

July 11, 2005

The Oil and Gas Conservation Commission met on July 11, 2005 at 10:00 a.m. in the New Indoor Arena Meeting Facility, Garfield County Fairgrounds, 1001 Railroad Avenue, Rifle, Colorado, for a hearing in Cause Nos. 139 (2 matters), 191, 510.

Those present were:

Peter Mueller	Chair
John Ashby	Commissioner
Kimberlee Gerhardt	Commissioner
Mike Klish	Commissioner
Samuel Potter	Commissioner
Carol Harmon	Assistant Attorney General
Brian Macke	Director
David Dillon	Deputy Director Operations
Debbie Baldwin	Environmental Supervisor
Patricia Beaver	Hearings Manager

The Commission unanimously approved the minutes from the May 2005 hearing.

Executive Director's Report: Russell George, Executive Director of the Department of Natural Resources ("DNR") welcomed the Commissioners to Garfield County and stated that he was glad to see a good local turnout for the hearing. He reported that the DNR budget process is making aggressive accommodations to increase Colorado Oil and Gas Conservation Commission ("COGCC") staffing levels to meet current activity. The Roan Plateau project continues with the cooperating agencies meeting to discuss public comments, and determine recommendations to be presented to Bureau of Land Management ("BLM") within the next three to four months. The water depletions study is being performed by DNR to determine where and how COGCC and the Division of Water Resources regulations overlap and how they address this issue. He would like to be able to give preliminary data and answers to the legislature by early January 2006, in case legislation needs to be proposed, however, project completion may take one to two years. Executive Director George is watching the work COGCC is doing at the gas seep near Walsenburg. On Friday, July 8, 2005, there was a meeting at the Colorado State Capital in Denver; issue was called by Representative Curry to discuss the split estate issue. In his opinion, the most flexible way to deal with the issue is to see how COGCC's current rules and policies work, then promulgate new rules if needed, as long as it is within the COGCC's statutory authority. He does not believe that a constitutional change will be needed if regulatory means are pursued. One and one half months ago the DNR received an inquiry from the Senate regarding oil shale. Mr. George testified in Washington D.C., and his comments have been posted on the DNR website. There are oil shale provisions in both the House and Senate versions of the Energy Bill. He will do what he can to properly advance the oil shale issues in Washington D.C. Mr. George complimented the COGCC staff for their hard work during the explosion of oil and gas activity in our state.

Director's Report: As of July 8, 2005, the number of Applications for Permits-to-Drill ("APDs") has surpassed a total of 2000, once again indicating another record setting year. One third of the APDs in Colorado are in Weld County. The next Northwest Oil and Gas Forum will be held September 8, 2005. The number of features currently being sampled is described in the Mamm Creek gas seep update. The Schwartz Well monitoring has shown a low concentration of benzene. URS has been selected as the contractor for the hydrogeologic study in Garfield County. Director Macke, Assistant Attorney General Carol Harmon, and Commissioner Klish will be participating in the July 16, 2005 meeting being funded as another project utilizing money from last year's fine assessment.

The investigation and preliminary results from the Bondad explosion were described. Debbie Baldwin met with Petrogulf recently to discuss the possibility of one of Petrogulf's wells causing the problem at Bondad.

Permanent ventilation systems have been installed in the Mondragon and Saint residences to vent methane gas from the two homes. The Primero school methane survey showed propane rather than methane underneath the bus garage.

David Dillon has been appointed as the new Deputy Director of Operations. Director Macke thanked Chair Mueller and Assistant Director Henry for helping with interviews of the candidates. Marc Fine has been appointed the new Information Technology Manager and will start July 18, 2005. Director Macke thanked Chair Mueller and DNR Chief Information Officer Kim Heldman for helping with interviews of the candidates.

Brian Macke provided a presentation on COGCC regulation of oil and gas development at the Colorado County Attorneys Association 2005 summer seminar in Steamboat Springs on June 9, 2005.

Tricia Beaver made a presentation on June 28, 2005 to the Industry/Agriculture Task Force meeting to address surface rights. Steve Lindblom, the new Onsite Inspection Specialist, also attended.

David Dillon has been invited to provide an informational presentation about COGCC regulation to the Mesa County Planning Commission and County Commissioners on July 13, 2005 in Grand Junction.

Brian Macke has been invited to serve on a panel for the Piceance Basin Natural Gas Educational Forum that is being sponsored by the Garfield County Energy Advisory Board and Colorado Mountain College at the Garfield County Fairgrounds in Rifle on Saturday, July 16, 2005 from 8:30 a.m. until 4:00 p.m.

At the request of the local County Commissioners, Brian Macke has been invited to represent the COGCC and make a presentation at a public oil and gas informational forum entitled "Your Rights, Industry Rights" that will be held at the 4H Center in Ridgeway, Colorado on July 19, 2005.

The first onsite inspection is scheduled for July 15, 2005 in Boulder County. About 16% of APDs issued this year have been approved using bonds compared with about 23% of last year's APDs. The issue of allowing surface owners who have executed leases to be able to utilize the onsite inspection policy was discussed.

A rulemaking hearing has been scheduled for August to consider changes to the surveying and noise regulations.

COGCC staff had a good field tour with representatives from the Joint Budget Committee, Office of State Planning and Budgeting, along with DNR and EDO staffers in Garfield County. Thanks to EnCana Williams, Doug Dennison, Tres Haupt and others for helping to arrange and participate in the tour.

Assistant Attorney General's Report: A confidential litigation memo was provided and then updated via email. Assistant Attorney General Harmon provided a memo describing her meeting with the IOGCC Council of State Oil and Gas Attorneys. Pleadings from the BDS case arrived after her memo, and she indicated that discussion on these would be a good reason to hold an executive session at some point today.

Commissioner Comments: Commissioner Potter stated that he is happy the Commissioners are here today especially with the activity levels in Garfield County. Commissioner Klish agrees. Chair Mueller believes that re-injecting produced coal bed methane water is not the best way to handle the water and is glad to see these issues are being reviewed.

Audience Comments: Laura Amos, Garfield County landowner, stated that she is happy to have the Commissioners here and that there is more of an audience here than in Denver due to the

public's interest. She questioned the Commission and the Assistant Attorney General as to COGCC's responsibility to protect public welfare.

Susan Haire wanted to follow up on a complaint she made to COGCC Northwest Colorado Engineer Jaime Adkins regarding a problem at a Williams Production well on June 24, 2005. She has had numerous negative physical effects from the exposure, and her realtor said she cannot sell her property without disclosing the exposure. Director Macke stated he would consult with COGCC staff who responded to her to understand the facts.

Pepe Langegger questioned why the moratorium only applies to one company. He thinks the hydrogeologic study should be completed prior to allowing drilling in the moratorium area.

Herman Stauffer thanked the Commissioners for coming to Garfield County. He is concerned about the moratorium being lifted prior to the completion of the hydrogeologic study.

Jerry Ann Renner had a question on whether the COGCC has jurisdiction over federal unit royalty issues and questions about transportation costs.

Elizabeth Mobaldi presented a written statement and told the Commissioners that she has a neurological condition that causes her voice to be different from the way it used to be. The Goad Well is near her house and her problems began after the blowout. She stated that she developed burning and itching skin, and that she has a large tumor on her pituitary gland which was revealed through a MRI. Ms. Mobaldi stated that she lived in Rifle, Colorado for 10 years, has since moved to Grand Junction, Colorado, and her symptoms improved. She is very afraid of the chemicals used in wells. Jaime Adkins stated that no contamination has been found from previous water samples taken from her water well.

Randy Vendetti expressed concern about having to split royalties with the BLM in the High Mesa area where his land is located. He is concerned that all the wells are located on his land, not on BLM land. The land was previously leased by Tom Brown Inc. ("TBI") prior to EnCana Oil and Gas purchasing TBI.

Lisa Sumi of the Oil and Gas Accountability Project ("OGAP"), believes that air quality studies should be performed at the Mobadi residence.

Consent Agenda: Chair Mueller asked if any Commissioners had a conflict of interest with any of the items on the consent agenda. Commissioner Klish indicated that his company has some contracts with some of the companies on the consent agenda; however, he did not believe that posed a conflict for him. A motion was made by Commissioner Klish, seconded by Commissioner Ashby to approve the consent agenda; the consent agenda was approved unanimously as follows:

Cause No. 510, Docket No. 0507-AW-12: Request for an order to allow wells to be drilled the equivalent of one well per 10 acres with the permitted well to be located no closer than 100 feet from the outside boundary for certain lands in Township 6 South, Range 97 West, 6<sup>th</sup> P.M., and no closer than 200 feet from that portion of the boundary which abuts, or corners the land in respect of which 10 acre density has not been approved, for the production of gas and associated hydrocarbons from the Williams Fork Formation

Cause No. 139, Docket No. 0507-UP-05, Rulison Field, Garfield County: Request for an order pooling the working interest of Piceance Royalty Partnership in the 320-acre drilling and spacing unit consisting of the S $\frac{1}{2}$  of Section 13, Township 6 South, Range 94 West, 6<sup>th</sup> P.M. for the development and operation of the Williams Fork Formation.

Cause No. 139, Docket No. 0507-AW-13, Rulison Field, Garfield County: Request for an order to increase the number of wells to the equivalent of one well per 20 acres, or thirty-two wells for each 640-acre drilling and spacing unit consisting of Sections 20, 21, 28, & 29, Township 7 South, Range 95 West, 6<sup>th</sup> P.M., with the permitted well to be located no closer than 200 feet from the

boundaries of the unit and no closer than 400 feet from any existing Williams Fork or Iles Formation well, for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Doug Dennison made a presentation on the two (2) additional proposed public projects: 1) Garfield County Energy Forum, and 2) Human Health Risk Assessment. Dr. Coons described the research institute that she is affiliated with, her background as an immunologist, and her work with the uranium and coal industries. A motion was made by Commissioner Gerhardt, seconded by Commissioner Ashby to approve the Garfield County Energy Forum and approved unanimously. A motion by Commissioner Ashby to approve the Human Health Risk Assessment, seconded by Commissioner Klish and approved unanimously.

A hearing was held in Cause No. 191, Doc No. 0507-GA-02, Mamm Creek Field, Garfield County, request for an order allowing Bill Barrett Corporation ("BBC") limited drilling within the Moratorium Area established in Order No. IV-276 for certain sections in Township 6 South, Ranges 91 and 92 West, 6th P.M., for production of gas and associated Hydrocarbons from the Williams Fork Formation.

The following participated in the hearing for BBC: Bill Keefe, Attorney; Bill Givan, Landman; Steve Cumella, Petroleum Geologist; Scot Donato, Environmental Manager; Troy Schindler, Petroleum Engineer; and for the Board of Commissioners of Garfield County, Don Deford, Attorney.

The Commission heard testimony from William Givan regarding the acreage BBC has under lease in and around the moratorium area, the proposal to drill seventeen (17) wells from six (6) existing well pads and three (3) wells from one (1) new well pad, and testimony regarding surface use agreements.

The Commission heard expert testimony from Stephen Cumella regarding the geologic setting of the Mesaverde Group in the Mamm Creek Field, that sands from wells drilled from the same well pad, and in close proximity to one another are discontinuous, that the natural fracturing, especially on structures in the area, allows the Mesaverde Group to be productive of gas, and that this natural fracturing is no different in the moratorium area than in any other area of the basin.

The Commission heard expert testimony from Scot Donato, regarding BBC's Ground Water and Methane Monitoring Plan, including Commission staff recommendations for additional conditions, BBC's Additional Subsurface Data Collection Plan for hydrogeologic data collection and distribution, and BBC's Mamm Creek Field Operations Plan dated December 2004, and he testified that compliance with these documents, along with the Commission's existing rules, will protect the environment in the moratorium area.

The Commission heard expert testimony from Troy Schindler, who testified that twenty-eight (28) wells have been drilled and cemented by BBC since the July 23, 2004 Notice to All Operators Drilling Wells to the Mesaverde Group or Deeper in the Mamm Creek Field, Garfield County, with four (4) of those wells having high bradenhead pressures, and that EnCana Oil and Gas (USA) Inc. has drilled and cemented one hundred and fifty-two (152) wells since the July 23, 2004 Notice, with three (3) wells having failed bradenhead pressures.

Mr. Deford, on behalf of the Board of County Commissioners of Garfield County, presented to the Commission its July 7, 2005 letter to BBC's attorney conveying his Board's unanimous approval to the conditions of stipulation for inclusion in the record, and clarified that BBC is in agreement with incorporating the County's requests in any order the Commission may enter on BBC's application, and that BBC will have a full-time supervisor on each well drilled in the Mamm Creek Field. Mr. Deford, on behalf of the Board of County Commissioners of Garfield County, stated that if the Commission imposes the recommendations made by Commission staff and by Dr. Thyne for the County, the County would be in agreement to the application being approved to allow BBC the ability to drill in a limited portion of the moratorium area.

The following statements were made pursuant to Rule 510.:

Bill Griffin, a resident in the moratorium area, expressed his concern that the same geologic conditions exist in BBC's application area as those in the area of the West Divide Creek gas seep, and his belief that the hydrogeologic study currently underway should be completed prior to drilling in the moratorium area.

Nancy Jacobsen, a resident in the moratorium area, stated her agreement with Mr. Griffin's comments, and expressed her concern about the multiple industrial incidents that have occurred in her neighborhood.

Pepi Langegger, a resident in the moratorium area, expressed his belief that that the Commission should err on the side of caution and not allow drilling to occur in the moratorium area until the hydrogeologic study is complete.

Herman Stauffer, a resident in the moratorium area, stated that the moratorium should be retained and his hope that BBC's application will be denied.

Dan Randolph, San Juan Citizens Alliance, expressed his concern about how the Commission will respond if BBC's application is approved and problems occur in the area.

Lisa Sumi, OGAP, stated her belief that the residents living in the moratorium area accurately described their concerns, and her belief that BBC has not presented data to show that problems will not occur if the application is approved.

Jaime Adkins, Northwest Colorado Engineer for the Commission, discussed the Staff Assessment of the Effectiveness of the Mamm Creek Notice to Operators and Recommendation dated July 11, 2005, and described the two hundred and three (203) wells drilled under the Notice in the past eleven (11) months. Mr. Adkins stated that Commission staff believes that the Notice has been one hundred percent (100%) successful in preventing the conditions and circumstances that allowed the West Divide Creek gas seep to occur. In addition, he stated that based on the success of the Notice, the Commission staff's proposed conditions, and BBC's plan of operations under the current application, Commission staff believes that drilling can safely resume in the moratorium without impact to public health, safety, welfare and the environment. Brian Macke, Director for the Commission stated that Commission staff is in favor and support of BBC's application to drill in a limited portion of the moratorium area.

All exhibits were accepted, the record was closed at 4:17 p.m., and the Commissioners began deliberation.

Commissioner Klish believes the application should be approved, and doesn't think the hydrogeologic study results will help. He does not believe the moratorium affects other operators.

Commissioner Potter does not see a reason to withhold approval of BBC's application.

Commissioner Ashby thinks the hydrogeologic study will add data and be helpful. He thinks the previous problem was due to one operator's incompetence, and believes that the situation has changed.

Assistant Attorney General Carol Harmon described the moratorium imposed as part of the enforcement matter involving EnCana Oil and Gas (USA).

Commissioner Gerhardt believes wells can be drilled safely in the application area.

Chair Mueller believes the amount of data gathered from over 200 wells is important, and he believes that Garfield County being comfortable with the application is compelling. He would like to have one rig working at a time rather than two rigs.

The Commission finds that based on the facts stated in the verified application and the testimony and exhibits presented at the hearing that limited drilling of Williams Fork Formation wells upon certain lands within the moratorium area established under the Commission's Order No. IV-276 should be allowed. In addition, the Commission finds that the Notice to All Operators Drilling Wells to the Mesaverde Group or Deeper in the Mamm Creek Field, Garfield County - Well Cementing Procedure and Reporting Requirements, effective July 23, 2004 and the recommendations proposed by the Commission staff and Board of County Commissioners of Garfield County should be complied with for all wells drilled under this order. Further, the Commission finds that the first five (5) wells should be drilled using one (1) drilling rig so that the wells can be properly evaluated to ensure that there are no problems with the drilling of the wells including uncontrolled releases of gas or adverse impacts to public health, safety, welfare and the environment. If there are no problems with these first five (5) wells, upon approval by the Director, the remaining fifteen (15) wells may be drilled using two (2) drilling rigs. If approval is denied, a hearing before the Commission should be scheduled for the next available hearing. A motion to adopt these findings and issue an order was made by Commissioner Ashby, seconded by Commissioner Potter and approved unanimously. BBC agreed to be bound by oral order of the Commission.

Joel Fox of EnCana made a presentation on Hydraulic Fracturing in Mamm Creek. The theory of fracture and data that has been collected was discussed.

Tony Gorody, consultant for EnCana made a presentation on water well issues in Mamm Creek.

During the EnCana presentations, the Commissioners went into Executive Session to discuss the BDS matter.

The hearing adjourned at 5:50 p.m.

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The Secretary was therefore authorized to issue the following orders:

Order No. 510-15, Grand Valley Field, Garfield County: Approves the request for an order to allow wells to be drilled the equivalent of one well per 10 acres with the permitted well to be located no closer than 100 feet from the outside boundary for certain lands in Township 6 South, Range 97 West, 6<sup>th</sup> P.M., and no closer than 200 feet from that portion of the boundary which abuts, or corners the land in respect of which 10 acre density has not been approved, for the production of gas and associated hydrocarbons from the Williams Fork Formation.

Order No. 139-48, Rulison Field, Garfield County: Approves the request for an order to increase the number of wells to the equivalent of one well per 20 acres, or thirty-two wells for each 640-acre drilling and spacing unit consisting of Sections 20, 21, 28, & 29, Township 7 South, Range 95 West, 6<sup>th</sup> P.M., with the permitted well to be located no closer than 200 feet from the boundaries of the unit and no closer than 400 feet from any existing Williams Fork or Iles Formation well, for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Order No. 139-49, Rulison Field, Garfield County: Approves the request for pooling the working interest of Piceance Royalty Partnership in the 320-acre drilling and spacing unit consisting of the S½ of Section 13, Township 6 South, Range 94 West, 6<sup>th</sup> P.M., for the development and operation of the Williams Fork Formation.

Order No. 191-12, Mam Creek Field, Garfield County: Approves the request allowing limited drilling within the Moratorium Area established in Order No. IV-276 for certain sections in Township 6 South, Ranges 91 and 92 West, 6<sup>th</sup> P.M., for the production of gas and associated hydrocarbons from the Williams Fork Formation.

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Patricia C. Beaver, Secretary

Approved:

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Peter M. Mueller, Chair