

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

IN THE MATTER OF AN APPLICATION BY PDC) CAUSE NO. 1
ENERGY, INC. FOR VARIANCE FROM RULE 1004)
FOR MULTIPLE FACILITIES, WELD COUNTY,) DOCKET NO. 220800211
COLORADO)
) TYPE: VARIANCE
)
) ORDER NO. 1-372

REPORT OF THE COMMISSION

The Commission heard this matter on November 20, 2024, at the Colorado Energy and Carbon Management Commission, 1120 Lincoln St., Suite 801, Denver, Colorado, upon application for variance from select final reclamation requirements of Rule 1004 at the following wells and/or locations on the lands specified below in Weld County, Colorado:

| Well/Facility Name | Property Location Township 5 North, Range 65 West, 6th P.M. | API No. or Facility ID | Location ID |
|----------------------------|---|-------------------------------|--------------------|
| Marcy 34-11 | Section 11: SW $\frac{1}{4}$ SE $\frac{1}{4}$ | 05-123-26733 | 446672 |
| Hillman 14-14 Well | Section 14: SW $\frac{1}{4}$ SW $\frac{1}{4}$ | 05-123-12789 | 323268 |
| Hillman 14-14 Tank Battery | Section 14: SW $\frac{1}{4}$ SW $\frac{1}{4}$ | 435343 | 323268 |
| Tracy 1 Well | Section 22: NW $\frac{1}{4}$ SW $\frac{1}{4}$ | 05-123-12048 | 322784 |
| Susan 1-23 Well | Section 23: SE $\frac{1}{4}$ NE $\frac{1}{4}$ | 05-123-12902 | 323356 |

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 proceeding.
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, (“the 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 Commission 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 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 to the Director’s or the Commission’s satisfaction 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.

6. Rule 1004 addresses final reclamation of well sites and associated production facilities. Rule 1004.a provides, in pertinent part, 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.”

7. Rule 1004.c.(1) provides that reclamation of a well site and access road is complete when “[o]n crop land, reclamation has been performed as per Rules 1003 and 1004, and observation by the Director of two growing seasons has indicated no significant unresolved subsidence.”

8. Rule 1004.e addresses weed control and requires as follows:

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 the current rules pertaining to 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 502.a requires requests for variance to any of the Commission’s Rules or orders to be filed with the Commission.

10. 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.

11. On August 15, 2022 (amended July 23, 2024, and September 9, 2024), PDC, by its attorneys, filed a verified application (“Application”) pursuant to Rule 502 and 503.g.(9) for variance from remaining reclamation requirements under Rule 1004 for the subject wells and locations as follows: variance from the remaining requirements of Rules 1004.a and 1004.e as to the Marcy 34-11 Well (API No. 05-123-26733), the Hillman 14-14 Well (API No. 05-123-12789), the Hillman Tank Battery (Facility ID 435343), and the Tracy 1 Well (API No. 05-123-12048); and variance from the remaining requirements of Rule 1004.a, 1004.c.(1), and 1004.e as to the Susan 1-23 Well (API No. 05-123-12902).

12. For each of the wells and/or locations, PDC submitted with its Application a final reclamation agreement with a surface land owner signature, waiving PDC’s obligations to complete additional reclamation under Rule 1004.

13. On September 6, 2022, Colorado Energy and Carbon Management Commission permitting staff issued its review of the Application, stating that staff “has no concerns with this application.”

14. On September 9, 2024, the Director issued her recommendation on the Application and recommended approval of the Application. The Director determined that the requested variance is “not ministerial in nature, in that it results in a potentially permanent impact that will have to be managed by the landowner and administered by the local relevant government.” Accordingly, Rule 502.b requires a hearing on the Application before the Commission.

15. No petitions have been filed, and the Application is uncontested.

16. Commission records reflect that the Commission approved a Form 6 Well Abandonment Report (Subsequent) (Form 6) for the Marcy 34-11 Well (API No. 05-123-26733) (Document No. 401965037) in February 2021. According to the Application, PDC and the surface owner entered into a Final Reclamation Agreement for the Marcy 34-11 Well in April 2019. The agreement is attached to PDC’s Application as an exhibit. According to the Application, the surface owner agreed to waive final reclamation requirements to return the land to its use before oil and gas development, which was as equipment storage and seasonal cattle pens.

17. Commission records reflect that the Commission approved a Form 6 for the Hillman 14-14 Well (API No. 05-123-12789) (Document No. 401224998) in March 2018. According to the Application, PDC and the surface owner entered into a Final Reclamation Agreement for the Hillman 14-14 Well and the Hillman Tank Battery (Facility ID 435343) in February 2019. The agreement is attached to PDC’s Application as an exhibit. According to the Application, the surface owner agreed to waive final reclamation requirements to retain the use of an access road, culvert and bridge in existence before oil and gas operations on the property and for continued use of the location for storage for agricultural operations.

18. Commission records reflect that the Commission approved a Form 6 for the Tracy 1 Well (API No. 05-123-12048) (Document No. 402121288) in September 2021. According to the Application, PDC and the surface owner entered into a Final Reclamation Agreement for the Tracy 1 Well in September 2019. The agreement is attached to PDC’s Application as an exhibit. According to the Application, the surface owner agreed to waive final reclamation

requirements to retain the use of the property for cattle corrals and ranching operations.

19. Commission records reflect that the Commission approved a Form 6 for the Susan 1-23 Well (API No. 05-123-12902) (Document No. 401884924) in March 2019. According to the Application, PDC and the surface owner entered into a Final Reclamation Agreement for the Susan 1-23 Well in February 2019. The agreement is attached to PDC's Application as an exhibit. According to the Application, the surface owner agreed to waive final reclamation requirements to retain the use of a shared access road that was in existence before oil and gas development and to use the site for agricultural equipment storage.

20. Based on the Application, the final reclamation agreements signed by the surface land owners, and the Director's recommendation, the Commission finds the Application satisfies the requirements of Rule 502.c. because PDC's Application indicates that:

a. Consistent with Rule 502.c.(1), for each of the subject wells and locations, PDC made a good faith effort to comply with the requirements of Rules 1004.a, 1004.c.(1), and 1004.e, as applicable, with completion of all other reclamation requirements to restore the land as closely as possible to its pre-development condition, including removal of all associated production facilities and equipment, in light of the surface owners' requests for continued use of the property.

b. Consistent with Rule 502.c.(2), for each of the subject wells and locations, PDC's variance request will not violate the basic intent of the Act in that the variance will enable surface owners to continue to use their property in a manner consistent with land use prior to oil and gas development and consistent with the surface owners' intentions for future land use.

c. Consistent with 502.c.(3), for each of the subject wells and locations, granting PDC's variance request will avoid undue hardship in that the loss of access roads that were in existence prior to oil and gas development will cause undue hardship because the access roads are necessary for access to the property and to support the continued use of the lands for agricultural purposes.

d. Consistent with 502.c.(4), for each of the subject wells and locations, granting PDC's variance request will not result in a net adverse impact to public health, safety, welfare, the environment, or wildlife resources because the subject locations concern land uses established before oil and gas development on small parcels of private land safely distanced from property lines, roads, buildings, utilities, and railroads, that do not implicate wetlands or waters of the state. Refusal of the variances could result in additional land disturbance if landowners reconstruct existing improvements.

e. Consistent with 502.c.(5), for each of the subject wells and locations, granting PDC's variance does not require additional conditions of approval or mitigation measures to avoid, minimize, or mitigate adverse impacts to public health, safety, welfare, the environment, and wildlife resources.

21. PDC agrees to be bound by oral order of the Commission.

22. Based on the facts stated in the verified Application, final reclamation waiver agreements submitted for each well and location, and other materials submitted by PDC, and no petitions having been received, the Commission finds that the Application satisfies Rule 502.c

and the requested variance is warranted as follows: from the remaining requirements of Rules 1004.a and 1004.e as to the Marcy 34-11 Well (API No. 05-123-26733), the Hillman 14-14 Well (API No. 05-123-12789), the Hillman Tank Battery (Facility ID 435343), and the Tracy 1 Well (API No. 05-123-12048); and variance from the remaining requirements of Rule 1004.a, 1004.c.(1), and 1004.e as to the Susan 1-23 Well (API No. 05-123-12902).

ORDER

NOW, THEREFORE, IT IS ORDERED, that:

1. The Application for variance is GRANTED such that PDC is granted the requested variance from the remaining requirements of Rules 1004.a and 1004.e as to the Marcy 34-11 Well (API No. 05-123-26733), the Hillman 14-14 Well (API No. 05-123-12789), the Hillman Tank Battery (Facility ID 435343), and the Tracy 1 Well (API No. 05-123-12048); and variance from the remaining requirements of Rule 1004.a, 1004.c.(1), and 1004.e as to the Susan 1-23 Well (API No. 05-123-12902).

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

3. Within 30 days of the date of this order, Applicant will submit Form 4 Sundry Notices (Form 4) documenting the variance relief to Location IDs 322784, 323268, 323356, and 446672. The Forms 4 shall 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 of this order by the Commission is not required prior to the filing for judicial review.

ENTERED this 21st day of November 2024, as of November 20, 2024.

ENERGY AND CARBON MANAGEMENT
COMMISSION OF THE STATE OF COLORADO

By 
Elias J. Thomas, Commission Secretary