Commission (COGCC) has prepared the attached response to comments submitted on your behalf regarding the above-referenced Oil and Gas Location Assessment, Form 2A. The COGCC response includes site-specific Conditions of Approval (COAs) that will be attached to the Form 2A upon approval. Antero Resources Piceance Corporation is required to conduct operations in accordance with all applicable COGCC Rules, the site-specific COAs, and will also be required to adhere to self-imposed Best Management Practices (BMPs) which are part of the Form 2A package.

The COGCC believes that the existing Rules, coupled with the site-specific COAs and BMPs, are protective of public health, safety and welfare, including the environment and wildlife resources. If you or Garfield County's oil and gas liaison (or local government designee), Ms. Judy Jordan have any remaining concerns, please communicate them to me no later than December 30, 2010.

Thank you for your participation in the permitting process through your comments. The COGCC endeavors to promote the responsible development of the resource and values public input to that end.

Regards,



Greg Defanleau
Oil and Gas Location Assessment Supervisor

Attachment.

CC: Ms. Judy Jordan, Garfield County Oil and Gas Liaison
Mr. Jerry Alberts, Antero Resources
Ms. Hannah Knopping, Antero Resources

DEPARTMENT OF NATURAL RESOURCES: Mike King, Executive Director

COGCC COMMISSION: Richard Alward – Thomas L. Compton – DeAnn Craig – Mark Cutright – Michael Dowling – Joshua B. Epel – Trési Hout – Mike King – Martha Rudolph
COGCC STAFF: David Neslin, Director – Margaret Ash, Field Inspection Manager – Debbie Baldwin, Environmental Manager – Carol Harmon, Hearings Manager – Mark Weems, Engineering Manager

Public Comment: Received via Facsimile from Robert C. Gavrell, Esq. on behalf of Mr. Regulski, surface landowner adjacent to Mr. McLin; comments are in opposition to Antero Resources, McLin A Pad, to be located at SESW, Section 12, Township 6 South, Range 92 West, Garfield County, Form 2A Oil and Gas Location Assessment (OGLA) Document No. 400076537.

Date Received: September 20, 2010

The following are comments from Mr. Regulski, the adjacent landowner, whose property boundary falls within 500 feet of the proposed McLin A Pad. COGCC has prepared the following responses to each of Mr. Regulski's concerns. This document has been attached to the Form 2A OGLA Document No. 400076537 as "Correspondence".

Comment No. 1: 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.

Response: COGCC has reviewed the Construction Layout Drawings, Location Drawing, and Proposed Best Management Practices (BMP) List provided by Antero as attachments to the Form 2A. Based on the information provided by Antero, the construction, drilling, development, stormwater management, and wildlife mitigation/management associated with the McLin A Pad are sufficient to protect the public health, safety, welfare, including the environment and wildlife resources of the State at this proposed well pad location. Antero has designed this location to minimize surface disturbance. The well pad location will be approximately 2.75 acres and the amount of cut and fill will consist of approximately 4 feet of cut and 5 feet of fill (which is small compared to many locations in this area). In addition, the following general and 317B conditions of approval (COAs) have been placed on this Form 2A and accepted by Antero:

- ◆ Location is in a sensitive area because of its proximity to surface water; therefore, operator must ensure 110 percent secondary containment for any volume of fluids contained at well site during drilling and completion operations; including, but not limited to, construction of a berm or diversion dike, diversion/collection trenches within and/or outside of berms/dikes, site grading, or other comparable measures (i.e., BMPs associated with stormwater management) sufficiently protective of nearby surface water. If fluids are conveyed via pipeline, operator must implement best management practices to contain any unintentional release of fluids.
- ◆ Operator must implement best management practices to contain any unintentional release of fluids.
- ◆ Reserve pit (if constructed) must be lined or a closed loop system (which has already been indicated by Antero on the Form 2A) must be implemented during drilling; however, Antero will be using a closed loop drilling system, therefore, a reserve pit will not be constructed.
- ◆ Flowback to tanks only. Flowback and stimulation fluids shall be contained within tanks that are placed on the well pad in an area with additional downgradient perimeter berming. In addition, operator must implement odor controls during fracing operations.
- ◆ The moisture content of any drill cuttings in a cuttings pit, trench, or pile shall be as low as practicable to prevent accumulation of liquids greater than de minimis amounts. At the time of closure, the drill cuttings must also meet the applicable standards of Table 910-1.
- ◆ No portion of any pit that will be used to hold liquids shall be constructed on fill material, unless the pit and fill slope are designed and certified by a professional engineer, subject to

review and approval by the Director prior to construction of the pit. The construction and lining of the pit shall be supervised by a professional engineer or their agent. The entire base of the pit must be in cut.

- ◆ The nearby hillside must be monitored for any day-lighting of drilling fluids throughout the drilling of the surface casing interval.
- ◆ The access road will be constructed as to not allow any sediment to migrate from the access road to nearby surface water (McLin Ditch) or any drainages leading to other nearby surface waters (Ward-Reynolds Ditch).
- ◆ The location is in an area of high run off/run-on potential from the proposed pad area to the west and north; additionally, the surface soils and materials are very fine-grained; therefore the pad shall be constructed as quickly as possible and appropriate BMPs need to be in place both during and immediately after construction to prevent any stormwater run-on and /or stormwater runoff.
- ◆ Because of proximity of the well pad to both nearby surface water (Ward and Reynolds Ditch) and steep slopes to the west and north; operator will grade the well pad surface to slope towards the south/southeast, away from the edges of the ridge. In addition, tertiary containment will be required at the well pad location consisting of two lateral collection trenches/ditches along the south and east sides of the pad (outside of the well pad berm/ditches) The trenches will be graded to flow into an oversized catchment basin located near the southeast corner of the well pad. This basin will be surrounded by straw waddle and/or silt fencing.
- ◆ Prior to construction of the proposed well pad, soil compaction testing will be conducted along that portion of the existing pipeline trench located within the boundaries of the proposed well pad. In addition, prior to startup of these pipelines, the results of the pressure testing required by **Rule 1101.e. Pressure testing of flowlines.**, will be provided to COGCC.
- ◆ Operator will provide assurance that if pending litigation with the nearby landowner concerning the pipeline installation cannot be satisfactorily resolved, operator can provide reasonable, safe and effective alternative means of transferring fluids and/or gas to and from the location as necessary to facilitate oil and gas production.
- ◆ Operator will provide documentation of resolution of Complaint Number XXXX to COGCC prior to commencing construction of the McLin A Pad.
- ◆ Operator will provide records of pressure testing of the pipeline(s) servicing this multi-well location in accordance with COGCC Rule 1101.e.(1) to COGCC or our third party engineer for review prior to putting pipeline segment into service.

Comment No. 2: 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.

Response: Please see response to **Comment No. 1**, above.

Comment No. 3: 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.

Response: Antero has submitted a revised Hydrology Map and Location Drawing showing the locations of both ditches. These revised drawings have been attached to the Form 2A permit and the previously submitted drawings have been deleted.

Comment No. 4: 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.

Response: COGCC's review of the Form 2A indicated that both Hay Meadow (Crop Land) and Rangeland (Non-Crop Land) had been marked on the Form 2A by Antero. Antero indicated that a small portion of the proposed well pad was on rangeland. These designations of current and future land use are used to determine how topsoil is removed and/or segregated (the different soil horizons for crop land need to be segregated) and when interim reclamation needs to start (three months after well completion for crop land or six months after well completion for non-crop land). This information is also used for determining the type of reclamation required at this location. COGCC has also marked Irrigated on the Form 2A.

Comment No. 5: Failure of Antero to identify presence of noxious weeds on the Form 2A, specifically Knapweed.

Response: Antero has agreed to indicate on the Form 2A that noxious weeds are present. Antero has indicated in their Proposed Best Management Practices (BMP) List that the following invasive non-native vegetation controls will be implemented:

- a weed management plan will be developed and implemented to monitor and control noxious and invasive weeds;
- noxious weed control includes three treatments per year;
- existing weed infestations will be mapped prior to the development of each pad, access road, and pipeline when practicable; and
- reclamation/revegetation will be used as a weed management tool.

In addition, Antero is also required to follow COGCC **Rule 1003.e. Weed control.** which states that *"During drilling, production, and reclamation operations, all disturbed areas shall be kept as free of all undesirable plant species designated to be noxious weeds as practicable. Weed control measures shall be conducted in compliance with the Colorado Noxious Weed Act, C.R.S. §35-5.5-115 and the current rules pertaining to the administration and enforcement of the Colorado Noxious Weed Act."*

Comment No. 6: Failure of Antero to identify the location as a sensitive area with respect to water resources on the Form 2A.

Response: A very important part of COGCC's review of the Form 2A permit is the evaluation and determination of whether an oil and gas location is in a sensitive area. The following was sent to Antero in an email dated August 30, 2010:

COGCC requests the following clarifications regarding the data Antero has submitted on or attached to the Form 2A prior to passing the Oil and Gas Location Assessment (OGLA) review.

1. **Water Resources (Section 14):** Form 2A indicates the distance to the nearest surface water is 170 feet. COGCC's rules state that the distance to the nearest surface water should reflect intermittent (this includes ephemeral streams, irrigation ditches, drainages, abandoned gravel pits), as well as, perennial streams. COGCC's review indicates there is also another perennial stream (Colorado River) with ¼ mile (1320 feet) of the proposed well pad. COGCC guidelines require designating all locations within close proximity to surface water a **sensitive area**. The following conditions of approval (COAs) will apply:

- ◆ Location is in a sensitive area because of its proximity to surface water; therefore, operator must ensure 110 percent secondary containment for any volume of fluids contained at well site during drilling and completion operations; including, but not limited to, construction of a berm or diversion dike, diversion/collection trenches within and/or outside of berms/dikes, site grading, or other comparable measures (i.e., BMPs associated with stormwater management) sufficiently protective of nearby surface water. If fluids are conveyed via pipeline, operator must implement best management practices to contain any unintentional release of fluids.
- ◆ Operator must implement best management practices to contain any unintentional release of fluids.

Antero accepted this designation and the associated COAs (the Form 2A has been changed to indicate that this location is in a sensitive area) in their response email dated September 2, 2010. These email correspondences are attached to the Form 2A permit. It should be noted that COGCC has reviewed over 400 Form 2A permit applications for Western Colorado and designated approximately 60 percent (235 locations) of the locations as being in a sensitive area.

Comment No. 7: Concern about environmental and property impacts due to pipeline failure caused by damage during installation.

Response: COGCC's understanding is that Antero and Mr. Regulski are currently addressing this issue in litigation (Garfield County District Court [Case No. 10 CV 246]). COGCC did send an inspector out to the pipeline location. COGCC determined that the pipeline complied with applicable COGCC rules and regulations, therefore, a "Notice of Alleged Violation (NOAV)" was not issued to Antero. In addition, the portion of the pipeline that is on Mr. Regulski's property is located approximately 400 feet to the north-northwest of the proposed well pad and thus is not part of this Form 2A permit application or review. Notwithstanding the foregoing, COGCC has added two special conditions the Form 2A to further address this issue. The first requires the operator to provide assurance that if the pending pipeline litigation cannot be satisfactorily resolved, the operator can still provide reasonable, safe and effective alternative means of transferring fluids and/or gas to and from the location. The second requires the operator to provide documentation that Complaint Number XXXX concerning the pipeline has been resolved prior to commencing construction of the McLin A Pad.

Comment No. 8: Concern about siting of oil and gas location at edge of cliff prone to erosion and long-term damage caused by lack of proper engineering.

Response: Please see response to **Comment No. 1** above.

From: [King Lloyd](#)
To: [Deranleau, Greg](#)
Cc: jjordan@garfield-county.com
Subject: RE: FW: COGCC Public Comment Response, Antero Resources, McLin A Pad, Form 2A #400076537
Date: Thursday, December 30, 2010 3:02:58 PM

Greg, Do you realize that the backfill for the pipeline was not compacted, it was dozed back into the trench, no water added, just pushed in and graded out. The length of this pipeline on the mesa will act as an interceptor for surface water that will follow the path of least resistance, that of the pipeline trench. With your compaction requirement as it stands you will only prove that the disturbed dirt in the trench is less dense than the surrounding native soil. What's the point of that? The object here should be to provide resistance in the trench to absorbing and conveying surface water it will intercept that is aided by adequate compaction. As it stands you are saying it is what it is. With the right amount of water, proper equipment and effort this material can be compacted if nothing else at least back to pre-existing conditions.

The catch ditch they recently built adjacent to the proposed well pad site is graded so that any water it intercepts is being directed uphill instead of going to a point where it can sheet flow to an area where it won't run directly off the mesa.

If the clay plug is not installed it is very probable that in the future there will be a failure of the trench and the county road and adjacent homes will be flooded. It sounds like you are going to let Antero roll the dice to determine if proper safe guards are constructed to prevent potential future problems.

-King Lloyd

On Wed, Dec 29, 2010 at 4:59 PM, Deranleau, Greg wrote:

Mr. Lloyd,
Thank you for your prompt response. I know that this is a busy time of year. We will discuss and consider your additional comments and your concern over compaction. I will say that I hesitate to prescribe compaction specifications because it can be so locally specific as to what is necessary and achievable. I will, however, consider it with our engineering staff. The plug that you suggest is also something that we will consider, although I would like to discuss it with the operational personnel at Antero prior to its application.

Would you be able to provide me a bit more detail on your comment regarding the improper grading of the existing diversion ditch or "catch ditch," as you referred to it? As far as maintenance of the ditches go, I think that the stipulation to provide maintenance is somewhat redundant to the requirements of maintenance within the state stormwater program. Additionally, COGCC Rule 1002.f.(2) addresses implementation and maintenance of best management practices (BMPs) consistent with your request.

Thanks again and have a happy new year.

Greg Deranleau
Oil & Gas Location Assessment Supervisor

303-894-2100 ext. 5153

OGCCLogo

From: King Lloyd [mailto:riverrats@wreawildblue.org]

Sent: Wednesday, December 29, 2010 1:57 PM

To: Deranleau, Greg

Cc: jjordan@garfield-county.com

Subject: RE: FW: COGCC Public Comment Response, Antero Resources, McLin A Pad, Form 2A #400076537

Greg, Sorry for the slow reply, I was out of touch with the Holidays and Family visits. The Ditch Company stills has some concerns with the stipulations and we appreciate the opportunity to comment here. in comment no.1 there is mention of compaction testing of the pipeline trench that bisects the pad site. There are several reasons that we would like to see the compaction testing, one is the field is flood irrigated and the un-compacted trench will act as an interceptor of the water and it will follow the pipe line and eventually cause a subsidence or total washout on the hill side above our irrigation ditch which at times will have 8+ CFS which would have a serious effect in the event of a wash out on the County Road below the pad and the ditch. A primary problem with your comment No. 1 is there is no mention of an expectation for a min. compaction density. There needs to be a standard stipulated other wise the requirement has no merit. I would suggest something in the range of 95% modified density. There should also be a clay plug the width and depth of the trench between the pad and the edge of the bluff above the county road and the Ward Reynolds ditch that would form an impervious barrier to water migration in the trench. Another concern would be the need for some language requiring that all catch ditches need to be maintained by Antero Res. until the site is stabilized through established re-vegetation and reclamation however long that should take. A side note regarding the catch ditch is the one they have currently in place is improperly graded. Thanks for this opportunity.

-King Lloyd

On Thu, Dec 23, 2010 at 2:45 PM , Deranleau, Greg wrote:

King,
I got your message from yesterday. Sorry for the delay on my end in forwarding this over to you.

Thank you for your input.

Regards,

Greg Deranleau
Oil & Gas Location Assessment Supervisor
303-894-2100 ext. 5153

OGCCLogo

From: Deranleau, Greg
Sent: Wednesday, December 22, 2010 3:15 PM
To: 'Robert Gavrell'
Cc: 'Hannah Knopping'; Jerry Alberts; 'jjordan@garfield-county.com'
Subject: COGCC Public Comment Response, Antero Resources, McLin A Pad, Form 2A #400076537

Mr. Gavrell,

I spoke with Mr. Regulski this afternoon, confirming your request to send correspondence through you. Attached, please find the COGCC response to public comments received regarding the Antero Resources McLin A Pad Oil and Gas Location Assessment, Form 2A. We are asking for a response identifying any remaining concerns within one week. A copy will be sent to Mr. King Lloyd, Secretary of the Ward-Reynolds Ditch Company, via US Mail. If you have the means to provide him with a copy in a manner faster than that, your efforts would be greatly appreciated.

Thank you for your assistance.

Greg Deranleau
Oil & Gas Location Assessment Supervisor
303-894-2100 ext. 5153

OGCCLogo

From: [Robert Gavrell](#)
To: [Deranleau, Greg](#)
Cc: ["Rob Couhig"](#)
Subject: RE: COGCC Public Comment Response, Antero Resources, McLin A Pad, Form 2A #400076537
Date: Wednesday, January 12, 2011 5:06:59 PM

Mr. Deranleau –

Mr. Regulski has reviewed his earlier correspondence with the COGCC and Mr. Lloyd's supplemental comments and is satisfied that he has done all he can to raise the most significant concerns within the timeframe the COGCC has allowed. He adopts and restates all of Mr. Lloyd's comments, most especially those related to his significant concerns about insufficient compaction at the site.

He states for the record that he would prefer more time to enable his engineer to thoroughly review the COGCC's proposals, and protests the shortened timeframe for comment on this significant issue.

Robert C. Gavrell, Esq.

Worrell, Durrett & Jaynes, P.C.
201 8th Street
P.O. Box 1089
Glenwood Springs, CO 81601
Ph: (970) 945-0494; Fax: (970) 945-8449
email: rgavrell@wgdj.com
www.wgdjlaw.net

CONFIDENTIALITY NOTICE: This electronic mail transmission comes from an attorney and may contain information that is confidential, privileged, proprietary, or otherwise legally exempt from disclosure. If you are not the intended recipient, you are hereby notified that you are not authorized to read, print, retain, copy or disseminate this message, any part of it, or any attachments. If you have received this message in error, please delete this message and any attachments from your system without reading the content and notify the sender immediately of the inadvertent transmission. There is no intent on the part of the sender to waive any privilege, including the attorney-client privilege, that may attach to this communication. Thank you for your cooperation.

From: Deranleau, Greg [mailto:Greg.Deranleau@state.co.us]
Sent: Monday, January 03, 2011 9:02 AM
To: Robert Gavrell
Subject: RE: COGCC Public Comment Response, Antero Resources, McLin A Pad, Form 2A #400076537

Robert,

Please advise Mr. Regulski that the COGCC will consider comment until January 12, 2011. If no response is received by that date, we will consider this matter closed and proceed with our permitting process. Also, please note that we have received a response from Mr. Lloyd of the Ward-Reynolds ditch company and are working with him to resolve his additional concerns.

Thank you,

Greg Deranleau
Oil & Gas Location Assessment Supervisor
303-894-2100 ext. 5153



From: Robert Gavrell [mailto:rgavrell@wgdj.com]
Sent: Thursday, December 23, 2010 9:43 AM
To: Deranleau, Greg
Cc: 'Rob Couhig'
Subject: RE: COGCC Public Comment Response, Antero Resources, McLin A Pad, Form 2A #400076537

Greg –

I will forward this on to Mr. Regulski. I spoke with him today. Per his discussion with you yesterday at 3 p.m., there is simply no way we can provide you a response to these detailed matters within a week. It is two days before Christmas. Mr. Regulski's engineer who will review this is celebrating the holiday with his family and I am told he is unavailable. Given the timing with which the COGCC is providing this information, asking for a response in one week is inappropriate.

Mr. Regulski asked you for an extension of time, so that he may have his response to you in thirty days. I am following up on this request with this writing. Please let me know if that would be acceptable to the COGCC, and if not, why not. We will not be able to provide any comments in a week.

Sincerely,

Robert C. Gavrell, Esq.

Worrell, Durrett & Jaynes, P.C.
201 8th Street
P.O. Box 1089
Glenwood Springs, CO 81601
Ph: (970) 945-0494; Fax: (970) 945-8449
email: rgavrell@wgdj.com
www.wdjlaw.net

CONFIDENTIALITY NOTICE: This electronic mail transmission comes from an attorney and may contain information that is confidential, privileged, proprietary, or otherwise legally exempt from disclosure. If you are not the intended recipient, you are hereby notified that you are not authorized to read, print, retain, copy or disseminate this message, any part of it, or any attachments. If you have received this message in error, please delete this message and any attachments from your system without reading the content and notify the sender immediately of the inadvertent transmission. There is no intent on the part of the sender to waive any privilege, including the attorney-client privilege, that may attach to this communication. Thank you for your cooperation.

From: Deranleau, Greg [mailto:Greg.Deranleau@state.co.us]
Sent: Wednesday, December 22, 2010 3:15 PM
To: Robert Gavrell
Cc: Hannah Knopping; Jerry Alberts; jjordan@garfield-county.com
Subject: COGCC Public Comment Response, Antero Resources, McLin A Pad, Form 2A #400076537

Mr. Gavrell,

I spoke with Mr. Regulski this afternoon, confirming your request to send correspondence through you. Attached, please find the COGCC response to public comments received regarding the Antero Resources McLin A Pad Oil and Gas Location Assessment, Form 2A. We are asking for a response identifying any remaining concerns within one week. A copy will be sent to Mr. King Lloyd, Secretary of the Ward-Reynolds Ditch Company, via US Mail. If you have the means to provide him with a copy in a manner faster than that, your efforts would be greatly appreciated.

Thank you for your assistance.

Greg Deranleau
Oil & Gas Location Assessment Supervisor
303-894-2100 ext. 5153



Public Comment: Received via Facsimile from Robert C. Gavrell, Esq. on behalf of Mr. Regulski, surface landowner adjacent to Mr. McLin; comments are in opposition to Antero Resources, McLin A Pad, to be located at SESW, Section 12, Township 6 South, Range 92 West, Garfield County, Form 2A Oil and Gas Location Assessment (OGLA) Document No. 400076537.

Date Received: September 20, 2010

The following are comments from Mr. Regulski, the adjacent landowner, whose property boundary falls within 500 feet of the proposed McLin A Pad. COGCC has prepared the following responses to each of Mr. Regulski's concerns. This document has been attached to the Form 2A OGLA Document No. 400076537 as "Correspondence".

Comment No. 1: 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.

Response: COGCC has reviewed the Construction Layout Drawings, Location Drawing, and Proposed Best Management Practices (BMP) List provided by Antero as attachments to the Form 2A. Based on the information provided by Antero, the construction, drilling, development, stormwater management, and wildlife mitigation/management associated with the McLin A Pad are sufficient to protect the public health, safety, welfare, including the environment and wildlife resources of the State at this proposed well pad location. Antero has designed this location to minimize surface disturbance. The well pad location will be approximately 2.75 acres and the amount of cut and fill will consist of approximately 4 feet of cut and 5 feet of fill (which is small compared to many locations in this area). In addition, the following general and 317B conditions of approval (COAs) have been placed on this Form 2A and accepted by Antero:

- ◆ Location is in a sensitive area because of its proximity to surface water; therefore, operator must ensure 110 percent secondary containment for any volume of fluids contained at well site during drilling and completion operations; including, but not limited to, construction of a berm or diversion dike, diversion/collection trenches within and/or outside of berms/dikes, site grading, or other comparable measures (i.e., BMPs associated with stormwater management) sufficiently protective of nearby surface water. If fluids are conveyed via pipeline, operator must implement best management practices to contain any unintentional release of fluids.
- ◆ Operator must implement best management practices to contain any unintentional release of fluids.
- ◆ Reserve pit (if constructed) must be lined or a closed loop system (which has already been indicated by Antero on the Form 2A) must be implemented during drilling; however, Antero will be using a closed loop drilling system, therefore, a reserve pit will not be constructed.
- ◆ Flowback to tanks only. Flowback and stimulation fluids shall be contained within tanks that are placed on the well pad in an area with additional downgradient perimeter berming. In addition, operator must implement odor controls during fracing operations..
- ◆ The moisture content of any drill cuttings in a cuttings pit, trench, or pile shall be as low as practicable to prevent accumulation of liquids greater than de minimis amounts. At the time of closure, the drill cuttings must also meet the applicable standards of Table 910-1.
- ◆ No portion of any pit that will be used to hold liquids shall be constructed on fill material, unless the pit and fill slope are designed and certified by a professional engineer, subject to

review and approval by the Director prior to construction of the pit. The construction and lining of the pit shall be supervised by a professional engineer or their agent. The entire base of the pit must be in cut.

- ◆ The nearby hillside must be monitored for any day-lighting of drilling fluids throughout the drilling of the surface casing interval.
- ◆ The access road will be constructed as to not allow any sediment to migrate from the access road to nearby surface water (McLin Ditch) or any drainages leading to other nearby surface waters (Ward-Reynolds Ditch).
- ◆ The location is in an area of high run off/run-on potential from the proposed pad area to the west and north; additionally, the surface soils and materials are very fine-grained; therefore the pad shall be constructed as quickly as possible and appropriate BMPs need to be in place both during and immediately after construction to prevent any stormwater run-on and /or stormwater runoff.
- ◆ Because of proximity of the well pad to both nearby surface water (Ward and Reynolds Ditch) and steep slopes to the west and north; operator will grade the well pad surface to slope towards the south/southeast, away from the edges of the ridge. In addition, tertiary containment will be required at the well pad location consisting of two lateral collection trenches/ditches along the south and east sides of the pad (outside of the well pad berm/ditches) The trenches will be graded to flow into an oversized catchment basin located near the southeast corner of the well pad. This basin will be surrounded by straw waddle and/or silt fencing.
- ◆ Prior to construction of the proposed well pad, soil compaction testing will be conducted along that portion of the existing pipeline trench located within the boundaries of the proposed well pad. Compaction testing shall be engineered and conducted sufficient to prevent the trench from becoming a conduit for water capable of damaging the stability of the location or proximate hillside.
- ◆ Prior to startup of these pipelines, the results of the pressure testing required by **Rule 1101.e. Pressure testing of flowlines.**, will be provided to COGCC.
- ◆ Operator will provide assurance that if pending litigation with the nearby landowner concerning the pipeline installation cannot be satisfactorily resolved, operator can provide reasonable, safe and effective alternative means of transferring fluids and/or gas to and from the location as necessary to facilitate oil and gas production.
- ◆ Operator will provide documentation of resolution of Complaint Number 2000287954 to COGCC prior to commencing construction of the McLin A Pad. Resolution of the complaint could, by example, include submittal of the items specified by Garfield County in the letter to the COGCC, dated December 2, 2010
- ◆ Operator will provide records of pressure testing of the pipeline(s) servicing this multi-well location in accordance with COGCC Rule 1101.e.(1) to COGCC or our third party engineer for review prior to putting pipeline segment into service.

Comment No. 2: 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.

Response: Please see response to **Comment No. 1**, above.

Comment No. 3: 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.

Response: Antero has submitted a revised Hydrology Map and Location Drawing showing the locations of both ditches. These revised drawings have been attached to the Form 2A permit and the previously submitted drawings have been deleted.

Comment No. 4: 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.

Response: COGCC's review of the Form 2A indicated that both Hay Meadow (Crop Land) and Rangeland (Non-Crop Land) had been marked on the Form 2A by Antero. Antero indicated that a small portion of the proposed well pad was on rangeland. These designations of current and future land use are used to determine how topsoil is removed and/or segregated (the different soil horizons for crop land need to be segregated) and when interim reclamation needs to start (three months after well completion for crop land or six months after well completion for non-crop land). This information is also used for determining the type of reclamation required at this location. COGCC has also marked Irrigated on the Form 2A.

Comment No. 5: Failure of Antero to identify presence of noxious weeds on the Form 2A, specifically Knapweed.

Response: Antero has agreed to indicate on the Form 2A that noxious weeds are present. Antero has indicated in their Proposed Best Management Practices (BMP) List that the following invasive non-native vegetation controls will be implemented:

- a weed management plan will be developed and implemented to monitor and control noxious and invasive weeds;
- noxious weed control includes three treatments per year;
- existing weed infestations will be mapped prior to the development of each pad, access road, and pipeline when practicable; and
- reclamation/revegetation will be used as a weed management tool.

In addition, Antero is also required to follow COGCC **Rule 1003.e. Weed control**, which states that *"During drilling, production, and reclamation operations, all disturbed areas shall be kept as free of all undesirable plant species designated to be noxious weeds as practicable. Weed control measures shall be conducted in compliance with the Colorado Noxious Weed Act, C.R.S. §35-5.5-115 and the current rules pertaining to the administration and enforcement of the Colorado Noxious Weed Act."*

Comment No. 6: Failure of Antero to identify the location as a sensitive area with respect to water resources on the Form 2A.

Response: A very important part of COGCC's review of the Form 2A permit is the evaluation and determination of whether an oil and gas location is in a sensitive area. The following was sent to Antero in an email dated August 30, 2010:

COGCC requests the following clarifications regarding the data Antero has submitted on or attached to the Form 2A prior to passing the Oil and Gas Location Assessment (OGLA) review.

1. **Water Resources (Section 14):** Form 2A indicates the distance to the nearest surface water is 170 feet. COGCC's rules state that the distance to the nearest surface water should reflect

intermittent (this includes ephemeral streams, irrigation ditches, drainages, abandoned gravel pits), as well as, perennial streams. COGCC's review indicates there is also another perennial stream (Colorado River) with ¼ mile (1320 feet) of the proposed well pad. COGCC guidelines require designating all locations within close proximity to surface water a **sensitive area**. The following conditions of approval (COAs) will apply:

- ◆ Location is in a sensitive area because of its proximity to surface water; therefore, operator must ensure 110 percent secondary containment for any volume of fluids contained at well site during drilling and completion operations; including, but not limited to, construction of a berm or diversion dike, diversion/collection trenches within and/or outside of berms/dikes, site grading, or other comparable measures (i.e., BMPs associated with stormwater management) sufficiently protective of nearby surface water. If fluids are conveyed via pipeline, operator must implement best management practices to contain any unintentional release of fluids.
- ◆ Operator must implement best management practices to contain any unintentional release of fluids.

Antero accepted this designation and the associated COAs (the Form 2A has been changed to indicate that this location is in a sensitive area) in their response email dated September 2, 2010. These email correspondences are attached to the Form 2A permit. It should be noted that COGCC has reviewed over 400 Form 2A permit applications for Western Colorado and designated approximately 60 percent (235 locations) of the locations as being in a sensitive area.

Comment No. 7: Concern about environmental and property impacts due to pipeline failure caused by damage during installation.

Response: COGCC's understanding is that Antero and Mr. Regulski are currently addressing this issue in litigation (Garfield County District Court [Case No. 10 CV 246]). COGCC did send an inspector out to the pipeline location. COGCC determined that the pipeline complied with applicable COGCC rules and regulations, therefore, a "Notice of Alleged Violation (NOAV)" was not issued to Antero. In addition, the portion of the pipeline that is on Mr. Regulski's property is located approximately 400 feet to the north-northwest of the proposed well pad and thus is not part of this Form 2A permit application or review. Notwithstanding the foregoing, COGCC has added two special conditions the Form 2A to further address this issue. The first requires the operator to provide assurance that if the pending pipeline litigation cannot be satisfactorily resolved, the operator can still provide reasonable, safe and effective alternative means of transferring fluids and/or gas to and from the location. The second requires the operator to provide documentation that Complaint Number 2000287954 concerning the pipeline has been resolved prior to commencing construction of the McLin A Pad.

Comment No. 8: Concern about siting of oil and gas location at edge of cliff prone to erosion and long-term damage caused by lack of proper engineering.

Response: Please see response to **Comment No. 1** above.