

BEFORE THE ENERGY AND CARBON MANAGEMENT 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, FORT HAYS, ) DOCKET NO. 240800183  
CODELL AND CARLILE FORMATIONS, )  
WATTENBERG FIELD, WELD COUNTY, COLORADO ) TYPE: POOLING  
)  
) ORDER NO. 407-3669

REPORT OF THE COMMISSION

The Commission heard this matter on November 13, 2024, at the Colorado Energy and Carbon Management Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado, upon application for an order to pool all interests in an approximate 160-acre designated horizontal wellbore spacing unit established for the below-described lands (“Application Lands”), and to subject all nonconsenting interests to the cost recovery provisions of C.R.S. § 34-60-116(7), for the drilling of the Bona State 12N Well (API No. Pending) (“Well”), for the development and operation of the Niobrara, Fort Hays, Codell, and Carlile Formations:

Township 4 North, Range 67 West, 6<sup>th</sup> P.M.

Section 1: N<sup>1</sup>/<sub>2</sub>N<sup>1</sup>/<sub>2</sub>N<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>, N<sup>1</sup>/<sub>2</sub>N<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, N<sup>1</sup>/<sub>2</sub>N<sup>1</sup>/<sub>2</sub>W<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>

Section 2: N<sup>1</sup>/<sub>2</sub>N<sup>1</sup>/<sub>2</sub>N<sup>1</sup>/<sub>2</sub>N<sup>1</sup>/<sub>2</sub>

Section 3: N<sup>1</sup>/<sub>2</sub>N<sup>1</sup>/<sub>2</sub>E<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>

Township 5 North, Range 67 West, 6<sup>th</sup> P.M.

Section 35: S<sup>1</sup>/<sub>2</sub>S<sup>1</sup>/<sub>2</sub>S<sup>1</sup>/<sub>2</sub>S<sup>1</sup>/<sub>2</sub>

Section 36: S<sup>1</sup>/<sub>2</sub>S<sup>1</sup>/<sub>2</sub>S<sup>1</sup>/<sub>2</sub>S<sup>1</sup>/<sub>2</sub>

FINDINGS

The Commission finds as follows:

1. PDC Energy, Inc. (Operator No. 69175) (“PDC” 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. The Application Lands are subject to this Rule for the Niobrara Formation. Effective January 15, 2021, Commission Rule 318A was moved to Rule 402 and modified to have no effect on future operations and development in the Greater Wattenberg Area. However, Rule 402.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.

5. On January 28, 2019, the Commission entered Order No. 407-2749, which, among other things, established an approximate 2,560-acre drilling and spacing unit for Sections 25, 26, 35 and 36, Township 5 North, Range 67 West, 6th P.M, and approved a total of up to 52 horizontal wells within the unit for the production of oil, gas, and associated hydrocarbons from the Niobrara and Codell Formations, and provided that the productive interval of the wellbore will be located no closer than 460 feet from the northern and southern unit boundaries, no closer than 150 feet from the eastern and western unit boundaries and no closer than 150 feet from the productive interval of any other wellbore located in the unit, unless the Director grants an exception, and provided that all wells drilled with in the unit established by this order shall be drilled in an east/west orientation, and provided that all wells permitted for the drilling and spacing unit established under this Order shall be drilled from no more than five multi-well pads within the Application Lands, or on lands adjacent thereto with land-owner consent, subject to Rule 318A, unless the Director grants an exception.

6. On December 8, 2022, the Commission entered Order No. 407-3416, which, among other things: 1) established a Rule 314 "Guanella" CAP for certain lands including the Application Lands; 2) approved a ten year duration for the CAP pursuant to Rule 314.c.(1); 3) conveyed to PDC the exclusive right to develop the Niobrara, Fort Hays, Codell, and Carlile Formations within the CAP Application Lands for the duration of the CAP; 4) extended the expiration of any approved Oil and Gas Development Plans, Drilling and Spacing Units, Form 2As, and Form 2s within the Application Lands to the time the CAP expires; 5) expedited the Commission review of PDC's associated Oil and Gas Development Plans pursuant to Rule 306.d.; and 6) approved Preliminary Siting of 22 Oil and Gas Locations within the CAP as identified in the CAP Application, including the Bona State 5N67W36 1-24 Pad and the Bona State Facility 5N67W36.

7. On December 20, 2023, the Commission entered Order No. 407-3559, which, among other things, established an approximate 160-acre wellbore spacing unit for the Application Lands and approved one horizontal well within the unit for production from the Niobrara, Fort Hays, Codell, and Carlile Formations.

8. Prior to the date of this Application, the Commission entered various Orders establishing and/or pooling all interests in wellbore spacing units for development of the Niobrara and Codell Formations within portions of the Application Lands. These Orders are wellbore-specific and do not affect the relief requested in this Application.

9. On August 1, 2024, which was at least 90 days before the Commission heard this matter, Extraction filed a verified application ("Application") pursuant to C.R.S. § 34-60-116, 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, Fort Hays, Codell, and Carlile Formations, and to subject any nonconsenting interests to the cost recovery provisions of C.R.S. § 34-60-116(7), for the drilling of the Well.

10. 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.

11. Land testimony and exhibits submitted in support of the Application by John Krattenmaker, Asset Development Land Manager for PDC Energy, Inc., 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. Land testimony further showed that granting the Application is consistent with the protection of public health, safety, welfare, the environment, and wildlife resources.

12. The land testimony and exhibits showed that all other interested parties within the 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 Wells within 60 days after receiving the offer to participate, and that any unleased owners had at least 60 days to review a reasonable offer to lease but either refused it or have not yet accepted it.

13. 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 the Applicant, and contained the Commission's pooling brochure or a link to access it.

14. 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, contained each owner's particular share of the total estimated drilling and completion costs for the Wells, and also contained the following information for each Well: the location, measured depth, true vertical depth, and lateral length, the total estimated drilling and completion cost, and the estimated spud date.

15. Land testimony showed the Applicant complied with the requirements of Rule 506 and the Act, and is entitled to the cost recovery provisions pursuant to C.R.S. § 34-60-116(7), for the Well, but did not provide testimony for any subsequent wells.

16. PDC agreed to be bound by oral order of the Commission.

17. Based on the facts stated in the verified Application, having received no protests, 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 unit established for the Application Lands and to subject any nonconsenting interests to the cost recovery provisions of C.R.S. § 34-60-116(7), for the drilling of the Well, for the development and operation of the Niobrara, Fort Hays, Codell, and Carlile Formations.

### ORDER

#### IT IS HEREBY ORDERED:

1. Pursuant to the provisions of C.R.S. § 34-60-116, all interests in the designated horizontal wellbore spacing unit established for the Application Lands are hereby pooled, for the development and operation of the Niobrara Formation, effective as of the earlier of the date of the Application, or the date that any of the costs specified in C.R.S. § 34-60-116(7)(b)(II), are first incurred for the drilling of the Well.

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 C.R.S. § 34-60-116(7): Gerber Energy Corporation, James O. Zeagas and Lourdes S. Zeagas, Co-Trustees of the Zeagas Living Trust dated April 29, 2019, Joeseeph A. Mastalerz, Gregory Holmes a/k/a H. Grogory Holmes as Trustee of the Holmes Trust Dated September 29, 1989, and Steve McCartney.

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(s) 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 C.R.S. § 34-60-116(7)(b), until costs and penalties are recovered as set forth in C.R.S. § 34-60-116(7).

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 C.R.S. § 34-60-116(7): None.

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 C.R.S. §34-60-116(7)(b);

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 C.R.S. § 34-60-116(7)(b).

After recovery of the costs specified in C.R.S. § 34-60-116(7)(b), each unleased nonconsenting mineral owner owns its proportionate 8/8ths share of the Wells, 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 units 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 C.R.S. § 34-60-116. Any conflict that may arise shall be resolved in favor of the statute.

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

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 14<sup>th</sup> day of November 2024, as of November 13, 2024.

ENERGY AND CARBON MANAGEMENT COMMISSION  
OF THE STATE OF COLORADO

By   
Elias J. Thomas, Commission Secretary