

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

IN THE MATTER OF THE APPLICATION BY LARAMIE) CAUSE NO. 1
ENERGY, LLC FOR A RULE 502.A VARIANCE FROM)
RULE 1004.A., 1004.C.(2)-(3), 1004.D, AND 1004.E) DOCKET NO. 230100034
RECLAMATION REQUIREMENTS FOR THE)
BRADSHAW-DOLLEY-69S95W/36NESW LOCATION,) TYPE: VARIANCE
LOCATED IN SECTION 36, TOWNSHIP 9 SOUTH,)
RANGE 95 WEST, 6TH P.M., PLATEAU FIELD, MESA) ORDER NO. 1-356
COUNTY, COLORADO)

REPORT OF THE COMMISSION

The Commission heard this matter on June 5, 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 Rules 1004.a, 1004.c.(2), 1004.c.(3), 1004.d., and 1004.e. for the Bradshaw-Dolley-69S95W/36NESW Location (Location ID 312503) (the “Bradshaw-Dolley Location”):

Township 9 South, Range 95 West, 6th P.M.
Section 36: NE¹/₄SW¹/₄

FINDINGS

The Commission finds as follows:

1. Laramie Energy, LLC (Operator No. 10433) (“Laramie”), as applicant herein, is an interested party in the subject matter of the above-referenced proceeding.
2. Due notice of the time, place, and purpose of the proceeding has been given in all respects as required bylaw.
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(12), the Commission promulgated its 1000-Series Rules to govern reclamation of the land and soil affected by oil and gas operations. See Rule 1001.a. Generally, the Commission’s reclamation regulations require the surface of land affected by oil and gas operations to “be restored as nearly as practicable to its condition at the commencement of drilling operations.” *Id.*
5. Rule 1004 addresses final reclamation of well sites and associated production facilities. Rule 1004.a provides that “[a]ll 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.”

6. Rule 1004.c. provides, in relevant part:

Final reclamation threshold for release of financial assurance. Successful reclamation of the well site and access road will be considered completed when: . . . (2) On non-crop land, reclamation has been performed as per Rules 1003 and 1004, and disturbed areas have been either built on, compacted, covered, paved, or otherwise stabilized in such a way as to minimize erosion to the extent practicable, or a uniform vegetative cover has been established that reflects predisturbance 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, as determined by the Director through a visual appraisal. The Director shall consider the total cover of live perennial vegetation of adjacent or nearby undisturbed land, not including overstory or tree canopy cover, having similar soils, slope and aspect of the reclaimed area. (3) Disturbances resulting from flow line installations shall be deemed adequately reclaimed when the disturbed area is reasonably capable of supporting the predisturbance land use

7. Rule 1004.d. provides:

Final 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 predisturbance 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.

8. Rule 1004.e. provides:

Weed control. All areas being reclaimed shall be kept as free as practicable of all undesirable plant species designated to be noxious weeds. Weed control measures shall be conducted in compliance with the Colorado Noxious Weed Act, C.R.S. §35-5.5-115 and 1000-9 As of January 15, 2021 the current rules pertaining to the administration and enforcement of the Colorado Noxious Weed Act. It is recommended that the operator consult with the local weed control agency or other weed control authority when weed infestation occurs. It is the responsibility of the operator to monitor affected and reclaimed lands for noxious weed infestations. If applicable, the Director may require a weed control plan.

9. Rule 1001.c provides that the Commission “shall not require compliance with” the reclamation requirements of Rule 1004 (except Rules 1004.c.(4) and 1004.c.(5)) “if the operator can demonstrate . . . both that compliance with such rules is not necessary to protect the public health, safety and welfare, including prevention of significant adverse environmental impacts, and that the operator has entered into an agreement with the surface owner regarding topsoil protection and reclamation of the land.” Prior to final reclamation approval, the operator “shall either comply with the rules or obtain a variance.” Rule 1001.c.

10. Rule 502.a provides that “[r]equests for variances to any of the Commission’s Rules or orders will be filed with the Commission.”

11. Rule 502.c provides that an applicant requesting a variance from the Commission pursuant to Rule 502.a must show:

- A. 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;
- B. That the requested variance will not violate the basic intent of the Act;
- C. The requested variance is necessary to avoid an undue hardship;
- D. Granting the variance will result in no net adverse impact to public health, safety, welfare, the environment, or wildlife resources; and
- E. 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.

12. On January 26, 2023, amended November 21, 2023, Laramie, through counsel, filed a verified application (“Application”) pursuant to Rule 503.g.(9) for a variance from the final reclamation requirements of Rule 1004.a., 1004.c.(2), 1004.c.(3), 1004.d., and 1004.e. for the Bradshaw-Dolley Location, located in Mesa County, Colorado.

13. On February 8, 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 February 28, 2024, 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 Application, the signed request by the landowners asking that the variance be granted, and acknowledging responsibility for the disposition of the entire location and un-reclaimed area, and other written filings, the Commission concludes the Application satisfies the requirements of Rule 502.c. because:

- A. Laramie has acted in good faith and in accord with the Act. Laramie has not conducted oil and gas operations at the Bradshaw-Dolley Location but has conferred with the present surface owners about their present use and planned future uses of the Bradshaw-Dolley Location, and the improvements constructed since a different operator concluded oil and gas operations more than a decade ago. The present owners of the Bradshaw-

Dolley Location have executed a waiver in which they acknowledge responsibility for the disposition of the entire location and un-reclaimed area. At Laramie's request, Colorado Parks and Wildlife also confirmed "there are no anticipated impacts to wildlife from continuing the current practices on this location."

- B. Laramie's requested variance will not violate the basic intent of the Oil and Gas Conservation Act. See Rule 502.c.(2). Deference to the surface owner's wishes regarding continued use of their property is consistent with multiple provisions of the Act recognizing the significant role the surface owner should play regarding the reclamation of and operations on his or her land. See, e.g., C.R.S. § 34-60-106(3.5) (directing that land restoration occur "in accordance with the owner of the surface of the lands"); C.R.S. § 34-60-127(1)(a) (requiring that oil and gas operations "accommodate[] the surface owner" in conducting oil and gas operations). Additionally, as of May 31, 2012, the Bradshaw-Dolley Location was safe and stable and had been reclaimed in accordance with the wishes of the then-surface owner. No further oil and gas operations have undertaken at the Bradshaw-Dolley Location. Instead, improvements have been constructed and the Bradshaw-Dolley Location has been used since 2012 for livestock handling and other agricultural purposes. The present surface owners wish to maintain and continue to use of the entire location and un-reclaimed area and the improvements constructed since 2012 for their own purposes.
- C. The variance is necessary to avoid undue hardship. Documents on file with the Commission demonstrate one of the then-surface owners requested that some improvements be preserved. Thereafter, a building was constructed on a portion of the former well pad, other improvements were made, and photos in 2015 depict the site as being used for storage and other purposes. Requiring the new surface owners to suspend use of or destroy the improvements left on their land in 2012 or constructed thereafter would injure and cause undue hardship to the present surface owners.
- D. Granting the variance will result in no net adverse impacts to public health, safety, welfare, the environment or wildlife resources. The Bradshaw-Dolley Location, as now improved, remains suitable for storage, agricultural and other uses. The present landowners have acknowledged responsibility for the disposition of the entire location and un-reclaimed area and understand that Class B and Class C weeds are prevalent near the Bradshaw-Dolley Location. Laramie will provide the Director's Recommendation, including the weed management attachments, to the present landowners together with a copy of the Mesa County weed management plan so that the present surface owners may consider the value of following state and local weed management best management practices.
- E. The variance does not require additional reasonable conditions of approval and mitigation measures to avoid, minimize, or mitigate adverse impacts to public health, safety, welfare, the environment, and wildlife resources. Laramie agrees to the request set out in the Director Recommendation and

will confer with the present surface owners “to consider the value of following the Colorado Department of Agriculture best management practices associated with the various weeds on the Location” and whether “[p]ractices could be developed in consultation with the state noxious weed advisory committee, local governments, and other interested parties to develop and implement a noxious weed management plan for the property.” Laramie shall comply with this condition by providing the present surface owners with the Director’s Recommendation, including the weed management attachments, and a copy of the Mesa County Weed Management Plan.

17. Laramie agrees to be bound by oral order of the Commission.

18. Based on the facts stated in the verified Application and other materials submitted by Laramie, and no petitions having been received, the Commission finds that Laramie has satisfied Rule 502.c and that the requested variance to Rule 1004.a., 1004.c.(2), 1004.c.(3), 1004.d., and 1004.e. is warranted.

ORDER

NOW, THEREFORE, IT IS ORDERED, that:

1. The Application for Rule 502 variance from the final reclamation requirements of Rule 1004 for the entire Bradshaw-Dolley Location and all un-reclaimed areas is GRANTED.

2. The provisions contained in this Order shall become effective immediately.

3. Within 30 days of this Order, Applicant will submit a Form 4 documenting the variance relief to the Location 312503 file. The Form 4 will include the Order number, all Rules from which relief was granted, and a summary of the relief granted.

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

5. 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.

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

ENTERED this 5th day of June, 2024 as of June 5, 2024.

ENERGY AND CARBON MANAGEMENT COMMISSION
OF THE STATE OF COLORADO

By  _____
Elias Thomas, Commission Secretary