

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

IN THE MATTER OF THE APPLICATION BY QB)	CAUSE NO. 1
ENERGY OPERATING, LLC FOR A RULE 502)	
VARIANCE FROM RULE 1004.A RECLAMATION)	DOCKET NO. 241000257
REQUIREMENTS FOR THE WIEBEN-68S93W/2SWSW)	
LOCATION, MAMM CREEK FIELD, GARFIELD)	TYPE: VARIANCE
COUNTY, COLORADO)	
)	ORDER NO. 1-409

REPORT OF THE COMMISSION

The Commission heard this matter on August 6, 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 for the Wieben-68S93W/2SWSW Oil and Gas Location (Location ID 334322) (the “Wieben Location”):

Township 8 South, Range 93 West, 6th P.M.
Section 2: SW¹/₄SW¹/₄

FINDINGS

The Commission finds as follows:

1. QB Energy Operating, LLC (Operator No. 10844) (“QB Energy” 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. Rule 502.a provides that “[r]equests for variances to any of the Commission’s Rules or orders will be filed with the Commission.”

8. 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.

9. On October 15, 2024, QB Energy, 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.a. Specifically, QB Energy requests that the access road be left in its current compacted and stabilized condition, culverts be left in place, and a portion of the well site be left flat and compacted to allow for continued access. QB Energy alleges that pursuant to the Final Reclamation Agreement (“Agreement”), the surface owner desires to use the unreclaimed area for easier property access and recreation, such as camping.

10. On November 5, 2024, 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.”

11. On July 23, 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.

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

13. The Application requests a variance from specific final reclamation requirements of Rule 1004.a for the access road and turnaround area on the Wieben Location. The Wieben 2-13 (M2SW) Well (API No. 05-045-09364) and the HMU 10-1 (M2SW) Well (API No. 05-045-

10142) drilled on the Wieben Location were plugged and abandoned in 2022.

14. Based on the Application, Final Reclamation Agreement, and other written filings, the Commission concludes the Application satisfies the requirements of Rule 502.c. because:

- A. QB Energy has made a good faith effort to comply with Rule 1004.a at the Wieben Location. See Rule 502.c.(1). QB Energy and its predecessor in interest consulted with the surface owner and reclaimed those areas QB Energy has completed all other reclamation requirements except for those explicitly requested by the surface owner. QB Energy has completed the remaining reclamation on the site in accordance with Commission Rules and the Final Reclamation Agreement.
- B. QB Energy'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, Garfield 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). Without the variance, QB Energy would be required to remove, recontour and fully reclaim the access road and the remaining portion of the well site in contravention of the express terms of the Final Reclamation Agreement. This would cause increased an unnecessary additional disturbance, will deprive the Surface Owner of the use of its property in the manner and condition it desires.
- 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). QB Energy conducted an Operator's Analysis of the impacts associated with the requested variance. QB Energy removed all equipment, trash, and debris, stabilized existing disturbance, and implemented stormwater protections. QB Energy has reseeded the reclaimed areas of the well site and compacted and stabilized the remaining unreclaimed access road and portion of the well site. These protections will prevent erosion and sediment-laden runoff from reaching surface waters including Middle Mamm Creek, located approximately 0.28 miles to the north of the variance area, and the East Mamm Creek, located approximately 605 feet to the southeast of the variance area. Further, while the Location (majority reclaimed and returned to wildlife habitat) is within High Priority Habitat ("HPH") – Elk Production Area, the access road is not located within HPH and the Surface Owner's use of the variance area is limited and consistent with the land use of the property and is not anticipated to have a measurable impact on wildlife.

E. Pursuant to Rule 502.c.(5), the variance does not require further reasonable conditions of approval and mitigation measures, beyond those contained in the Final Reclamation Agreement to avoid, minimize, or mitigate adverse impacts to public health, safety, welfare, the environment, and wildlife resources.

15. QB Energy agrees to be bound by oral order of the Commission.

16. Based on the facts stated in the verified Application, Final Reclamation Agreement, and other materials submitted by QB Energy, and no Rule 507 petitions having been received, the Commission finds that QB Energy has satisfied Rule 502.c and that the requested variance to Rule 1004.a is warranted for the Wieben Location.

ORDER

NOW, THEREFORE, IT IS ORDERED, that:

1. The Application for Rule 502 variance from the final reclamation requirements of Rule 1004.a for the Wieben-68S93W/2SWSW Oil and Gas Location (Location ID 334322) in Garfield 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: 334322. 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.

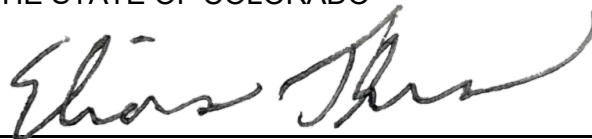
5. Under the State Administrative Procedure Act, the Commission considers this Order to be final agency action for purposes of judicial review within 35 days after the date this Order is mailed by the Commission.

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

ENTERED this 8th day of August 2025 as of August 6, 2025.

ENERGY AND CARBON MANAGEMENT COMMISSION
OF THE STATE OF COLORADO

By



Elias J. Thomas, Commission Secretary