

## RECORD OF PROCEEDINGS

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March 31, 2008

April 1, 2008

The Oil and Gas Conservation Commission met on March 31, 2008 and April 1, 2008 at 9:00 a.m. in Suite 801, The Chancery Building, 1120 Lincoln Street, Denver Colorado, for a hearing in Cause Nos. 1R, 1 (2 matters), 139 (5 matters), and 474.

Those present were:

Harris Sherman	Chair
Joshua Epel	Vice Chair
Rich Alward	Commissioner
Tom Compton	Commissioner
Mark Cutright	Commissioner
Michael Dowling	Commissioner
Kim Gerhardt	Commissioner
Trési Houpt	Commissioner
Jim Martin	Commissioner
Kelly Rees	Assistant Attorney General
David Neslin	Acting Director
Tricia Beaver	Hearings Manager

Staff Report: Hearings Manager Beaver stated that 1,492 APDs were approved as of March 24, 2008, which at this rate would result in an approximately 2% increase over the number of APDs issued last year, with the majority of APDs located in Garfield County (565 APDs for 38% of total) and Weld County (383 for 26%).

Northwest Colorado: The next meeting of the Northwest Colorado Oil and Gas Forum is scheduled for June 5, 2008, at the Garfield County Fairgrounds in Rifle, CO.

The Starbuck #1 Well is located in the NW¼ NW¼ of Section 25, Township 7 South, Range 92 West, 6<sup>th</sup> P.M., Garfield County, Colorado, and was drilled in 1959 to a total depth of 5,710 feet. The well was originally plugged and abandoned by the operator on October 21, 1967. The well was plugged improperly and was found to be leaking water and gas containing measurable amounts of petroleum hydrocarbons. The Commission approved Emergency Order No. 1E-7 to re-enter, plug and abandon the Starbuck #1 Well on July 23, 2007. The estimated cost to perform the work was \$200,000. COGCC staff supervised the re-entry, plugging and abandonment of the well, and retained APlus Well Services (A-Plus) to perform the work. The Starbuck #1 Well is no longer leaking. The invoiced cost for plugging and abandonment is \$176,009.33. Some additional surface reclamation will be performed with an estimated cost of \$5,000.

Dave Neslin, Jaime Adkins, and Chris Canfield, along with representatives from the CDPHE and CDOW, met with operators in Rifle on March 6, 2008, regarding issues (primarily management of water from melting snow) associated with pits located in steep terrain. A second meeting (also involving staff from the COGCC, CDPHE, and CDOW, as well as the operators) took place in Parachute on March 13, 2008. Prior to the second meeting, the operators prepared an inventory of pits in the subject area and recommendations for mitigating potential problems this spring.

EnCana recently submitted a remediation update (February 14, 2008) for Mamm Creek Gas Field – West Divide Creek Gas, which summarizes actions and results through December 2007. The low-flow air sparge system designed to remediate the shallow ground water contamination continues to successfully operate. The aerial extent of shallow ground water impact by benzene decreased from 134,974 square feet in June 2005 (initiation of the remediation system) to 79,473 square feet in December 2007, a reduction of 55,501 square feet. Additionally, the concentrations of benzene,

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ethylbenzene, and total xylenes ("BTEX") and thermogenic methane gas continue to decrease along with the overall aerial extent of these compounds. BTEX compounds have not been detected in any West Divide Creek surface water samples since April 2005.

The Garfield County Phase II Hydrogeologic Characterization Project is being conducted for Garfield County by S.S. Papadopoulos & Associates. Evaluation of both Task 1 and Task 2 water quality data began in February 2008. A draft report is being prepared and is expected to be ready for review by the County in April 2008. A water quality results guideline pamphlet is being also prepared for distribution with the final report.

Project Rulison was a 1969 underground nuclear blast conducted by the Atomic Energy Commission, the predecessor to the Department of Energy ("DOE"), to investigate the use of nuclear explosives to stimulate gas production in Garfield County southeast of Parachute. During January and February, Acting Director Neslin approved 20 APDs in the Project Rulison Area. Twenty-five APDs have been submitted since January 28, 2008, and are undergoing review. On February 22, 2008 and March 12, 2008, Luke Danielson, Esq. filed written complaints to pending APDs which were forwarded to the Acting Director to be considered in due course. On March 12, 2008, Steve Lindblom, Chris Canfield, and Jaime Adkins of the COGCC participated in a meeting with representatives of the CDPHE, DOE, and BLM. The DOE is developing a plan for radionuclide monitoring in the vicinity of the Rulison site and is actively gathering data to update the numerical fate and transport model originally presented at the October 2007 informational session.

Project Rio Blanco was the second and final underground nuclear blast conducted by the Atomic Energy Commission to investigate the use of nuclear explosives to stimulate gas production Colorado. The target formations for this test were the Mesa Verde and Fort Union Formations in Rio Blanco County, approximately 52 miles northeast of Grand Junction. In February 2008, Acting Director Neslin and Chris Canfield met with operators to begin initial discussions regarding future development in the area. In addition, potential monitoring requirements for activities near the Rio Blanco site were briefly discussed by COGCC, DOE, CDPHE and BLM at the March 12, 2008, meeting.

Chris Canfield is participating in the review of a draft conservation plan for the Piceance-Parachute-Roan Greater Sage-grouse population prepared by the local working group.

The alluvial aquifer underlying the Plateau Creek drainage area, located in Mesa County, provides a significant ground water resource with principal uses of the water including irrigation, private domestic supply, and public supply. A Scope of Work ("SOW") is being prepared for this work.

Southwest Colorado: Regarding the ongoing investigation, reclamation, and mitigation of residual methane in the vicinity of the Bryce 1-X Well area, Bondad, Colorado, a soil gas survey was conducted by LT Environmental ("LTE") in mid-January 2008 using the same grid as previous soil gas surveys. LTE reported verbally to the COGCC that methane was not detected in the shallow soils, which is consistent with the two previous soil gas surveys. The final written report is available on the COGCC website Library, San Juan Basin, Bondad, Colorado Reports. Additional soil gas surveys will continue in 2008 to verify the lack of methane in the shallow soils. Groundwater sampling of vicinity water wells conducted in December 2007 indicated decreases in methane in all but the South well, although methane concentrations remain elevated in all wells. The next round of groundwater sampling from vicinity water wells is scheduled for May or June 2008.

On March 13, 2008, a Gas and Oil Regulatory Team ("GORT") meeting was held in Durango. Approximately 50 people attended the meeting, including Commissioner Tom Compton. The next GORT/Southwest Colorado Oil and Gas Stakeholders meeting will be on June 5, 2008, from 8:30 a.m. to noon in the La Plata Room at the La Plata County Fairgrounds.

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Debbie Baldwin, Karen Spray, and Steve Lindblom continue to work with La Plata County Energy Council, La Plata and Archuleta County, and USFS/US BLM personnel to gain detailed description of work being done and develop work plans for the gas seep monitoring and mitigation projects in La Plata and Archuleta Counties. A Request For Proposal (“RFP”) for the gas seep mitigation project in La Plata County is currently open for bid and the mandatory site walk was conducted on March 13, 2008. Bids are due on April 11, 2008, with an anticipated contract award date no later than June 1, 2008. COGCC staff is developing the Scope of Work for the Archuleta County Fruitland Formation monitoring well project and the La Plata County Fruitland Formation additional monitoring well project.

Northeast Colorado: The COGCC will be performing a baseline water quality study in the Upper Crow Creek Designated Ground Water Basin in northern Weld County. This information will result in a more comprehensive baseline database that COGCC staff will use as a tool in responding to landowners who allege impacts to water wells from oil and gas activities in the basin. The data will also help determine if revised regulatory requirements are warranted regarding the use of unlined earthen pits in this area. A Scope of Work is currently being prepared for this study.

Southeast Colorado: COGCC engineering and environmental staff met with a drilling rig contractor at the City of Trinidad MGP #1 well site on March 13, 2008 to discuss procedures for plugging the well. COGCC engineering staff is developing a scope of work and cost estimate for the plugging operation and it will be used to support a request for an Emergency Order requesting that the Commission approve the expenditure of funds from the Emergency Response line item that are necessary to plug and abandon the well and reclaim the site.

Norwest Applied Hydrology (“NAH”), on behalf of Petroglyph Energy Inc. (“PEI”), continues screening water wells in Huerfano County where domestic water wells have been impacted by thermogenic methane. The Phase I monitoring well was completed on February 14, 2008, and the aquifer testing completed on February 26, 2008. PEI started drilling the remediation wells on March 17, 2008 and anticipates completing the work within 6 to 8 weeks. PEI continues to supply water to 10 homes and has recently worked out a mitigation plan for the residents affected by Seep #643. Currently, 14 homeowners have asked for and received methane detectors for their houses and the program to upgrade these monitors is ongoing. PEI has conducted a number of ground surveys using a hand held methane detector in areas where methane has previously been detected, where a property owner has requested it. During the first half of March 2008 hand held surveys were conducted at 14 locations. PEI is developing a Monitoring and Response Plan that will be submitted to the COGCC on April 7, 2008. It will outline steps to be taken in the event monitoring indicates a change in methane gas levels at any monitored location or if gas is detected at a new location and will also include local emergency response procedures. Peter Gintautas provided an update on the Phase I investigation and ongoing monitoring mitigation activities to the Huerfano County Commission meeting in Walsenburg on March 5, 2008. Another update is scheduled for 10:05 a.m. at the May 15, 2008, Huerfano County Commission Hearing. PEI continues to supply data and update the COGCC staff as required. On March 4, 2008, PEI submitted a data report that included water well screening, gas flow measurements, and fluid level data. On March 17, 2008, PEI provided a report of the data that included an evaluation and analysis of collected data. The monitoring data and the March 14, 2008 report are available for download from the COGCC website library.

Staff Organization: COGCC staff welcomed a new Northwest Area Inspector on board with the hiring of Gary Helgeland on February 28, 2008. He will be living in Battlement Mesa and will provide the Commission with a presence in the community, along with rapid complaint response time.

The Hearings Unit is pleased to welcome Rob Willis as a Hearings Officer. This new position was approved by the legislature in 2007.

The COGCC is pleased to announce that former temporary worker Christine Brookshire has accepted a staff member position in the Public Room.

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Planning/Administration: The deadline for submittals for the COGCC 2007 Outstanding Operations Awards is May 1, 2008. COGCC would like to encourage all parties to begin submitting nominations for the COGCC 2007 Outstanding Operations Awards, which will be presented in the summer of 2008. These nominations should be for oil and gas operations that occurred during calendar year 2007.

COGCC staff received a letter from the U.S. Fish and Wildlife Service ("USFWS") dated August 16, 2007, which documented USFWS's observations during a flyover and subsequent inspections on August 13, 2007, at several oil and gas facilities located in Washington County. USFWS's letter cited 4 locations with significant pit problems. These locations were inspected by COGCC staff on August 24, 2007. Each of the 4 locations had violations related to oil on pits, insufficient berms, and/or covers (netting) in disrepair. Notices of Alleged Violation (NOAVs) were issued for all 4 locations. The operators have since performed required corrective measures, and the NOAVs were resolved for these locations. On September 7, 2007, COGCC field inspectors commenced widespread inspections to address pit violations and any other violations observed during inspections at locations with pits. From September 7, 2007, through March 17, 2008 (not including the original 4 NOAVs referenced above), NOAVs related to pit violations have been issued for locations in Adams County (24), Arapahoe County (7), Elbert County (2), Larimer County (16), Logan County (6), Morgan County (2), Washington County (30), and Weld County (2), for a total of 89 NOAVs. Corrective action is complete and has been verified in the field by COGCC staff for 45 of the 89 NOAVs.

At the Department of Natural Resources' figure setting hearing on February 7, 2008, the Joint Budget Committee ("JBC") approved, with modifications, the COGCC's FY 2008-09 budget request, which included 21 new full-time employees, additional lease space, and 5 contractors. The new positions were approved at the State's "range-minimum" salary levels. The COGCC's request for more competitive, above-range-minimum salaries for new positions requiring an engineering, geological, or environmental background was denied by the JBC.

COGCC and DNR-EDO staff continue to meet with representatives of the Division of Wildlife ("DOW") and with representatives of the different divisions of the Colorado Department of Public Health and Environment ("CDPHE") to develop our strategy for implementing requirements of HB 07-1298 and HB 07-1341. Preparation of the draft rules commenced at the conclusion of these meetings, and the draft rules will be released today and noticed for hearing with the Secretary of State's office. A briefing on the proposed rules will be presented later today during the hearing. The first prehearing conference on the rulemaking process will be held on May 15, 2008.

S.S. Papadopoulos & Associates, Inc. is continuing their work with the Colorado Geological Survey ("CGS") on the Coalbed Methane Stream Depletion Assessment Studies for the Raton and Piceance Basins. Draft reports for both basins are available on the Colorado Geological Survey website.

COGCC has received to date a total of 98 requests for onsite inspections. Twenty-one onsite inspections have been conducted, 52 requests for inspections have been withdrawn, and 25 onsite inspections are pending and will be scheduled, if necessary.

The database cleanup project updated almost 35,000 historic well records before funding was exhausted. There remain fewer than 25,500 well records left to be updated. Additional funding was approved and a new one-year project started July 1, 2007. As of the end of February, approximately 5,000 well records have been updated.

A preliminary docket for the May 2008 hearing has been provided.

There have been no new variances granted since the February 25, 2008 Staff Report.

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There was no report from the Assistant Attorney General.

David Dillon, COGCC Engineering Manager, presented an update on the Fort Morgan Gas Storage Field, wherein he stated that monitoring bradenhead pressure is the best way to monitor wellbore integrity.

Chris Canfield and Jaime Adkins gave a joint update on spills, response, mitigation, and prevention plans at Garden Gulch. It was reported that reviews of 161 locations with pits have been conducted, and that only 3 were of concern. Their presentation was posted to the COGCC website.

Commission Comments: Chair Sherman congratulated Commissioners on their recent confirmation by the State Senate. He and Acting Director Neslin met with legislators prior to convening today's hearing to discuss the new rules and regulations. Commissioner Alward met with Bill Barrett Corporation ("BBC") representatives about rulemaking and gave a presentation to the Mesa County Bar Association. Commissioner Gerhardt met with Duane Zavadil of BBC to view a powerpoint presentation. Commissioner Dowling commended staff's work and the presentation at February's hearing regarding the Trinidad Well #1 and the Responsible Party issue.

Audience Comments: There were none.

Consent Agenda: A motion was made by Commissioner Martin to approve all consent agenda matters, seconded by Commissioner Dowling, and approved unanimously. The following matters were approved:

Cause No. 139, Docket No. 0802-AW-03, Garfield County, request for an order to allow 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 7 South, Range 94 West, 6<sup>th</sup> P.M., for the production of gas and associated hydrocarbons from the Williams Fork Formation.

Cause No. 139, Docket No. 0803-AW-09, Garfield County, request for an order to allow the equivalent of one well per 10 acres, with the permitted well to be located no closer than 100 feet from the lease line for the W $\frac{1}{2}$  SW $\frac{1}{4}$  of Section 32, Township 7 South, Range 93 West, 6<sup>th</sup> P.M., for production from the Williams Fork and Iles Formations.

Cause No. 139, Docket No. 0803-SP-04, Garfield County, request for an order to establish an approximate 657-acre drilling and spacing unit and to allow one well per 10 acres, with the permitted well to be located no closer than 100 feet from the lease line for certain lands in Section 5, Township 8 South, Range 93 West, 6<sup>th</sup> P.M., for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Cause No. 139, Docket No. 0803-SP-05, Garfield County, request for an order to establish an approximate 185-acre drilling and spacing unit and to allow one well per 10 acres, with the permitted well to be located no closer than 100 feet from the lease line for certain lands in Section 6, Township 8 South, Range 93 West, 6<sup>th</sup> P.M., for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Cause No. 139, Docket No. 0803-SP-06, Garfield County, request for an order to establish an approximate 440-acre drilling and spacing unit and to allow one well per 10 acres, with the permitted well to be located no closer than 100 feet from the lease line for the S $\frac{1}{2}$ , S $\frac{1}{2}$  NE $\frac{1}{4}$ , SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 8, Township 7 South, Range 94 West, 6<sup>th</sup> P.M., for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Cause No. 474, Docket No. 0803-SP-07, Moffat County, request for an order to vacate certain drilling and spacing units and establish a 320-acre drilling and spacing unit and to allow an

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optional additional well, with a bottomhole location no closer than 660 feet to any outer boundary for the SE $\frac{1}{4}$  of Section 8 and the SW $\frac{1}{4}$  of Section 9, Township 6 North, Range 91 West, 6<sup>th</sup> P.M., for the production of gas and associated hydrocarbons from the Niobrara Formation.

The following matters have been continued as indicated:

Cause No. 1, Docket No. 0705-AW-11, request for an order to vacate Order No. 1-41, which established a high density area for the N $\frac{1}{2}$  of Section 8, Township 1 North, Range 68 West, 6<sup>th</sup> P.M. and place the lands under the provisions of the Rules and Regulations of the Commission and applicable orders in Cause Nos. 232, 407, 493, 496 and 499, for the production of gas and associated hydrocarbons from the Cretaceous Age Formations. In the alternative, the applicant is seeking an exception to the location requirements set out in Order No. 1-41, as provided in Rule 603.e.(6), or as requested in the amended application, a variance under Rule 502.b. to the permitted location set out in Order No. 1-41, was continued to the June hearing.

Cause No. 510, Docket No. 0803-AW-08, request for an order to allow the equivalent of one well per 10 acres, with the permitted well to be located no closer than 100 feet from the lease line for certain lands in Townships 6 and 7, Range 97 West, 6<sup>th</sup> P.M., for the production of gas and associated hydrocarbons from the Williams Fork Formation, was continued to the June hearing.

Cause No. 139, Docket No. 0803-AW-10, request for an order to allow the equivalent of one well per 10 acres, with the permitted well to be located no closer than 100 feet from the lease line for certain lands in Townships 7 and 8 South, Range 93 West, 6<sup>th</sup> P.M., for the production of gas and associated hydrocarbons from the Williams Fork Formation, was continued to the May hearing.

A hearing was held in Cause No. 1, Docket No. 0803-GA-02, on the proposed Lake 31-43 Well located in the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 31, Township 6 North, Range 66 West, 6<sup>th</sup> P.M., or in the alternative for an order designating the entire site of the Poudre Learning Center as both a High Density Area and a Designated Outside Activity Area. Applicant, City of Greeley ("Greeley"), by and through Jeffrey Parins, Deputy City Attorney, argues that the entire 65-acre area of Poudre Learning Center ("PLC") should be designated as an Outside Activity Area due to its community use as an educational facility, and, as such, this property is so unique to its purpose that no wells should be drilled there.

Protestant, Orr Energy, LLC ("Orr"), by and through its attorney, Michael Morgan, argues that the proposed well should be permitted, and that the area should not be designated as either a High Density Area or an Outside Activity Area. Orr argues that until 5-7 years ago, the well site was a former gravel pit with overburden piled up on it, and that Greeley had discussions with Orr as to how and where well would be drilled and how to access the well site.

Rebecca Safarik, Community Director for Greeley, testified and described how the property came to its present surface use. Further, she testified that the recorded deed to Greeley contains a reverter that states the property must be used in accordance with the PLC Master Plan. On cross examination, Ms. Safarik stated that Greeley would not object to the well being located just south of PLC property at or near existing well and tank battery operated by Orr.

Ray Tschillard, Director of PLC, testified that the site is used extensively as an educational resource by all schools in District 6, and that from 2005-2007, the property was reclaimed by removal of 700,000 cubic yards of overburden from its use as a gravel pit.

Theodore Pagano, a licensed P.E. with 12 years of oil and gas experience, provided expert testimony which showed that, with \$100,000 incremental costs to directionally drill well outside of LPC property, the well would still be a profitable venture for Orr.

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Laura Gosnell, school representative from District 6, testified that the district will be forced to take a hard and long look at continuing to use the PLC should the well be permitted on the property.

Ed Orr, President of Orr Energy, LCC, testified concerning his series of discussions with Greeley about drilling on the site. He stated that he would directionally drill the well if Greeley would pay the incremental cost of the operation.

Closing statements were made by Mr. Parins and Mr. Morgan, and deliberations began. Following deliberation, Commissioner Martin made a motion to continue the hearing until May to allow the parties to discuss settlement, seconded by Commissioner Houpt and approved unanimously.

Comments regarding the Rulemaking Process: Acting Director Neslin stated that he and Executive Director Sherman met with 25-30 legislators this morning and also had a 45 minute phone conference with stakeholders at 10:00 a.m. to discuss today's release of the proposed rules. Further, he stated that a press conference occurred this afternoon wherein materials that had been prepared were presented. The rules have been filed with the Secretary of State's Office and the Department of Regulatory Affairs ("DORA") and posted on the COGCC website.

Cheryl Linden, Deputy Attorney General, described the first prehearing order including timeframes, and mentioned that second prehearing order that will outline the order of presentation.

Executive Director Sherman stated he believes it would be better to hold a western slope meeting in conjunction with the June hearing or near the week of June 23, 2008 rulemaking hearing.

Ken Wonstolen, attorney with Fulbright and Jaworski, provided a written document on procedure and questioned whether COGCC staff would be subject to cross examination. Chair Sherman stated that he doesn't expect that DOW and CDPHE staff can be part of COGCC presentation, but that those agencies could seek party status. Mr. Wonstolen passed out selected APA provisions that deal with cost benefit analysis as requested by DORA and the ability for a party to request a regulatory analysis would suggest that regulatory analysis should be done by May 9, 2008, and believes that an initial status conference prior to May 15, 2008 would be helpful (perhaps April 30, 2008 or May 1, 2008.) He raised concerns over compartmentalizing the 21 sections of the rules, and suggested that a court reporter make record of the proceedings.

Sue Jarrett, landowner in Yuma County, stated that she has not been able to lease her land due to the uncertainty of the proposed rules.

The hearing adjourned at 3:40 p.m. and resumed at 9:04 a.m. on April 1, 2008 in Suite 801, the Chancery Building, 1120 Lincoln Street, Denver, Colorado, to address further matters contained on the hearing docket.

A hearing was held in Cause No. 1R, Docket No. 0803-RM-01, on the request to amend Rules 328. and 329. concerning the measurement of oil and gas.

Vice Chair Epel disclosed that J.M. McPherson, who has been an active participant in this stakeholder process, is a colleague of his at DCP Midstream.

Commissioner Cutright disclosed that his company was involved in the Brophy lawsuit (Westerman v. Brophy).

David Dillon, COGCC Engineering Manager, presented the background of the proposed rules and a revised rule proposal.

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Acting Director Neslin stated he would like to convene a stakeholder group meeting in August or September, 2008, and possibly have Commissioners Compton and Cutright participate in them, to draft new language for the sales reconciliation issue.

Audience Comments on Proposed Rule: J.R. McPherson and Ken Wonstolen stated that they believe the statute is being complied with by the proposed rules.

Neil Ray, who represents families who are royalty owners in Garfield and Mesa Counties, stated that royalty owners have difficulty resolving production from mixed formations well completions, and that his clients have concerns over gas meter calibration and the maintenance of the meters.

Chuck Carpenter, attorney who currently represents landowners, stated that the proposed rules are better than those currently in existence, and that he is disappointed that stakeholder discussions should be delayed. Further, he stated that corrections to oil and gas measurements are typically not reported to COGCC.

Mary Lou Brophy, royalty owner, provided a handout to Commission and described her concerns with accurate measurement and reporting to the COGCC and to royalty owners.

Diane Hays, royalty owner, asked about whether reports could be sent directly to the COGCC rather than going to the gas companies first. She is hoping that there will be standardized reporting under the new rules.

Motion by Vice Chair Epel to continue the rule adoption until a future hearing, seconded by Commissioner Houpt. Upon further discussion, Vice Chair Epel and Commissioner Houpt withdrew their motion and second until COGCC staff prepares a revised draft.

A hearing was held in Cause No. 1, Docket No. 0803-GA-03, on the request for a variance under Rule 502.b. for a one year extension to commence drilling operations for the Baca Wells #5 and #6, located in Sections 28 and 33, Township 43 North, Range 11 East, N.M.P.M., for the production of gas and associated hydrocarbons from the Dakota Formation.

Applicant, Lexam Explorations (U.S.A.), Inc. ("Lexam"), appeared by and through its attorney, David Bailey, stating that Lexam has demonstrated good faith efforts to commence operations, and that based on its efforts a one-year extension on the Permits-to-Drill is warranted.

Protestant, Saguache County Board of County Commissioners ("Saguache County"), appeared by and through Benjamin Gibbons, Saguache County Attorney, and submitted its opening statement, wherein it argued that to extend the Permits-to-Drill would violate the Oil and Gas Act, in that, granting the extensions would adversely impact public health, safety and welfare and the environment.

Ian Ball, Vice President of Corporate Development for Lexam, testified and gave a detailed history of the mineral lease and described the scientific data possessed by Lexam which justifies the belief that hydrocarbons exist under the lands. Further, he described Lexam's relationship with Saguache County regarding its preparation of a drilling plan and how the plan contains provisions to minimally impact the environment (e.g., disposal of cuttings, water transportation and traffic.) He described Lexam's collegial relationship with United States Fish and Wildlife Service and that Lexam has conducted additional surveys on the lands, to include, cultural, environmental and water sampling. Lastly, he described the litigation brought by San Luis Valley Ecosystem Council, presently pending, which resulted in the parties stipulating to defer litigation to allow an Environmental Assessment ("EA") to be conducted.

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Jack Clark, Environmental and Land Consultant for Lexam, testified and described his involvement with Saguache County. He stated that the well sites are not located on wetlands, and that Lexam has hired an air consultant to advise on visibility and air quality (ultra low sulphur fuel is to be used while drilling) and that noise impact is being addressed. His opinion is that he believes the cumulative impact on the environment will be low, and that Lexam has no intention of placing the wells on production until additional work under NEPA is conducted. Concerns were raised on cross-examination over emergency planning, to which Mr. Clark replied that the drilling contractor would be capable of handling an emergency matter such as containment of spills.

Saguache County presented testimony from Sam Pace, Saguache County Commissioner, in which he stated that the Permits-to-Drill do not adequately protect public health, safety and welfare and the environment given the change in circumstances since the permits were issued in April, 2007.

Linda Joseph, Saguache County Commissioner, testified on her concerns about issues surrounding impact to public health, safety and welfare and the environment and Lexam's provisions for emergency response.

Ron Garcia, Wildlife Manager for the Baca National Wildlife Refuge, provided an update on the EA process and stating that the NEPA process gives reasonable regard for the surface and will address only the exploration and drilling planned by Lexam. He stated that, if Lexam were to move forward with production from the wells, another NEPA process would take place.

Closing statements were made by Mr. Bailey and Mr. Gibbons, and deliberations began. Following deliberation, Commissioner Compton made a motion to approve the request to grant a variance to extend the Permits-to-Drill for one year with the following amendments: (1) to limit Permits-to-Drill to drilling and completion, and (2) that any conditions related to protection of public health, safety, welfare and the environment that are developed as result of the EA conducted under NEPA and that are under the jurisdiction of the COGCC shall be applied to the drilling and completion operations of the wells, seconded by Commissioner Dowling and approved unanimously.

Comments regarding the Rulemaking Process: AAG Rees described changes to the First Prehearing Order made in response to questions and concerns previously made on the first day of the hearing.

Acting Director Neslin suggested that the June hearings be held in Garfield and Weld Counties and allow one-half day of public comment and one-half day of regular hearings at both locations as needed.

A motion was made by Commissioner Martin to adopt First Prehearing Order with amendment to hold the June hearing in Garfield County with one day of public comments on the proposed rules and the second day on the docketed matters, seconded by Vice Chair Epel and approved unanimously.

Resumption of Cause No. 1R, Docket No. 0803-RM-01: Request to amend Rules 328. and 329. concerning the measurement of oil and gas.

David Dillon, COGCC Engineering Manager, described the changes made in response to this morning's questions and comments on the proposed rules.

A motion by Commissioner Dowling to approve the revised rules, seconded by Commissioner Compton and approved unanimously.

A motion was made by Commissioner Houpt to specify a schedule to define sales reconciliation and including lease allocation to start in August 2008 with stakeholder workgroups with intent to provide rules by the end of September 2008 with rulemaking in October 2008, and seconded by Vice Chair

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Epel. Comment was made by Chuck Carpenter regarding the need to get this issue before the COGCC. Vice Chair Epel withdrew his second.

A motion was made by Chair Sherman to set up a commencement date for stakeholder group with monthly reports to COGCC at its hearings, seconded by Commissioner Alward and approved unanimously.

A motion was made by Martin to approve the February minutes, seconded by Commissioner Compton and approved unanimously.

The hearing adjourned at 4:30 p.m.

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The Secretary was therefore authorized to issue the following orders:

Order No. 139-85, Rulison Field, Garfield County: Approves the request for an order to allow 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 7 South, Range 94 West, 6<sup>th</sup> P.M., for the production of gas and associated hydrocarbons from the Williams Fork Formation.

Order No. 139-86, Rulison Field, Garfield County: Approves the request for an order to allow the equivalent of one well per 10 acres, with the permitted well to be located no closer than 100 feet from the lease line for the W $\frac{1}{2}$  SW $\frac{1}{4}$  of Section 32, Township 7 South, Range 93 West, 6<sup>th</sup> P.M., for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Order No. 139-87, Rulison Field, Garfield County: Approves the request for an order to establish an approximate 657-acre drilling and spacing unit and to allow one well per 10 acres, with the permitted well to be located no closer than 100 feet from the lease line for certain lands in Section 5, Township 8 South, Range 93 West, 6<sup>th</sup> P.M., for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Order No. 139-88, Rulison Field, Garfield County: Approves the request for an order to establish an approximate 185-acre drilling and spacing unit and to allow one well per 10 acres, with the permitted well to be located no closer than 100 feet from the lease line for certain lands in Section 6, Township 8 South, Range 93 West, 6<sup>th</sup> P.M., for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Order No. 139-89, Rulison Field, Garfield County: Approves the request for an order to establish an approximate 440-acre drilling and spacing unit and to allow one well per 10 acres, with the permitted well to be located no closer than 100 feet from the lease line for the S $\frac{1}{2}$ , S $\frac{1}{2}$  NE $\frac{1}{4}$ , SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 8, Township 7 South, Range 94 West, 6<sup>th</sup> P.M., for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Order No. 474-4, Craig Field, Moffat County: Approves the request for an order to vacate certain drilling and spacing units and establish a 320-acre drilling and spacing unit and to allow an optional additional well, with a bottomhole location no closer than 660 feet to any outer boundary for the SE $\frac{1}{4}$  of Section 8 and the SW $\frac{1}{4}$  of Section 9, Township 6 North, Range 91 West, 6<sup>th</sup> P.M., for the production of gas and associated hydrocarbons from the Niobrara Formation.

Order No. 1-126, Saguache County: Approves the request for a variance under Rule 502.b. for a one year extension to commence drilling operations for the Baca Wells #5 and #6, located in Sections 28 and 33, Township 43 North, Range 11 East, N.M.P.M., for the production of gas and associated hydrocarbons from the Dakota Formation, on the condition that: (1) the

## RECORD OF PROCEEDINGS

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associated Permits-to-Drill are extended for drilling and completion operations and that permission shall be obtained from the Acting Director prior to commencing production operations, and (2) any conditions related to protection of public health, safety, welfare and the environment that are developed as result of the Environmental Assessment conducted under the federal NEPA process and that are under the jurisdiction of the COGCC shall be applied to the drilling and completion operations of the wells.

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Patricia C. Beaver, Secretary

Approved:

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Harris Sherman, Chair