

BEFORE THE OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

IN THE MATTER OF THE PROMULGATION AND	)	CAUSE NO. 407
ESTABLISHMENT OF FIELD RULES TO GOVERN	)	
OPERATIONS FOR THE NIOBRARA AND CODELL	)	DOCKET NO. 191100729
FORMATIONS, WATTENBERG FIELD, WELD	)	
COUNTY, COLORADO	)	TYPE: POOLING
	)	
	)	ORDER NO. 407-3204

REPORT OF THE COMMISSION

The Commission heard this matter on February 17, 2021, at the Colorado Oil and Gas Conservation Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado, upon application for an order to pool all interests in two approximate 555.954-acre designated horizontal wellbore spacing units established for the below-described lands ("Application Lands"), and to subject all nonconsenting interests to the cost recovery provisions of § 34-60-116(7), C.R.S., for the drilling of the Ice Man 2W-15-1C Well (API No. 05-123-46340) and Ice Man 2W-15-2N Well (API No. 05-123-46339) ("Wells"), for the development and operation of the Niobrara and Codell Formations:

Township 7 North, Range 67 West, 6<sup>th</sup> P.M.

Section 34: S $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$

Section 35: S $\frac{1}{2}$ S $\frac{1}{2}$

Township 6 North, Range 67 West, 6<sup>th</sup> P.M.

Section 2: N $\frac{1}{2}$ N $\frac{1}{2}$

Section 3: N $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$

**Wellbore Spacing Unit ("WSU") Nos. 1 & 2**

Ice Man 2W-15-1C Well – Codell Formation

Ice Man 2W-15-2N Well – Niobrara Formation

Approximately 555.954 acres, more or less

FINDINGS

The Commission finds as follows:

1. Extraction Oil & Gas, Inc. (Operator No. 10459) ("Extraction", or "Applicant"), as applicant herein, is an interested party in the subject matter of the above-referenced hearing.
2. Due notice of the time, place and purpose of the hearing has been given in all respects as required by law.
3. The Commission has jurisdiction over the subject matter embraced in said Notice, and of the parties interested therein, and jurisdiction to promulgate the hereinafter prescribed order pursuant to the Oil and Gas Conservation Act.

4. On April 27, 1998, the Commission adopted Rule 318A, the Greater Wattenberg Area Special Well Location, Spacing and Unit Designation Rule.<sup>1</sup> The Application Lands are subject to this Rule for the Niobrara and Codell Formations.

5. On November 27, 2019, corrected December 5, 2019, which was at least 90 days before the Commission heard this matter, Extraction filed a verified application ("Application") pursuant to § 34-60-116, C.R.S., for an order to pool all interests in certain designated horizontal wellbore spacing units established for the Application Lands, for the development and operation of the Niobrara and Codell Formations, and to subject any nonconsenting interests to the cost recovery provisions of § 34-60-116(7), C.R.S., for the drilling of the Wells.

6. On January 24, 2020, Ryan Guinn filed a protest. On February 10, 2021, Mr. Guinn withdrew his protest.

7. The Applicant filed with the Commission a written request to approve the Application based on the merits of the Application and the supporting exhibits. Sworn written testimony and exhibits were submitted in support of the Application.

8. Land testimony and exhibits submitted in support of the Application by Phillip Zaranka and Sean Flanagan, Landmen for Extraction, as well as the verified Application, show that in each designated horizontal wellbore spacing unit the Applicant owns, or has secured the consent of the owners of, more than 45% of the mineral interest to be pooled. In addition, the land testimony and exhibits show that the unleased owners within the designated horizontal wellbore spacing unit received a reasonable offer to lease or participate at least 90 days before the hearing date, that the owners to be pooled did not elect in writing to consent to the Well within 60 days after receiving the offer to participate, and that any unleased owner(s) had at least 60 days to review a reasonable offer to lease but either refused it or have not yet accepted it.

9. The land testimony and exhibits also demonstrate that the offers to lease were made in good faith, contained the contact information for a representative of an Applicant, and contained the Commission's pooling brochure or a link to access it.

10. In addition, the land testimony and exhibits show that the offers to participate contained the Commission's pooling brochure or a link to access it, the total estimated drilling and completion costs for the Well, and also the following information for each Well: the location, measured depth, true vertical depth, lateral length, and the estimated spud date.

11. Land testimony showed the Applicant complied with the requirements of Rule 530 and the Act, and is entitled to the cost recovery provisions pursuant to § 34-60-116(7), C.R.S., for the Well, but did not provide testimony for any subsequent wells.

12. Granting the Application is consistent with the protection of public health, safety, welfare, the environment, and wildlife resources.

13. Extraction agreed to be bound by oral order of the Commission.

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<sup>1</sup> Effective January 15, 2021, Commission Rule 318A was moved to Rule 401 and modified to have no effect on future operations and development in the Greater Wattenberg Area. However, Rule 401.c states that any wellbore spacing units established prior to January 15, 2021 will remain in effect unless the applicable Form 2s, if any, expire without spud.

14. Based on the facts stated in the verified Application, all protests having been resolved, and based on the Hearing Officer review of the Application under Rule 505, the Commission should enter an order to pool all interests in the designated horizontal wellbore spacing units established for the Application Lands and to subject any nonconsenting interests to the cost recovery provisions of § 34-60-116(7), C.R.S., for the drilling of the Wells, for the development and operation of the Niobrara and Codell Formations.

### ORDER

#### IT IS HEREBY ORDERED:

1. Pursuant to the provisions of § 34-60-116, C.R.S., all interests in the designated horizontal wellbore spacing units established for the Application Lands are hereby pooled, for the development and operation of the Niobrara and Codell Formations, effective as the date the Application was filed.

2. The production obtained from each designated horizontal wellbore spacing unit shall be allocated to each owner in the unit on the basis of the proportion that the number of acres in such tract bears to the total number of mineral acres within the designated horizontal wellbore spacing unit; each owner of an interest in the designated horizontal wellbore spacing unit shall be entitled to receive the owner's share of the production of the Well located on the designated horizontal wellbore spacing unit applicable to owner's interest in the designated horizontal wellbore spacing unit.

3. The following working interest owner(s) did not elect to participate in the Well(s) or failed to make a timely election and are hereby deemed to be nonconsenting and subject to the penalties as provided for in § 34-60-116(7), C.R.S: None.

4. Each nonconsenting working interest owner must reimburse the consenting owners for the owner's proportionate share of the costs and risks of drilling and operating the Well from the owner's proportionate share of production, subject to non-cost bearing interests, if and to the extent that the royalty is consistent with the lease terms prevailing in the area and is not designed to avoid the recovery of costs provided for in § 34-60-116(7)(b), C.R.S., until costs and penalties are recovered as set forth in § 34-60-116(7), C.R.S.

5. The following unleased owner(s) did not elect to participate in the Well(s) or failed to make a timely election and are hereby deemed to be nonconsenting and subject to the penalties as provided for in § 34-60-116(7), C.R.S.: Aaron M. Burd and Jamie A. Burd, as joint tenants; Alan W. Lind; Alberto A. Olivo; Alison C. Koster; Ally Kathryn Yeager; Angela Lang; Anthony Darron Fox; Becky A. Worman; Bertrand B. Kre; Bradley Poppie; Brenda K. Scott; Brian D. Coe and Stephanie Jean Kaus Coe, as joint tenants; Bruce E. Lind; Christine M. Krause and Rick A. Krause, as joint tenants; Craig Banghart; David Banghart; Eleanor I. Johnson; Grayrock Minerals, LLC; Highland Properties 3214 LLC; Jay Murrell; Jim L. Ells; Judy A. Walton; Lane Kaley, Jr. and Ann E. Kaley, as Co-Trustees of the Generation-Skipping Trust f/k/o Lane Kaley, Jr. and his descendants under paragraph B(1) of Article III of the Trust Agreement of Elizabeth R. Waidner dated March 5, 1996; Lane Kaley, Jr. and Ann E. Kaley, as Co-Trustees of the Generation-Skipping Trust f/k/o Lane Kaley, Jr. and his descendants under paragraph B(1) of Article III of the Trust Agreement of Elizabeth R. Waidner dated March 5, 1996; Larry Janney; Linda J. Myklestad; Melissa S. Eagan and Christopher H. Eagan, as joint tenants; Mona K. Lind Norton; Moore Family

Trust; Nikko Cucina, LLC; Nikko Cucina, LLC; Overland Energy Partners Fund I, LLC; Overland Energy Partners Fund II, LLC; Richard D. Shunk and Marna R. Shunk, as joint tenants; Robert C. Brady; Robert Frohman; Robert Frohman and Bruce R. Frohman, as joint tenants; TAP Properties, Ltd.; Temple Corporation; Timothy J. Carsrud and Jessica J. Carsrud, as joint tenants; Town of Severance; William E. Stern; William E. Stern; and William E. Stern.

6. Any nonconsenting unleased owner within a designated horizontal wellbore spacing unit shall be deemed to have a landowner's royalty, proportionate to each owner's record title interest, of:

a. for a gas well as defined in the Commission Regulations, 13% until the consenting owners recover, only out of each nonconsenting owner's proportionate 87% share of production, the costs specified in § 34-60-116(7)(b), C.R.S.;

b. for an oil well as defined in the Commission Regulations, 16% until the consenting owners recover, only out of each nonconsenting owner's proportionate 84% share of production, the costs specified in § 34-60-116(7)(b), C.R.S.

After recovery of the costs specified in § 34-60-116(7)(b), C.R.S., each unleased nonconsenting mineral owner owns its proportionate 8/8ths share of the Well, surface facilities, and production, and is liable for its proportionate share of further costs as if the nonconsenting owner had originally agreed to the drilling.

7. The operator of the Wells drilled on the designated horizontal wellbore spacing unit shall furnish the nonconsenting owners with a monthly statement of all costs incurred, together with the quantity of oil and gas produced, and the amount of proceeds realized from the sale of production during the preceding month.

8. A nonconsenting owner is immune from liability for costs arising from spills, releases, damage, or injury resulting from oil and gas operations on the designated horizontal wellbore spacing units.

9. The operator shall not use the surface owned by a nonconsenting owner without the nonconsenting owner's permission.

10. Nothing in this order is intended to conflict with § 34-60-116, C.R.S. Any conflict that may arise shall be resolved in favor of the statute.

11. The designated horizontal wellbore spacing units described above shall be considered drilling and spacing units established by the Commission for purposes of Rule 506.a.

IT IS FURTHER ORDERED:

1. The provisions contained in the above order shall become effective immediately.


2. The Commission expressly reserves its right, after notice and hearing, to alter, amend or repeal any and/or all of the above orders.

3. Under the State Administrative Procedure Act, the Commission considers this Order to be final agency action for purposes of judicial review within 35 days after the date this Order is mailed by the Commission.

4. An application for reconsideration by the Commission of this Order is not required prior to the filing for judicial review.

ENTERED this 24th day of February 2021, as of February 17, 2021

OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

By \_\_\_\_\_  
Jeff Robbins, Chair, Colorado Oil and  
Gas Conservation Commission