

November 29, 2004

The Oil and Gas Conservation Commission met on November 29, 2004 at 9:15 a.m. in Suite 801, The Chancery Building, 1120 Lincoln Street, Denver, Colorado, for a hearing in Cause Nos. 1, 1V (2 matters), and 112.

Those present were:

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| Peter Mueller | Chair |
| Brian Cree | Vice Chair |
| John Ashby | Commissioner |
| Kimberlee Gerhardt | Commissioner |
| Mike Klish | Commissioner |
| Tom Reagan | Commissioner |
| Carol Harmon | Assistant Attorney General |
| Brian Macke | Director |
| Patricia Beaver | Hearings Manager |

The Commission unanimously approved the minutes from the October hearing after acknowledging two minor corrections.

Executive Director's Report: Shane Henry, Department of Natural Resources (DNR) Assistant Director for Energy, Land and Forestry, introduced Mary Marchun, DNR Legislative Liaison, who provided several handouts showing new senate and house committee assignments, election results and senate and house leadership. Director Macke will forward Mary's contact information to the Commissioners.

The DNR is planning periodic Wednesday morning briefings with legislators on the Senate Agricultural Committee and will let the Commission know about these. There was a question about Commissioner confirmation from Commissioner Gerhardt for her confirmation and for the Commissioner replacing Commissioner Shook.

Mr. Henry discussed Senator Isgar's issue regarding involuntary pooling of unleased mineral owners. Assistant Attorney General Carol Harmon is working on a proposed rule to address this issue.

The report on moving the Colorado Geological Survey (CGS) to Colorado School of Mines (CSM) is finished, concluding that there is no place to locate the CGS at the CSM, thus there is no possible way at this time to move the CGS. The report is 45 pages and Mr. Henry will provide the Commissioners with the executive summary via email.

The Roan Plateau plan has been released for public comment. DNR will participate in the comment phase of the plan and will reassemble the group that worked on the comments earlier to work on these latest comments.

Director's Report: A written report was provided and Director Macke reported reaching an all-time high since 1981 on November 9, 2004 for drilling permits. He is still anticipating approximately 2,750 APDs to be issued this year and believes activity is showing no signs of slowing down. He reports the following percentages: Weld County – 28%, Garfield County – 26%, Las Animas County – 12%, Yuma County – 7%, Rio Blanco County – 6%, and La Plata County – 4%

There were about 30 APDs issued in Washington County this year compared to approximately 12 issued last year. The number of APDs that could not be issued due to lack of compliance with survey plat requirements are low.

The last meeting of the Northwest Colorado Oil and Gas Forum was held on November 18, 2004 at the Garfield County Fairgrounds. The meeting was attended by approximately 80 individuals including Commissioner John Ashby. Williams stated its plans to drill 300 wells. EnCana briefly

discussed removing 1/3 of its drilling rigs from the highly populated area near the Schwartz Well. EnCana acknowledged appreciation for the Associated Governments of Northwest Colorado who through the use of Energy Impact Grants helped organize and provide food for the group. The next meeting will be held February 17, 2005.

An update on the West Divide Creek seep indicated benzene has reappeared in 3 of the 6 monthly monitored surface water sampling locations in West Divide Creek. EnCana will continue monitoring water wells, irrigation wells, ponds and springs.

An NOAV has been issued for the former Dietrich water well. EnCana has submitted a Site Investigation and Remediation Workplan, Form 27 to the COGCC staff for approval.

The next GORT meeting will be March 18, 2005 and the next 3M Technical Committee meeting will be December 9, 2004. There was a total of \$1,074,000 spent on the 3M project except for outcrop mapping which the CGS covered. Operations Manager Morris Bell believes the main focus of the 3M Committee should be on how to continue monitoring the outcrop. Environmental Supervisor Debbie Baldwin reminded the Commission that the total monies presented today are just those spent by the COGCC.

Staff Organization: New administrative assistant Angie Gipson and personal assistant to the Director Karyn Zimmerman were introduced to the Commissioners and noted to bring very good qualifications to their positions to help out the COGCC.

The draft Strategic Plan for the Colorado Oil and Gas Conservation Commission was introduced to the Commissioners with requests that comments be sent to Tricia Beaver no later than December 10, 2004 so that the plan can be finalized and made available to other stakeholders. Commissioner Cree inquired about final organizational plans. Director Brian Macke responded by describing the decision to reallocate the Deputy Director position to a high-level IT Manager position.

Director Macke spoke about several outreach opportunities he recently participated in, including a Club 20 meeting which will be discussed during Ken Wonstolen's presentation. Director Macke has a CD containing the Roan Plateau plan and there is also a website containing all the information should the Commissioners wish to review the plan.

At the Joint Budget Committee (JBC) hearing on November 17, 2004, interest was expressed in looking at alternative funding sources for the COGCC.

A variance to the requirement of maintaining 1200 feet between bottomhole locations was granted to Tom Brown, Inc. for the North Parachute locations in Garfield County.

A variance to the requirement of performing a mechanical integrity test for wells shut-in longer than 2 years was granted to Cedar Ridge, LLC.

Assistant Attorney General's Report: AAG Harmon provided a confidential litigation memo. She would like an executive session to discuss the Allen Oil and Gas request for settlement. A motion to go into executive session over lunch was approved unanimously. AAG Harmon received responses from 10 states through her IOGCC legal committee regarding noise and fines. None of the states' oil and gas agencies have jurisdiction over noise. The amount of fines varies widely between the states. This data is just a broad brush.

Commissioner Comments: Commissioner Ashby mentioned that Linda Flis has put together a corporate program for distribution of her video that the Commissioners viewed recently.

Audience Comments: Laura Amos described her family's experience with EnCana drilling on their land and her concern about the impact to their water well. She described a fracturing constituent sometimes used in gels and foaming agents that has been found in some studies to show it can be

absorbed through the skin or inhaled and can cause adrenal gland tumors in female rats from hormone excretions. Ms. Amos believed that this constituent caused her recent adrenal gland tumor.

Ken Wonstolen of the Colorado Oil and Gas Association (COGA) thanked the Commissioners and staff for attending COGA's Annual Meeting. He would like to see Tony Gorody's report posted on the COGCC website. COGA has negotiated the removal of COGCC from the Air Quality Control Commission's rules requiring the submittal of air emission notices. There are 2 major cases pending before the Colorado Supreme Court – Petron vs. Washington County and Whitham Farms vs. EnCana. There are several pieces of legislation anticipated this session. Senator Isgar may propose something on coalbed methane water extraction and unleased mineral owners. It is believed there is interest in restructuring the Commission and concerns about what may happen with COGCC's excess funds. A surface owner issue that has risen out of Club 20 meetings, not limited to split estates only, is to require an onsite inspection whenever there is no surface use agreement rather than just immediately using a surface bond. It is believed there is a perception that operators can "bond" themselves onto someone's surface.

The Commission docketed the onsite inspection issue for the January 2005 hearing, to adopt as either an order or a policy followed up by rulemaking.

Cause No. 1V, Docket No. 0410-OV-32, failure by Wallace Oil and Gas to perform a mechanical integrity test within two (2) years of being shut-in and failure to maintain well sites for the Newman No. 1-7 Well, the Watkins No. 1 Well and the Hume No. 17-1 Well located in various sections of Township 32 South, Range 41 West, 6th P.M. was continued to the January 2005 hearing.

Cause No. 1V, Docket No. 0411-OV-34, failure by Joseph Strabala to properly reclaim Wedel #1 Well located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 26, Township 17 South, Range 48 West, 6th P.M. was continued to the January 2005 Hearing.

Cause No. 1, Docket No. 0411-EX-06, request for an order allowing an exception to recomplete the Shell Creek No. 2 Well located 660 feet from the south line and 560 feet from the east line of Section 27, Township 12 North, Range 99 West, 6th P.M. was withdrawn.

Cause No. 112, Docket No. 0302-UP-01, request for retroactive pooling of the E $\frac{1}{2}$ of Section 9, Township 34 North, Range 9 West, N.M.P.M. for the University 9-1 Well was withdrawn with prejudice.

The consent agenda was approved by the Commission which included the following:

Cause No. 112, Docket No. 0407-UP-04, request for an order to pool all non-consenting owners in the E $\frac{1}{2}$ of Section 9, Township 34 North, Range 9 West, N.M.P.M. for the University 9-1 Well.

A hearing was held in Cause No. 1V, Docket No. 0410-OV-33, request for an Order Finding Violation finding EnCana Oil and Gas (USA) Inc. (EnCana) in violation of Rule 303.a.1., Rule 308A., Rule 308B., Rule 312. and Rule 317.c., failure to obtain Director's approval before commencement of operations with heavy equipment, not submitting the Drilling Completion Report within 30 days of setting production casing, not submitting the Completed Interval Report within 30 days of completing a formation, not submitting a Certification of Clearance within 30 days of initial sales of oil or gas, and not posting the APD at the rig for the Shideler #32-4C1 (H31) Well located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31, Township 7 South, Range 92 West, 6th P.M. The following were present at the hearing: Morris Bell, COGCC Operations Manager, Mike Wozniak and Erika Enger, EnCana attorneys and Joel Fox, EnCana Petroleum Engineer. Morris Bell presented testimony and exhibits in support of the COGCC staff's recommended order. Joel Fox provided testimony for EnCana. After deliberation, the Commission found EnCana in violation of the above-described Rules and imposed a fine of Twenty-five Thousand dollars (\$25,000). Commissioner Ashby opposed this motion.

A hearing was held in Cause No. 1V, Docket No. 0411-OV-35, request for an Order Finding Violation finding EnCana in violation of Rule 303.b., failure to obtain an approved Application for Permit-to-Recomplete for 7 wells in Townships 6 and 8 South, Ranges 92, 99 and 100 West, 6th P.M. The following were present at the hearing: Morris Bell, COGCC Operations Manager, Mike Wozniak and Erika Enger, EnCana attorneys and Joel Fox, EnCana Petroleum Engineer. Morris Bell presented testimony and exhibits in support of the COGCC staff's recommended order. Joel Fox provided testimony for EnCana. After deliberation, the Commission found EnCana in violation of the above-described Rule for the 7 wells and under Rule 523.b. the Commission determined that fines should not be imposed for the 7 violations. Commissioner Ashby opposed the motion to find EnCana in violation, and Commissioners Reagan and Gerhardt opposed the motion to not impose fines.

Commissioner Klish recused himself from both of these matters.

A discussion was held on the public projects proposed in accordance with Order No. 1V-276 with Commissioners Reagan, Ashby, Gerhardt, and Klish, Director Macke, Erika Enger and Diane Bleiszner (EnCana) and Don Deford and Doug Dennison (Garfield County) via telephone.

Comments on the November 23, 2004 draft guidelines for COGCC Public Projects in lieu of fines were presented and a new draft will be prepared for circulation.

Don Deford stated that the county has worked closely with COGCC staff, EnCana, Western Colorado Congress and Grand Valley Citizens Alliance to prepare the hydrogeologic study proposal and believes there is concurrence on the proposal. The project is to be addressed in two phases. Commissioner Reagan expressed concern that \$150,000 may not be enough for phase one. Commissioner Klish thinks it is in the ballpark.

The Commission unanimously approved the hydrogeologic project and deferred approval on the other two projects. Phase two and the other two studies will be deferred until the county notifies COGCC staff as to when they would like the projects considered.

The meeting adjourned at 5:17 p.m.

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The Secretary was therefore authorized to issue the following orders:

Order No. 1V-280, Garfield County: Approves the request to enter an Order Finding Violation finding EnCana Oil and Gas (USA) in violation of Rules 303.a.1., Rule 308B., Rule 312. and Rule 317.c., failure to obtain Director's approval before commencement of operations with heavy equipment, not submitting the Drilling Completion Report within 30 days of setting production casing, not submitting the Completed Interval Report within 30 days of completing a formation, not submitting a Certification of Clearance within 30 days of initial sales of oil or gas, and not posting the APD at the rig for the Shideler #32-4C1 (H31) Well located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31, Township 7 South, Range 92 West, 6th P.M., and assesses a fine of Twenty-five Thousand dollars (\$25,000).

Order No. 1V-281, Garfield County: Approves the request to enter an Order Finding Violation finding EnCana Oil and Gas (USA) in violation of Rule 303.b., failure to obtain an approved Application for Permit-to-Recomplete for seven wells in Townships 6 and 8 South, Ranges 92, 99 and 100 West, 6th P.M.

Order No. 112-177, Ignacio-Blanco Field, La Plata County: Approves the request by Chevron U.S.A. Inc, to pool all non-consenting owners in the E $\frac{1}{2}$ of Section 9, Township 34 North, Range 9 West, N.M.P.M. for the University 9-1 Well.

Patricia C. Beaver, Secretary

Approved:

Peter M. Mueller, Chair