

FINAL ORDER

BEFORE THE WELD COUNTY 1041 WOGLA HEARING OFFICER

Docket Number 1041WOGLA20-0093

1041 WOGLA Hearing Officer Curt Moore heard this matter on April 8, 2021 at the Weld County Oil & Gas Energy Hearing Room, 1301 N 17th Ave, Greeley, CO 80631 and through a remotely held audio and video connection led by the Oil & Gas Energy Department Director upon application for a 1041 WOGLA Permit located in the NWSE of Section 21, Township 7 North, Range 66 West, 6th P.M., Weld County, Colorado. Present for the hearing were Amanda Petzold, Permit and Enforcement Specialist, Weld County; Elisa Kunkel, Oil & Gas Energy Technician, Weld County; Stephanie Frederick, Oil & Gas Energy Technician, Weld County; Jason Maxey, Oil & Gas Energy Department Director, Weld County; Gabe Kalousek, Assistant County Attorney, Weld County; Mark Brown, Operations Manager, Bayswater Exploration & Production, LLC; and Ann Feldman, Regulatory Manager, Ascent Geomatics Solutions. Having heard the testimony presented and considering documents submitted for review, including the application, the Hearing Officer makes the following Findings of Fact and Order:

Findings of Fact and Law

The Hearing Officer makes the following findings of fact:

1. Bayswater Exploration & Production, LLC (“Bayswater ” or “Applicant”) as Applicant for the above referenced Docket delivered its 1041 WOGLA Permit Application (“Application” or “Permit”) dated February 17, 2021 to the Weld County Oil & Gas Energy Director (“Director” or “Staff”).
2. Upon review of the Application, Ms. Petzold found the Application to be complete and forwarded the Application to the Hearing Officer for the purpose of scheduling a hearing pursuant to the Weld County 1041 Regulations (“WCC” or “Code”).
3. At the scheduled Hearing on April 8, 2021, Ms. Petzold gave testimony that the Application was viewed as complete and further testified that the Application was found to be in compliance with the Code including the Application Requirements described within Sec. 21-5-320 of the Code and the Development Standards within Division 4 of Article 5 (“Development Standards”) of the Code.
4. Ms. Petzold further testified that:
 - a. Certain Conditions of Approval (“COA’s”) and Best Management Practices (“BMP’s”) are outlined within the Staff Report and within the Application.

- b. Staff conducted an on-site visit of the proposed Oil & Gas Location (“OGL”) on November 16, 2021 and determined that the proposed use would be compatible with surrounding and adjacent land uses.
- c. Staff held a Pre-Application meeting on November 18, 2020 to review the proposal with the Applicant. Ms. Petzold, Mr. Brown, Ms. Feldman and representatives of Colorado Parks and Wildlife attended the meeting. Representatives of the Colorado Oil & Gas Commission did not attend the meeting. Colorado Parks and Wildlife expressed no concerns with the proposed OGL at the Pre-Application Meeting.
- d. In the estimation of Staff, the proposed OGL provides the least impact to public health, safety, welfare, environment and wildlife when compared to other alternatives that the Applicant considered while developing the Application.
- e. The proposed OGL is located within the Near-Urban Planning Area of the Code as depicted upon Appendix 21-B of the Code. Staff concluded that there are no High Occupancy Building Units, Designated Outdoor Activity Areas, School Facilities or Child Care Facilities (all as defined within the Code) located within one thousand (1,000) feet of the proposed OGL. Further, the nearest Designated Outdoor Activity Areas, School Facilities or Child Care Facilities are located over one (1) mile from the proposed OGL.
- f. The Applicant delivered Pre-Application Notice and Staff delivered Notice of Hearing pursuant to Weld County Code Ordinance 2020-12. The parties that received the Pre-Application Notice and the Notice of Hearing were three (3) property owners located within one thousand (1,000) feet of the proposed OGL. The notified parties did not respond to either the Pre-Application Notice or the Notice of Hearing.
- g. The nearest Building Unit is located one thousand and nineteen (1,019) feet from the proposed OGL. The owner of the Building Unit did not contact Staff with respect to the Application.
- h. Staff did not receive any Applications for Intervention relative to this Application.
- i. The Lakeside Lateral Ditch Company (“LLDC”) provided referral comments to Staff and the Applicant relative to prohibiting access to the OGL from the existing road which runs parallel to the LLDC ditch located east of and adjacent to the proposed OGL.
- j. The Weld County Department of Public Works (“Public Works”) approved the access permit for this Application on March 22, 2021.
- k. Public Works approved the Road Maintenance Agreement for this Application on March 17, 2021.
- l. Public Works approved the Applicant’s Preliminary Drainage Report on March 26, 2021.
- m. The Weld County Office of Emergency Management approved the Applicant’s Emergency Action Plan on March 23, 2021.

- n. Staff determined the Application Site to be within Lighting Zone (“LZ-1”) pursuant to Sec. 21-5-405 of the Code. Staff reviewed the Applicants Photometric Plan and found the plan to be in compliance with the Code.
5. Ms. Petzold concluded her testimony with a recommendation to the Hearing Officer that the Application should be approved subject to the COA’s outlined in the Staff Report.
6. With respect to the LLDC referral comments, Ms. Petzold recommended an additional Prior to Drilling COA not reflected in the Staff Report being “Applicant shall place signage directing no oilfield traffic to enter at the access point used for the Lakeside Lateral Ditch, outside of the County ROW. Sign placement shall be in coordination with the Surface Owner.”
7. Upon examination Ms. Petzold testified that:
 - a. The COGCC did not respond to the referral notice submitted by Staff on February 26, 2021.
8. Mr. Brown testified that:
 - a. As part of the development of the of the proposed Application, it is likely that a non-operated well and associated production equipment located in Section 21, Township 7 North, Range 66 West, 6th P.M. will be plugged and abandoned which would result in approximately two (2) acres of land being returned to agricultural use along with the elimination of truck traffic that currently accesses this existing well. Additionally, thirteen (13) oil and gas wells along with the associated production facilities have been plugged and abandoned within the drilling and spacing unit contemplated in the Application.
 - b. The four (4) alternative sites described in the Application that were considered by the Applicant were found to be inferior to the application site due to sub-surface geological concerns, lack of a private contract at the alternative site, proximity to either building units, wetlands, and croplands, or a combination thereof.
 - c. The Applicant selected and designed the application site with BMP’s as described in the Application that will adequately mitigate impacts to building units to the southwest, northwest, and southeast of the proposed OGL.
 - d. The Applicant will conduct a sound study and sound model prior to the Construction Phase of the project. The Applicant expects that the results of the survey and model will show that the Applicant can comply with Noise Level NL-2 during the Construction Phase and Noise Level NL-1 during the Production Phase at this OGL. If the results of the survey and model indicate that compliance with Noise Level NL-2 is not attainable during the Construction Phase the Applicant will seek a variance to Section 21-5-435 Noise based on the results of the survey and model. The Applicant will share the data from the Applicant’s sound study and model with the Weld County Department of Public Health and Environment if requested.



- e. The Applicant agrees to comply with the COA relative to prohibited access on the Lakeside Lateral Ditch road and will further place no access sign(s) as outlined in the COA prior to construction operations.
- f. The Applicant will control dust on the proposed site and private access road through the application of fresh water or other dust suppression agents as needed.
- g. The Applicant will install and maintain sound walls around the perimeter of the OGL during the Construction Phase of the project.
- h. The Applicant will use a quiet frac fleet at this OGL for completion operations.
- i. The Applicant will install sound walls around the compressors to mitigate noise impacts during the Production Phase.
- j. The Applicant will source and deliver fresh water to the location for the completion operations via temporary pipelines which will significantly reduce the impacts associated with truck traffic.
- k. If a crude oil pipeline becomes available to the Applicant during the production phase of the operation the Applicant will connect and transport crude oil through a pipeline which will eliminate the need for trucking of crude oil at this location.
- l. The Applicant shall connect the proposed facility to gas gathering systems and shall transport natural gas via pipelines at first production. The Applicant will not flare gas at this location.
- m. The Applicant will have electrical power at this proposed site that will provide power to some portion of the production facility which will reduce noise and air emission impacts.
- n. The Applicant will perform a baseline air quality monitoring survey prior to the commencement of drilling operations and the site will have continuous air monitoring during the drilling, completion and production operations. The Applicant will share the results of the baseline air quality survey, the design of the air monitoring program as well as the data the program collects with the Weld County Department of Public Health and Environment if requested.
- o. The Applicant will mitigate odors through the use of odor neutralizers added to the drilling fluids.
- p. If conditions warrant, the Applicant will, in coordination with the surface owner, install security fencing with a locked gate(s) to control unauthorized public entry to this site.
- q. The lighting during drilling and completion operations will be pointed downwards to mitigate light pollution. The facility will have permanent lighting during the production phase. The permanent lighting will be directed downwards and shielded from the nearby building units. The permanent lighting will be "cut-off" lighting and will be on a timer set to go off if no activity is present on the facility. The Applicant will mitigate truck lights at the OGL if truck lights are found to be impacting a nearby building unit.

- r. Automation will be installed at this site which will provide notice of facility upset conditions with remote shut-in capabilities.
 - s. The data collected from the audio, visual, olfactory ("AVO") program, the Leak Detection and Repair ("LDAR") program, and the flowline testing program will be made available to the Weld County Department of Public Health and Environment if requested.
 - t. The Applicant will design and implement a waste management plan for this location that complies with the Colorado Department of Public Health and Environment ("CDPHE") referral comments.
 - u. The Applicant has a fieldwide Stormwater Management Permit that will include the site proposed in this Application and complies with the Colorado Water Quality Control Commission regulations.
 - v. The equipment installed at this site will have all required air emission permits required and referenced in the CDPHE referral comments.
 - w. He has reviewed and agreed to be bound to the Development Standards within the Code; the COA's within the Staff Report (as amended); and BMP's within the Application; and the Development Standards and Conditions within the referral agency comments received from the Weld County Department of Public Works and the Weld County Department of Public Health and Environment.
 - x. His understanding that by granting approval of the Permit that the Applicant would be subject to certain Compliance and Enforcement Procedures in Sec 21-5-350 of the Code should at any time the Applicant is found to be out of compliance with the Permit.
9. Upon review of the Application and the Staff Report and upon taking testimony from Ms. Petzold and Mr. Brown the Hearing Officer found the Application to be complete.
10. Based on the facts stated in the Application, having received no applications for intervention, and based on the testimony presented to the Hearing Officer at the April 8, 2021 Hearing, the Hearing Officer found that a final order ("Final Order") to approve the Application should be entered.

FINAL ORDER

NOW, THEREFORE, IT IS ORDERED, that

1. Bayswater's 1041 WOGLA Permit heard under Docket Number 1041WOGLA20-0093 and located in the NWSE of Section 21, Township 7 North, Range 66 West, 6th P.M., Weld County, Colorado, is hereby approved.
2. Bayswater is hereby bound to the Development Standards within the Code; the COA's within the Staff Report; the BMP's within the Application; and the Development Standards and Conditions within the referral agency comments received from the Weld County Department

of Public Health and Environment and the Weld County Department of Public Works the contents of which can be located at <https://accela-aca.co.weld.co.us/citizenaccess/>.

3. It is ordered that, prior to the commencement of drilling operations, Bayswater shall place signage directing that no oilfield traffic shall enter at the access point on Weld County Road 78 used for the Lakeside Lateral Ditch. The placement of the sign(s) shall be outside of the County ROW and shall be placed in coordination with the Surface Owner.
4. It is ordered that Bayswater will conduct a sound study and sound model prior to the Construction Phase of the project. It is further ordered that Bayswater shall share the data from the sound study and model with the Weld County Department of Public Health and Environment if requested.
5. It is ordered that Bayswater shall control dust on the OGL and private access road including through the application of fresh water or other dust suppression agents as needed.
6. It is ordered that Bayswater shall install and maintain sound walls around the perimeter of the OGL during the Construction Phase of the project.
7. It is ordered that Bayswater shall use a quiet frac fleet at this OGL for completion operations.
8. It is ordered that Bayswater shall install sound walls around the compressors located on the production facility to mitigate noise impacts during the Production Phase.
9. It is ordered that Bayswater shall source and deliver fresh water to the location for the completion operations via temporary pipelines.
10. It is ordered that, to the extent a crude oil pipeline becomes available at this OGL during the production phase of the operation, Bayswater shall connect and transport crude oil through the pipeline.
11. It is ordered that Bayswater shall connect the production facility to gas gathering systems and shall transport natural gas from this site via pipelines at first production.
12. It is ordered that Bayswater will not flare gas at this location.
13. It is ordered that Bayswater shall, based on practical availability, use electrical power at this site.
14. It is ordered that Bayswater shall perform a baseline air quality monitoring survey prior to the commencement of drilling operations at this OGL.
15. It is ordered that Bayswater shall perform continuous air monitoring during the drilling, completion and production operations at this OGL.
16. It is ordered that Bayswater shall share the results of the baseline air quality survey, the design of the air monitoring program as well as the data the program collects with the Weld County Department of Public Health and Environment if requested.
17. It is ordered that the Applicant will mitigate odors through the use of odor neutralizers added to the drilling fluids.
18. It is ordered that Bayswater shall, if conditions warrant, and in coordination with the Surface Owner, fence and secure the wells and production facilities on the OGL and install a locked gate(s) at the OGL to control unauthorized public entry to this site.
19. It is ordered that Bayswater shall mitigate truck lights at the OGL if truck lights are found to be impacting a nearby building unit.

20. It is ordered that automation will be installed at this site which will provide notice of facility upset conditions with remote shut-in capabilities.
21. It is ordered that the data collected from Bayswater's audio, visual, olfactory ("AVO") program, Leak Detection and Repair ("LDAR") program and flowline testing programs will be made available to the Weld County Department of Public Health and Environment if requested.
22. Approval of this 1041 WOGLA Permit creates a Vested Property Right as an approved Site Specific Development Plan pursuant to Article 68 of Title 24, C.R.S., as amended.

IT IS FURTHER ORDERED, that this Final Order will be recorded in the records of the Weld County Clerk and Recorder. Additionally, a notice describing generally the type and intensity of USE approved, the specific parcel or parcels of property affected and stating that a VESTED PROPERTY RIGHT has been created shall be published once, not more than fourteen (14) days after approval of the 1041 WOGLA Permit. The Permit shall be effective upon recording and publication.

Weld County Oil & Gas Energy

By: 
Curt Moore, Hearing Officer

Dated: April 13, 2021



**1041 WOGLA Permit
STAFF REPORT**

Record Number: **1041WOGLA20-0093** Hearing Date: **April 8, 2021**
Staff Specialist: **Amanda Petzold**
Location Name: **Garnet 21-K Pad**
Parcel Number(s): **070721000040**
Company/Applicant: **Bayswater Exploration & Production, LLC**
Representative: **Mark Brown**
Legal Description: **NW1/4SE1/4 of Section 21, Township 7 North, Range 66 West of the 6th P.M., Weld County, CO.**
Proposed Use: **24-Well Garnet 21-K Pad oil and gas location.**

SUMMARY

Pursuant to Weld County Code, ORD2020-12, Sec. 21-5-315. Bayswater Exploration & Production, LLC (Bayswater or Applicant) submitted a request for a pre-application meeting on November 11, 2020. The pre-application meeting was held on November 18, 2020. Invitees to the pre-application meeting included: Colorado Oil & Gas Conservation Commission (COGCC), Colorado Parks and Wildlife (CPW), Bayswater, Ascent Geomatic Solutions (Ascent), and Weld County Oil and Gas Energy Department (OGED Staff). Attendees to the pre-application meeting included CPW, Bayswater, Ascent, and OGED Staff.

- In preparation of the pre-application meeting, OGED Staff conducted a site visit on November 16, 2020, and drove the identified haul route. OGED Staff noted one (1) Building Unit (BU) near the Location, to the southwest, and identified the access as already existing.

On November 30, 2020, Bayswater provided 1041 WOGLA notice to OGED Staff advising of their intent to submit a 1041 WOGLA Permit Application. The Application was received on February 19, 2021, and was reviewed pursuant to Sec. 21-5-330 Weld County Code.

- Bayswater's Garnet 21-K Pad is sited in the Near-Urban Planning Area, requiring an alternative siting analysis with a minimum of three (3) alternatives. Bayswater has reviewed five (5) alternatives with Staff. Staff supports the proposed Location, as no alternative site offers any further benefit to Weld County's residents, environment, and wildlife.
- Bayswater's Garnet 21-K Pad was reviewed under the LZ-1 Lighting Zone standards. The submitted Photometric Plan illustrates the total amount of lumens proposed, which does not exceed the allowable lumens for Lighting Zone 1 pursuant to Sec. 21 5-405.C.

OGED Staff completed their review of the Application as submitted. The submitted Application was found to be compliant with all Code requirements and was scheduled for hearing.

- Pursuant to Sec. 21-5-330, notice of the 1041 WOGLA hearing was sent to required parties on February 26, 2021, and published in the Greeley Tribune on February 26, 2021.
- Pursuant to Sec. 21-5-330, OGED Staff referred the application to various agencies on February 26, 2021. Where appropriate, requirements of the applicant are being recommended to address comments received from referrals. Copies of those comments have been made part of the public application record.

1. Response was received from the following referral agencies:
 - a. Colorado Department of Public Health and Environment, comment received 03/5/2021.
 - b. Weld County Department of Public Works, comment received 3/26/2021.
 - c. Weld County Department of Public Health and Environment, comment received 3/26/2021.
 - d. Weld County Planning Department, comment received 2/26/2021.
 - e. Weld County Office of Emergency Management, approved EAP/TRP received 3/23/2021.
2. No response was received from the following referral agencies:
 - a. Colorado Parks and Wildlife
 - b. Colorado Oil and Gas Conservation Commission
 - c. Ault F-1 Fire District
 - d. Ault RE-9 School District
 - e. Eaton RE-2 School District
 - f. Lakeside Lateral Ditch Company

The attached location drawing provides a depiction of the Oil and Gas Location with all visible improvements within one thousand (1,000) feet.

RECOMMENDATION

The OGED Staff recommends **APPROVAL of 1041WOGLA20-0093**. This recommendation is based on the review of the Application materials submitted by Bayswater, comments provided by referral agencies, and all other relevant information.

1. OGED Staff determines this Application complies with the provisions set forth in Sec. 21-5-320.
2. Pursuant to Sec. 21-5-315, Bayswater certifies that notice to all required parties has been provided.
3. Bayswater certifies that a Surface Use Agreement is in place with the Surface Owner(s), identified as the City of Thornton.



4. Bayswater attests there are three (3) property owners within the one thousand (1,000) foot 1041 WOGLA Zone. There are no High Occupancy Building Units, Designated Outside Activity Areas, Schools, School Facilities, or Child Care Centers within the one thousand (1,000) foot 1041 WOGLA Zone. The nearest Building Unit is located to the SW and measures one thousand nineteen (1,019) feet from the disturbance area (DA).
5. The OGED Staff did not receive an Application for Intervention pertaining to this Oil and Gas Location.
6. The Applicant's chosen site is compatible with the surrounding Land Uses.
7. Bayswater has shown compliance with the Development Standards outlined in Chapter 21, Article 5, Division 4 of the Code, as applicable to the Near-Urban Planning Area.
8. Bayswater has committed to certain Best Management Practices outlined in the Application, to promote the health, safety, security, and general welfare of the present and future residents of Weld County while protecting both the environment and wildlife.

CONDITIONS OF APPROVAL

The OGED Staff's recommendation for approval is conditioned upon the following:

1. Prior to Construction:
 - a. A Final Drainage Report stamped and signed by a Professional Engineer registered in the State of Colorado is required.
 - b. If more than one (1) acre is to be disturbed, a Weld County Grading Permit will be required.
2. Prior to Drilling:
 - a. Applicant shall provide initial baseline groundwater sampling data, or information related to how the site is exempt from the COGCC Rule 609, to the Weld County Department of Public Health and Environment.

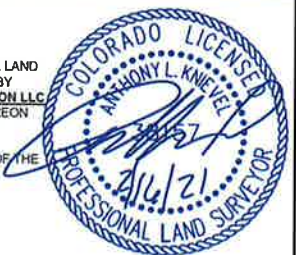
GARNET 21-K PAD 1041 WOGLA LOCATION DRAWING



4707804 Pages: 11 of 11
 04/23/2021 09:40 AM R Fee: \$0.00
 Carly Koppes, Clerk and Recorder, Weld County, CO

- LEGEND:**
- = PROPOSED WELL
 - = PIVOT POINT
 - = WATER WELL
 - = EXISTING MONUMENT
 - = RAPTOR NEST
 - = FENCE
 - = PROPOSED ACCESS ROAD
 - = OVERHEAD UTILITY LINE
 - = EXISTING ROAD
 - = DITCH
 - = CONCRETE DITCH
 - = BUILDING UNIT
 - = BUILDING
 - = WETLAND
 - = DISTURBANCE AREA
 - = 1041 WOGLA ZONE (1000' BUFFER)
 - = PROPOSED FACILITY
 - = POND

I, ANTHONY L. KNIEVEL, A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE TO **BAYSWATER EXPLORATION & PRODUCTION LLC** THAT THE WOGLA LOCATION DRAWING SHOWN HEREON WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THE DRAWING SHOWN HEREON ACCURATELY DEPICTS THE PROPOSED LOCATION OF THE WELLS.



CURRENT SURFACE USE: RANGELAND
FUTURE SURFACE USE: RANGELAND

SHEET 1 OF 2 SEE MEASUREMENTS ON SHEET 2

DATA SOURCE:
AERIAL IMAGERY NAIP 2019
WATER WELLS: COLORADO DWR
NHD: USGS
PUBLICLY AVAILABLE DATA SOURCES HAVE NOT BEEN INDEPENDENTLY VERIFIED BY ASCENT

DISCLAIMER:
THIS PLOT DOES NOT REPRESENT A MONUMENTED LAND SURVEY AND SHOULD NOT BE RELIED UPON TO DETERMINE BOUNDARY LINES, PROPERTY OWNERSHIP OR OTHER PROPERTY INTERESTS. PARCEL LINES, IF DEPICTED HAVE NOT BEEN FIELD VERIFIED AND MAY BE BASED UPON PUBLICLY AVAILABLE DATA THAT ALSO HAS NOT BEEN INDEPENDENTLY VERIFIED. SURFACE IMPROVEMENTS BEYOND THE 100' WOGLA BUFFER MAY NOT BE SURVEY GRADE. SAID IMPROVEMENTS MAY HAVE BEEN LOCATED USING PUBLICLY AVAILABLE SOURCES

DISTURBANCE ACREAGE:
13.0 ACRES DRILLING OPERATIONS
6.0 ACRES INTERIM RECLAIM

ANTHONY L. KNIEVEL, PLS 38157
COLORADO LICENSED PROFESSIONAL LAND SURVEYOR
FOR AND ON BEHALF OF P.F.S., LLC
d.b.a. ASCENT GEOMATICS SOLUTIONS

8620 Wolff Court
Westminster, CO 80031
(303) 928-7128
www.ascentgeomatics.com

FIELD DATE: 04-28-20	SITE NAME: GARNET 21-K PAD	DRAWING DATE: 02-16-21 SURFACE LOCATION: NW 1/4 SE 1/4 SEC. 21, T7N, R66W, 6TH P.M. WELD COUNTY, COLORADO
BY: CSG	CHECKED: IJM	

PREPARED FOR:

BAYSWATER
EXPLORATION & PRODUCTION, LLC