

BEFORE THE ENERGY AND CARBON MANAGEMENT COMMISSION  
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION BY GULF ) CAUSE NO. 1  
EXPLORATION LLC FOR A RULE 502.A VARIANCE )  
FROM THE RULE 1004.A AND 1004.D RECLAMATION ) DOCKET NO. 230500169  
REQUIREMENTS FOR THE BLACK POWDER 2 )  
LOCATION, WATTENBERG FIELD, WELD COUNTY, ) TYPE: VARIANCE  
COLORADO )  
 ) ORDER NO. 1-353

REPORT OF THE COMMISSION

The Commission heard this matter on May 1, 2024, at the Colorado Energy and Carbon Management Commission, 1120 Lincoln St., Suite 801, Denver, Colorado, upon application for an order approving a Rule 502 variance from the final reclamation requirements of Rule 1004.a and 1004.d for the Black Powder #2 Location (Location ID: 456859) located in Weld County, Colorado on the below described lands (“Application Lands”)

Township 7 North, Range 63 West, 6<sup>th</sup> P.M.  
Section 10: SE $\frac{1}{4}$ SW $\frac{1}{4}$

FINDINGS

The Commission finds as follows:

1. Gulf Exploration LLC (“Applicant” or “Gulf”), Operator No. 10728, 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 proceeding 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 Colorado Oil and Gas Conservation Act.
4. Pursuant to C.R.S. § 34-60-106(2.5)(a), the Commission shall regulate oil and gas operations in a reasonable manner to protect and minimize adverse impacts to public health, safety, and welfare, the environment, and wildlife resources, and shall protect against adverse environmental impacts on any air, water, soil, or biological resource resulting from oil and gas operations.
5. Rule 502.a provides that requests for variances to any of the Commission’s Rules or orders will be filed with the Commission.
6. Rule 502.b provides that variances from the ministerial application of Commission Rules or orders may be granted by the Director, however, if such variance request implicates matters of public health, safety, and welfare, the environment or wildlife resources, the Director will refer the application to the Commission for hearing.

7. A Rule 502.b variance requires the applicant to demonstrate that:
- (1) It has made a good faith effort to comply, or is unable to comply, with the specific requirements contained in the Commission's Rule or order from which it seeks a variance, including, without limitation, securing a waiver or an exception, if any;
  - (2) That the requested variance will not violate the basic intent of the Act;
  - (3) The requested variance is necessary to avoid an undue hardship;
  - (4) Granting the variance will result in no net adverse impact to public health, safety, welfare, the environment, or wildlife resources; and
  - (5) The requested variance contains reasonable conditions of approval or other mitigation measures to avoid, minimize, or mitigate adverse impacts to public health, safety, welfare, the environment, and wildlife resources.

8. Rule 1001.c. provides, in relevant part, that:

the Commission shall not require compliance with . . . Rule 1004 (except Rules 1004.c.(4) and 1004.c.(5) for which compliance will continue to be required), if the operator can demonstrate to the Director's or the Commission's satisfaction that compliance with such rules is not necessary to protect public health, safety and welfare, including prevention of significant adverse environmental impacts and that operator has entered into an agreement with the surface owner regarding topsoil protection and reclamation of the land.

9. Rule 1004.a. provides:

Well sites and associated production facilities. Upon the plugging and abandonment of a well, all pits, mouse and rat holes and cellars shall be backfilled. All debris, abandoned gathering line risers and flowline risers, and surface equipment shall be removed within three (3) months of plugging a well. All access roads to plugged and abandoned wells and associated production facilities shall be closed, graded and recontoured. Culverts and any other obstructions that were part of the access road(s) shall be removed. Well locations, access roads and associated facilities shall be reclaimed. As applicable, compaction alleviation, restoration, and revegetation of well sites, associated production facilities, and access roads shall be performed to the same standards as established for interim reclamation under Rule 1003. All other equipment, supplies, weeds, rubbish, and other waste material shall be removed. The burning or burial of such material on the premises shall be performed in accordance with applicable local, state, or federal solid waste disposal regulations and in accordance with the 900-Series Rules. In addition, material may be burned or buried on the premises only with the prior written consent of the surface owner. All such reclamation work shall be completed within three (3) months on crop land and twelve (12) months on non-crop land after plugging a well or final closure of associated production facilities. The Director may grant an extension where unusual circumstances are

encountered, but every reasonable effort shall be made to complete reclamation before the next local growing season.

10. Rule 1004.d. provides:

[f]inal reclamation of all disturbed areas shall be considered complete when all activities disturbing the ground have been completed, and all disturbed areas have been either built upon, compacted, covered, paved, or otherwise stabilized in such a way as to minimize erosion, or a uniform vegetative cover has been established that reflects pre-disturbance or reference area forbs, shrubs, and grasses with total percent plant cover of at least eighty percent (80%) of pre-disturbance or reference area levels, excluding noxious weeds, or equivalent permanent, physical erosion reduction methods have been employed. Re-seeding alone is not sufficient.

11. On May 5, 2023, Gulf filed a verified application (“Application”) pursuant to Rule 503.g.(9) for a variance from the final reclamation requirements of Rule 1004 for the Black Powder #2 Location (Location ID. 455859) located in Weld County, Colorado.

12. Testimony and exhibits submitted in support of the Application showed that Gulf has satisfied Rule 502.c.(1) – (5): it has made a good faith effort to comply, or is unable to comply, with the specific requirements contained in Rules 1004.a. and 1004.d.; the requested variance will not violate the basic intent of the Act; the requested variance is necessary to avoid an undue hardship; granting the variance will result in no net adverse impact to public health, safety, welfare, the environment, or wildlife resources; and the requested variance contains reasonable conditions of approval or other mitigation measures to avoid, minimize, or mitigate adverse impacts to public health, safety, welfare, the environment, and wildlife resources.

13. On June 1, 2023, the Energy and Carbon Management Commission (“ECMC”) Permitting Group provided its review of the Application, stating that the Permitting Group “has no concerns with this application.”

14. On November 8, 2023, Director Murphy submitted her recommendation on the Application. Director Murphy recommended approval of the variance; however, the Director determined that the variance was not “ministerial in nature, in that it results in a potentially permanent impact that will have to be managed by the landowner and local relevant government.” Accordingly, a hearing before the ECMC was held.

15. The Commission has not received any petitions pursuant to Rule 507. Therefore, the Application is uncontested.

16. Based on the facts stated in the verified Application, the Rule 505 testimony, and no petitions having been received, the Commission finds that Gulf has satisfied Rule 502.c. and that, pursuant to Rule 502.b, a variance excusing Gulf from further compliance with Rules 1004.a and 1004.d is proper.

### ORDER

IT IS HEREBY ORDERED:

1. The Application for a Rule 502.b variance from final reclamation requirements under Rule 1004.a and 1004.d for the Black Powder #2 Location (Loc. ID. 456859) within the Application Lands is approved;

2. Within 30 days of this Order, Applicant will submit a Form 4 documenting the variance relief to Location ID: 456859. The Form 4 will include the Order number, all Rules from which relief was granted, and a summary of the relief granted.

IT IS FURTHER ORDERED:

1. The provisions contained in this 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 1<sup>st</sup> day of May, 2024, as of May 1, 2024.

ENERGY AND CARBON MANAGEMENT COMMISSION  
OF THE STATE OF COLORADO

By   
Elias Thomas, Commission Secretary