

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

IN THE MATTER OF THE APPLICATION BY PADCO
LLC, FOR A RULE 502 VARIANCE FROM RULE 1004.a,
1004.c.(2), 1004.d. AND 1004.e RECLAMATION
REQUIREMENTS FOR THE FASSLER-
62N53W32SENE LOCATION, LOCATION ID: 317036 IN
SECTION 32 SENE, TOWNSHIP 2 NORTH, RANGE 53
WEST, RANCHERO FIELD, WASHINGTON COUNTY,
COLORADO

CAUSE NO. 1

DOCKET NO. 230800266

TYPE: VARIANCE

ORDER NO. 1-395

REPORT OF THE COMMISSION

The Commission heard this matter on April 23, 2025, 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., 1004.c.(2), 1004.d., and 1004.e. for the Fassler-62N53W32SENE well location (Location ID 317036) (the “Colorado Location”):

Township 2 North, Range 53 West, 6th P.M.
Section 32: SENE

FINDINGS

The Commission finds as follows:

1. PADCO, LLC (Operator No. 24500) (“PADCO” 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 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 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.

7. ECMC Rule 1004.c.(2) provides in pertinent part “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 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, 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.”

8. Rule 1004.d provides that “[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 on, compacted, covered, paved, or otherwise stabilized in a 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.”

9. Rule 1004.e provides, in relevant part, that “[a]ll areas being reclaimed shall be kept as free as practicable of all undesirable plant species designated to be noxious weeds.”

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 August 14, 2023, amended July 20, 2024, PADCO, through counsel, filed a verified application (“Application”) pursuant to Rules 502 and 503.g.(9) for a variance from the final

reclamation requirements of Rule 1004. Specifically, PADCO requests a variance from returning the location and access road remain in its current state. PADCO alleges that pursuant to an email agreement (“Agreement”), the surface owner desires to use the abandoned well pad for agricultural purposes and will continue to use the access road to access his property for his own personal use.

13. On September 19, 2023, the Colorado 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 April 9, 2025, the Director issued her recommendation on the Application. The Director 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. The Application requests a variance from final reclamation requirements of Rules 1004.a., 1004.c., 1004.d., and 1004.e. for the well pad, access road, and other remaining improvements at the location.

17. The Fassler #3 well (API No. 05-121-06871) Well was successfully plugged and abandoned by PADCO as of December 21, 2012, according to a Form 6 Well Abandonment Report approved by the Commission on September 23, 2013 (Doc. No. 2430574).

18. Based on the Application, Correspondence from the land owner, and other written filings, the Commission concludes the Application satisfies the requirements of Rule 502.c. because:

- A. PADCO has made a good faith effort to comply with Rule 1004.a at the Colorado Location. See Rule 502.c.(1). PADCO has completed all other reclamation requirements except for those explicitly requested by the surface owner.
- B. PADCO’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). The requested relief is consistent with Commission Rules, Washington County’s land use regulations, and will not endanger public health, safety, welfare, the environment and wildlife resources.
- C. The variance is necessary to avoid undue hardship on the surface owner. See Rule 502.c.(3). The surface owner owns the parcel that includes the

Colorado Location and utilizes it for its own business purposes has continued these same business uses since acquiring this parcel. Requiring that PADCO complete final reclamation would cause undue hardship to the surface owner and those who rely on its business.

D. The variance will not result in a “net adverse impact to public health, safety, welfare, the environment, or wildlife resources.” See Rule 502.c.(4). The former Fassler #3 Well was plugged and abandoned. In recent years, the Colorado Location has been used for various purposes, and the surface owner wishes to continue the property for business uses.

E. Pursuant to Rule 502.c.(5), the variance contains no further conditions of approval. PADCO will, within 30 days of this Order, submit a Form 4 documenting the variance relief to Location ID: 31736 and mitigation measures to avoid, minimize, or mitigate adverse impacts to public health, safety, welfare, the environment, and wildlife resources.

19. PADCO agrees to be bound by oral order of the Commission.

20. Based on the facts stated in the verified Application and other materials submitted by PADCO, and no Rule 507 petitions having been received, the Commission finds that PADCO has satisfied Rule 502.c and that the requested variance to Rule 1004 is warranted for the Colorado Location.

ORDER

NOW, THEREFORE, IT IS ORDERED, that:

1. The Application for a Rule 502 variance from the final reclamation requirements of Rule 1004 for the Colorado Location in Washington County, Colorado 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 Location ID: 317036. The Form 4 will include the Order number, all Rules from which relief was granted, a summary of the relief granted, the date of variance approval, and any COAs that the Commission approved as part of the variance.

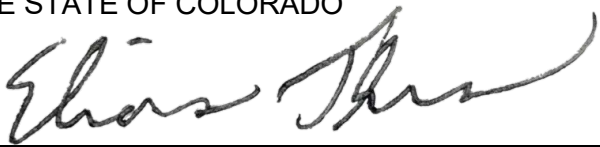
4. The Commission expressly reserves its right, after notice and hearing, to alter, amend or repeal any and/or all of the above orders.

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 23rd day of April, 2025 as of April 23, 2025.

ENERGY AND CARBON MANAGEMENT COMMISSION
OF THE STATE OF COLORADO

By  _____
Elias J. Thomas, Commission Secretary