

RECORD OF PROCEEDINGS

February 23, 2009

The Oil and Gas Conservation Commission met on February 23, 2009 at 9:00 a.m. in Suite 801 of The Chancery Building, 1120 Lincoln Street, Denver, Colorado, for a hearing in Cause Nos. 112, 139, 191, 510 and 523, 449, and 474 (3 matters).

Those present were:

Harris Sherman	Chair
Joshua Epel	Vice Chair
Richard Alward	Commissioner
Tom Compton	Commissioner
Mark Cutright	Commissioner
Michael Dowling	Commissioner
Trési Houpt	Commissioner
Jim Martin	Commissioner
Kelly Rees	Assistant Attorney General
David Neslin	Acting Director
Rob Willis	Acting Hearings Manager

A motion was made by Commissioner Martin to approve the January 2009 minutes, seconded by Commissioner Compton, and unanimously approved. Commissioner Alward recused himself from the vote due to his absence from the January 2009 hearing.

Report from the Executive Director. The Joint Budget Committee has required that some in-house positions which were approved for full-time employees under 2009-2010 budget year will now be filled by contract employees.

The process to appoint the Director of the COGCC is moving forward. The Executive Director requested that the members of the Commission assist in interviewing the top three applications at a future Commission hearing.

The Governor's Office is in the process of appointing a successor Commissioner to replace former Commissioner Gerhardt.

The State of Colorado is working with the State of Wyoming on a joint proposal with El Paso Natural Gas to build a pipeline from the Wyoming/Colorado areas of natural gas production to markets in the Pacific Northwest with a projected completion date in 2012.

Staff Report. Acting Director stated that 866 APDs were approved as of February 16, 2009, which represents a 5-10% decrease under the number of APDs approved last year at that time, with the majority of APDs located in Garfield County (278 APDs for 31% of total) and Weld County (252 for 28%).

In January, the Interim Policy for APDs went into effect, which required operators to identify as to whether the site of their proposed activity is located in drinking water protection area, sensitive wildlife habitat area, restricted surface occupancy area, and/or a riparian area under the new rules. From January 5, 2009 through February 17, 2009, a total of 454 permits were received with 64% of that number outside of any designated area which would require additional environmental/wildlife review. During that same period of time, 12 permits applications were received in which the proposed locations fell under the drinking water protection area which resulted in CDPHE recommending several mitigation measures to protect public drinking water. DOW is making written recommendations to mitigate those permit applications which encroach on either sensitive wildlife habitat or restricted surface occupancy areas.

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Northwest Colorado: The next meeting of the Northwest Colorado Oil and Gas Forum is scheduled for March 5, 2009.

On June 12, 2008, COGCC staff issued a *Notice to Operators Drilling Wells within 3/4 Mile of the Rim of the Roan Plateau in Garfield County, Pit Design, Construction, and Monitoring Requirements* ("NTO"). The NTO acknowledges the continued need for the use of pits in the Area of Concern defined in the NTO and the potential problems and environmental impacts that can occur even when a closed loop or semi-closed loop system is used. Nonetheless, the NTO encourages continued infrastructure development, and the evaluation and use of alternatives to pits. The NTO includes specifications for designing, constructing, lining, operating, maintaining, monitoring, permitting, and closing pits. Because of recent releases within and outside of the Area of Concern, COGCC staff is collecting additional data and considering an expansion of the Area of Concern.

Quarterly meetings among COGCC and the Colorado Department of Public Health and Environment ("CDPHE"), the U.S. Department of Energy ("DOE"), and the Bureau of Land Management ("BLM") are conducted to review oil and gas activities in the area and to discuss the results of monitoring by industry and the DOE. The last meeting was held on December 3, 2008.

Southwest Colorado: On behalf of the COGCC, LT Environmental ("LTE") conducted a soil gas survey and Four Corners Geoscience collected another round of ground water samples from water wells in the area on February 3, 2009. Results are pending. Methane has not been detected by any of the surveys conducted since July 2007 and methane in the groundwater continues to decline slowly with only one well exhibiting concentrations above 10 mg/L, the south well at 10.5 mg/L. The reports of ongoing activities are available on the COGCC website Library www.colorado.gov/cogcc, Library, San Juan Basin\ Bondad).

In lieu of the regularly scheduled GORT/Southwest Colorado Oil and Gas Stakeholders meeting on March 19, 2009, the COGCC will hold a one-day training session on the new rules at the La Plata County Fairgrounds beginning at 8:00 a.m.

Fruitland Formation Outcrop Mitigation and Monitoring Projects ("4M Projects"): As part of the 4M Projects, the Colorado Geological Survey (CGS) is preparing a detailed geologic map of the Fruitland Formation outcrop in Archuleta County. This work is similar to mapping done in 1999-2000 by the CGS as part of the 3M Project. The work includes mapping the surface expression of the uppermost Cretaceous units, Pictured Cliffs Sandstone, Fruitland Formation, Kirtland Shale, along the rim of the San Juan Basin in Archuleta County between the La Plata-Archuleta County line and the northern boundary of the Southern Ute Indian Reservation.

In addition to mapping geologic contacts, the study includes measurement and analysis of fractures in these formations and mapping of individual coal beds in the Fruitland Formation. When completed, the final report will be added to the Library section of the COGCC website. Formation contact data will be made available as a layer on the COGCC online GIS maps. Field work began in May 2008 and was completed in late July 2008. Compilation of data and report production are ongoing. Twenty-two measured sections were completed or compiled from previous work. In addition to CGS staff, the CGS used faculty and staff from Fort Lewis College in Durango and the University of Colorado - Denver to assist in the mapping project. A draft of the final map and report will be provided to COGCC staff for review.

The contract ending date has been extended so the CGS could continue work on the project after December 31, 2008. The revised project completion date is anticipated to be February 28, 2009. An abstract summarizing the project coauthored by Chris Carroll (CGS), Steve Lindblom (COGCC), Dr. David Gonzales (Ft. Lewis College) and Dr. Gary Gianinny (Ft. Lewis College) was submitted to the American Association for Petroleum Geologists (AAPG) for presentation at the annual meeting in

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2009.

Drilling and installation of monitoring wells for the 4M Project in Archuleta County began on September 27, 2008. Supervision of field activities and interpretation of field data were performed by a COGCC consultant with assistance from COGCC staff. The CGS was also an active participant in the drilling program.

Six monitoring wells were installed at 3 well sites located in Sections 4 and 14U, Township 34 North, Range 5 West, and in Section 30, Township 34 North, Range 4 West. Due to constraints imposed by weather and seasonal construction restrictions, site reclamation is expected to occur in the spring of 2009.

Core samples were collected from selected coal intervals and adjacent strata. Samples of coal are undergoing laboratory analysis to determine gas content, gas composition, isotopic ratios, and other parameters.

Pressure monitoring devices were installed during the week of December 1, 2008. Pressure data are being collected at 8-hour intervals and being transmitted via satellite to the InSitu, Inc. data management system in Fort Collins where COGCC staff are able to access the data over the Internet.

Both 4M Outcrop Mitigation Pilot Project locations in La Plata County are weathering the winter conditions well, although snowpack and equipment testing issues have delayed installation at the sites. The lack of 3-phase power at the South Fork Texas Creek (SFTC) site required equipment modifications which are currently being evaluated and bench tested at the suppliers Farmington, NM facility. The surface systems will be installed as soon as weather and field conditions allow and the equipment issues are resolved. Testing of the systems will proceed at that time and continue for one year.

COGCC staff are also developing a Scope of Work for the La Plata County Fruitland Formation Additional Characterization and Monitoring Project. COGCC continues to negotiate with private surface owners to obtain access for the installation of new Fruitland Formation monitoring wells in La Plata County.

3M Fruitland Formation Outcrop Monitoring Well Data Collection: __COGCC and Norwest Applied Hydrology (NAH) staff visited all of the existing La Plata County monitoring well locations on December 10, 2008, to download data from the data loggers and perform routine maintenance. The January 2009 monitoring report is available on the COGCC website www.colorado.gov/cogcc, Library, San Juan Basin, 3M Project Reports, Monitoring Well Reports).

Northern San Juan Basin Technical Advisory Group: __Steve Lindblom and Karen Spray have been participating in the Northern San Juan Basin Groundwater Model Technical Advisory Group (NSJB TAG). The NSJB TAG consists of experts in hydrogeology, groundwater modeling, geology, and water resources from industry, the Colorado Geological Survey, the COGCC, the Colorado State Engineers Office, and the Colorado School of Mines. The NJSB TAG has been meeting on a monthly basis since June 2008 to discuss technical issues related to a numerical groundwater model for the Northern San Juan Basin being developed by Norwest Applied Hydrology on behalf of several operators. The most recent meeting on January 13, 2009, included discussions regarding the extent of the model domain and the availability of data for model calibration.

Northeast Colorado: The COGCC continues to receive complaints regarding exploration and production (E&P) waste management, often associated with land application of water-based bentonitic drilling fluids. A large number of these complaints are located in Weld County. Although in many instances the land application has been performed in accordance with COGCC rules, there have also been several instances where violations were documented. As a reminder, oil and gas

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operators are allowed to use land application as a disposal method for water-based bentonitic drilling fluids in accordance with COGCC Rule 907d.(3), which outlines several requirements for proper application. Drilling fluids can only be applied as a beneficial amendment and no more than 3 inches thick prior to incorporation into native soils. The application of drilling fluids cannot result in concentrations of contaminants above the COGCC allowable levels presented in Table 910-1. Application needs to be done in a manner to prevent ponding or erosion.

In some cases drilling fluids have been applied to sloping agricultural areas where storm events caused the fluids to migrate onto adjacent properties or into waterways, which is a violation of COGCC Rules. In addition, drilling fluids should be incorporated into the native soils as soon as practicable. Operators retain responsibility for the land application of drilling fluids, even in cases where agreements between contract haulers and landowners have been made. Another common oversight in these cases is the surface owner approval requirement. Operators are required to obtain written authorization from the surface owner prior to land application. Other associated problems often include trucks tracking drilling fluids onto public roads from land application sites.

In addition to common land application violations, there are often waste generator violations associated with these complaints. In accordance with COGCC Rule 907.b.(2), generators of E&P waste are required to maintain copies of each invoice, bill or ticket and such other records as necessary to document waste transportation and disposal. Specifically, the date of transport, identity of the waste generator and transporter, location of waste pickup site, type and volume of waste, and name and location of the treatment or disposal site are required. If land application is used as a disposal method for drilling fluids, the operator must have waste generator documentation for every load of drilling fluid applied at a given location.

While land application of water-based bentonitic drilling fluids continues to be a viable disposal alternative, operators are encouraged to review the COGCC 900 Series Rules regarding E&P waste management. Operators should also be aware that the Final Amended Rules include several changes regarding E&P waste management. For example, after April 1, 2009, drilling fluids can still be applied as a beneficial soil amendment, but lining of stock ponds and irrigation ditches will no longer be allowed unless a Form 4, Sundry Notice with a Waste Management Plan, is submitted for COGCC prior approval. There is also a requirement to incorporate the drilling fluids into native soils within 10 days of application. Regarding waste transportation and disposal, documentation will need to be maintained for not less than 5 years. These are just a few examples of relevant changes.

Southeast Colorado: Methane Investigation, Monitoring and Mitigation Plan ("MIMMP"). One monitoring well, 4 recovery, and 8 injection wells have been drilled, completed and tested by Petroglyph Energy Inc. (PEI) as part of Phase 1 of the MIMMP. The pipelines for transporting the recovered fluids to the treatment area have been installed and tested. Separate pipelines that will transport recovered water from the separator area to the injection wells have also been installed. Treatment under Phase 1 consists of physically separating dissolved methane from the recovered ground water using a vertical separator. The methane will be sent to a controlled flare for combustion. The flare has been installed and is operational.

Operation of the pump, treatment, and injection system started on December 8, 2008. More than 800,000 gallons of water had been pumped to the surface and treated as of January 21, 2009. Approximately 90% of that water had been re-injected into the aquifer after treatment.

PEI has applied to the federal Bureau of Land Management (BLM) for permission to drill an exploratory well in the vicinity of the impacted water well located in Section 15, Township 29 South, Range 67 West, 6th P.M. This impacted water well is located more than one mile south of the ring of injection wells. The exploratory hole will assist in determining if gas is present, at what level the gas occurs and whether additional venting or treatment is needed at that location. A decision by BLM is anticipated to be made shortly.

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Gas flows are monitored at 4 domestic wells by PEI or its consultant and at 2 domestic wells by COGCC and its consultant. Overall gas flow has decreased in all monitored domestic wells.

During the period from December 15, 2008, to January 22, 2009, NAH and PEI screened 73 domestic water wells for the presence of methane with hand held methane detectors for changes in percent volume of methane, %LEL, and %O₂; 51 of the monitored wells showed little change from the previous month's monitoring, 6 wells showed increases in methane concentration, 16 wells showed decreases in methane concentration.

PEI is currently supplying water to 15 homes upon request of the well owner. Methane alarms have been installed in 14 homes.

The EPA is expected to issue draft permits for public comment with respect to PEI's applications to allow the injection of Vermejo Formation water produced from CBM wells in February or March, 2009. PEI is preparing applications to the Division of Water Resources to ask for changes to water sources and injection as part the process of initiating Phase II. Approval to operate some of PEI's CBM wells by the Director would also be needed to initiate Phase II.

Public Outreach Opportunities: Mark Weems and Karen Spray participated in the Rio Grande County Oil & Gas Forum that was held in Del Norte, Colorado on January 22, 2009. Staff made a presentation on COGCC's role in regulating oil and gas operations in Colorado and answered questions from attendees. Other participating agencies and organizations included the US Bureau of Land Management, Division of Water Resources, San Juan Citizens Alliance, the Development Resource Group, local municipalities, and Rio Grande County. Approximately 50 people attended the meeting.

Acting Director Dave Neslin has participated in a number of presentations on the amended rules during the past month. Chairman Sherman and Acting Director Neslin presented information on the amended rules to Club 20 on January 15, 2009, and to the Committee on Jobs Creation and Economic Growth on January 16, 2009.

Acting Director Neslin also presented information on the amended rules separately to Action 21 and the Colorado Natural Resources Group on January 21, to the Rocky Mountain Association of Environmental Professionals on January 22, and to energy law students at DU Law School on February 8, 2009.

Finally, Acting Director Neslin and Thom Kerr gave presentations on the amended rules as part of a Rocky Mountain Mineral Law Foundation Institute Special Institute on February 13, 2009, which was attended by more than 400 persons.

HB 07-1298 and HB07-1341 Rulemaking Update: The COGCC deliberated and unanimously adopted the Final Amended Rules at its hearing on December 9 through December 11, 2008. The Final Amended Rules and the Final Statement of Basis and Purpose have been posted on the COGCC website at www.colorado.gov/cogcc, under Public Announcements on the homepage.

On December 11, 2008, the COGCC also adopted an Interim Policy for applications for permits-to-drill (APDs). The policy covers APDs submitted during the interim period between January 5, 2009, and the effective date of the Final Amended Rules (*i.e.*, April 1, 2009, for non-federal lands, and May 1, 2009, for federal lands). The policy requests operators to identify whether each APD submitted during the interim period falls within one or more of the following areas: (1) drinking water protection area; (2) restricted surface occupancy area; (3) sensitive wildlife habitat area; and (4) riparian areas. The protected areas are identified on maps found on the COGCC website, and there is a tutorial for navigating the maps and plotting the location of APDs.

If an APD falls within a drinking water protection area, the COGCC staff will notify the Colorado

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Department of Public Health and Environment (CDPHE). If an APD falls within a restricted surface occupancy area, a sensitive wildlife habitat area, or a riparian area, the COGCC staff will notify the Colorado Division of Wildlife (CDOW). Each respective sister agency will have an opportunity to review the relevant APDs and provide recommended conditions of approval prior to the COGCC Director's approval of the APD.

The Interim Policy, the certificate of compliance that should be attached to each APD submitted during the interim period, and the tutorial for using the maps are found on the COGCC's website homepage: www.colorado.gov/cogcc.

COGCC staff will conduct training sessions on the Final Amended Rules at various locations around the state. Additional details will be posted on the COGCC website, www.colorado.gov/cogcc. Below is the schedule:

March 9-10, 2009 - Denver
March 11, 2009 - Trinidad
March 12, 2009 - Wray
March 13, 2009 - Greeley
March 16-17, 2009 - Grand Junction
March 19, 2009 - Durango

COGCC staff is preparing a permitting handbook, which is intended to provide a reference to help operators understand how the amended permitting requirements will work and how to comply with them. Staff expects to post the handbook on the website by around March 3, 2009.

COGCC staff has also created a frequently asked questions website page on the amended rules. This page is intended to enable the public to submit questions on the amended rules electronically. Staff will review such questions on a regular basis and post answers.

A rulemaking hearing regarding proposed amendments to several maps for the 1200 Series and 317B, Surface Water Areas, to reflect further verification of their contents and coverage will be held on April 28 and April 29, 2009, at the Sheraton Hotel in Downtown Denver.

CDPHE has hired an oil and gas services coordinator to oversee CDPHE requirement under the new rules. DOW is in the process of finalizing its coordination of their requirement to consult and present mitigation through conditions of approval recommendations in sensitive wildlife areas. Numerous operators have come forward to initiate comprehensive drilling plans for a variety of projects.

BLM has been engaged, though Bob Randall, DNR Federal Lands Coordinator, on issue of preemption of new rules on federal lands, and La Plata County has expressed interest in developing a memorandum of agreement with regards to the new rules.

A preliminary docket for the March 2009 hearing was provided.

Variances under Rule 502.b. were granted: (1) On November 7, 2008, COGCC staff approved Form 2 (Application for Permit-to-Drill) for the EnCana 11-6 (F11E) well, located in the SE¼ of the NW¼ of Section 11, Township 7 South, Range 92 West, 6th P.M. This well is located in the "East Mamm Creek Area," as defined in the *Notice to Operators Drilling Mesaverde Group or Deeper Wells in the Mamm Creek Field Area in Garfield County, Well Cementing Procedure and Reporting Requirements, dated July 23, 2004, revised February 9, 2007*. The approved surface casing setting depth of 1,000 feet exceeded the minimum requirement of 933 feet (15 percent of total depth in the East Mamm Creek Area). The proposed total measured depth for the EnCana 11-6 (F11E) well was 6,219 feet.

On December 30, 2008, EnCana Oil & Gas USA, Inc. ("EnCana") commenced running surface casing

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on the EnCana 11-6 (F11E) well. EnCana ran casing into the hole to a depth of 950 feet. EnCana continued to wash the casing down to a depth of 985 feet, where the hole packed off, and circulation was lost. Despite attempts to work the casing and pump lost circulation material, the casing could not be rotated or reciprocated.

EnCana pumped the surface casing cement job. The plug was bumped, and the float held, but cement did not circulate to surface. The cement top was verified at 880 feet on a cement bond log ("CBL"). An apparent "tight spot" was also evident on the CBL at a depth of 800 feet, which was the suspected stuck point. EnCana perforated and squeezed cement at 780 feet to 782 feet. Circulation could not be established. After squeezing cement, EnCana tagged the cement top at 697 feet.

COGCC staff checked the Colorado Division of Water Resources database for nearby water wells within one mile of EnCana's F11E well pad. COGCC staff informed EnCana that it was concerned with providing cement coverage to protect a 450-foot deep water well located approximately 3,550 feet east-northeast of the F11E well pad. Therefore, EnCana perforated at 520 feet to 522 feet. During this attempt, cement was circulated to surface. For added protection, EnCana set and cemented their intermediate casing to surface, circulating cement past the above-referenced perforations in the surface casing.

EnCana was in contact with COGCC staff throughout their surface and intermediate casing operations. On February 9, 2009, COGCC staff approved EnCana's request for a variance of COGCC Rule 317.h., which requires that all surface casing shall be cemented with a continuous column of cement from the bottom of the casing to the surface. EnCana contends that the current surface and intermediate casing and cement configuration adequately protects the environment and the requested variance does not violate the basic intent of the Oil & Gas Conservation Act.

(2) On October 24, 2008, COGCC staff approved Form 2 (Application for Permit-to-Drill) for the EnCana Federal 11-11A (F11E) well, located in the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 11, Township 7 South, Range 92 West, 6th P.M. This well is located in the "East Mamm Creek Area," as defined in the *Notice to Operators Drilling Mesaverde Group or Deeper Wells in the Mamm Creek Field Area in Garfield County, Well Cementing Procedure and Reporting Requirements, dated July 23, 2004, revised February 9, 2007*. The approved surface casing setting depth of 1,000 feet exceeded the minimum requirement of 937 feet (15 percent of total depth in the East Mamm Creek Area). The proposed total measured depth for the EnCana Federal 11-11A (F11E) well was 6,247 feet.

On January 7, 2009, EnCana Oil & Gas USA, Inc. ("EnCana") commenced running surface casing on the EnCana Federal 11-11A (F11E) well. EnCana ran casing into the hole to a depth of 976 feet. EnCana continued to wash the casing down to a depth of 1,023 feet, where the hole packed off, and circulation was lost. Despite attempts to work the casing, the casing could not be rotated or reciprocated.

EnCana pumped the surface casing cement job. The plug was bumped, the float held, and partial returns were established, but cement did not circulate to surface. The cement top was verified at 900 feet on a cement bond log ("CBL"). EnCana perforated and squeezed cement at 700 feet to 702 feet. Partial returns were established, but cement did not circulate to surface.

COGCC staff checked the Colorado Division of Water Resources database for nearby water wells within one mile of EnCana's F11E well pad. COGCC staff informed EnCana that it was concerned with providing cement coverage to protect a 450-foot deep water well located approximately 3,550 feet east-northeast of the F11E well pad. Therefore, EnCana perforated at 520 feet to 522 feet. During this attempt, cement was circulated to surface.

For added protection, EnCana intended to set and cement their intermediate casing to surface. However, during the intermediate casing primary cement job, the top of cement only made it up to a depth of 1,050 feet (slightly below the surface casing shoe). Subsequently, a water flow was

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observed up the intermediate casing/surface casing annulus. EnCana perforated the intermediate casing at 1,034 feet and squeezed cement with partial returns. The squeeze cemented the remaining open-hole interval above the primary cement top on the intermediate casing, partially filled the intermediate casing/surface casing annulus, and stopped the water flow. EnCana subsequently drilled out cement on their intermediate casing and commenced drilling their production hole.

While circulating cement on the production casing, the annular hydrostatic pressure was lowered sufficiently to induce a gas kick, which jeopardized the production casing cement bond. The gas kick pressured up the production casing/intermediate casing annulus, and pressure was also observed in the intermediate casing/surface casing annulus. The top of gas was at a depth of 3,977 feet, and the intermediate casing shoe was at a depth of 3,522 feet. EnCana perforated the production casing above the top of cement at 3,727 and squeezed cement to kill the gas kick. The flare died immediately upon pumping into the perforations, and the pressure on the production casing/intermediate casing annulus was eliminated.

EnCana perforated the production casing at 1,330 feet and circulated cement past the intermediate casing squeeze perforations at 1,034 feet with full returns to the surface. This procedure was performed to mitigate the potential for future problems with pressure in the intermediate casing/surface casing annulus, providing additional environmental protection.

This well has federal minerals jurisdiction. EnCana was in contact with COGCC staff and the Bureau of Land Management throughout their surface, intermediate, and production casing operations. On February 9, 2009, COGCC staff approved EnCana's request for a variance of COGCC Rule 317.h., which requires that all surface casing shall be cemented with a continuous column of cement from the bottom of the casing to the surface. EnCana contends that the current surface and intermediate casing and cement configuration adequately protects the environment and the requested variance does not violate the basic intent of the Oil & Gas Conservation Act.

(3) XOG Operating, LLC submitted a Sundry Notice on behalf of Xeric Oil & Gas Corporation seeking a variance to the requirements of Rule 1003., Rule 1004.a., and Rule 1004.c.(2). The requested variance is related to final reclamation for the Terrell #1 well, which is located in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 18, Township 9 South, Range 103 West, 6th P.M. Rule 1001.c. allows an operator to request a variance of the above-referenced rules when compliance with these rules is not necessary to protect the public health, safety, and welfare, including prevention of significant adverse environmental impacts.

The Terrell #1 Well was plugged and abandoned on July 10, 1997. During an April 11, 2007, field inspection, COGCC staff observed that the landowner was using the former well pad, including an associated concrete slab, to store irrigation pipe and cut wood. The area surrounding the well pad was being used as an irrigated pasture for cattle grazing. As required by Rule 1001.c., XOG submitted a July 27, 2008, agreement with the surface owners, David K. Terrell and Vera M. Terrell, indicating that they are using the location for storage, and the location is acceptable as-is.

XOG contends that the requested variance will not violate the basic intent of the Oil and Gas Conservation Act. COGCC staff approved XOG's variance request on January 14, 2009.

Update on Prather Spring Complaint. Chris Canfield, COGCC Environmental Specialist for the Northwest Area, gave a powerpoint presentation regarding updating the Commission as to the Prather springs Complaint. NAOVs have been issued to prospective responsible parties for violation of COGCC rules resulting in exploration and production waste in the Prather springs. Investigation continues by 5 operators and the COGCC to evaluate the contamination of the Prather springs and sources of that contamination from the operators' activities.

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Status on Filling New FTE Positions and Update on Joint Budget Committee Action. Wendy Schultz, COGCC Financial Manager, stated that the DNR submitted its Fiscal Year 2009-10 budget request to the General Assembly on November 1, 2008. Included in the request is a decision item for 4 additional full-time employees and 2 contractors for the COGCC's information management section. The total cost of this request, which includes one production analyst, one imaging system administrator, and 2 records technicians is \$246,154 in FY 2009-10 and \$225,242 in FY 2010-11. The source of funding is the Oil and Gas Conservation and Environmental Response Fund.

Due to the anticipated downturn in industry activity, the Joint Budget Committee voted on February 4, 2009, to reduce the COGCC's current fiscal year budget by \$800,000 and permanently eliminate the following 3 full-time positions and convert them to contract positions:

Environmental Technician
Application Programmer
Permit/Compliance Technician

Report from the Assistant Attorney General. Assistant Attorney General Rees requested that, during the course of today's hearing, the Commission move into executive session to discuss one pending court case - *Allen Oil & Gas v. COGCC, et al.*, Case No. 08CA1260, which is presently set for briefing schedule in the Colorado Court of Appeals. In addition, AAG Rees stated that a responsive pleading is being prepared (due on April 6, 2009) in *James R. Carnahan and Colleen Carnahan v. COGCC, et al.*, Case No. 09CV0614, which was filed on or around January 15, 2009 requesting declaratory judgment for alleged violations of the Oil and Gas Conservation Act and the APA.

Comments from the Commissioners. Commissioner Houpt discussed Oxy's presentation to Garfield County officials regarding NAOVs issued in Garfield County and detailed mitigation measures and reclamation measures taken to clean up those NAOVs.

Commissioner Cutright disclosed that he would not be attending the March 2009 Commission hearing.

There were no comments from the audience.

Consent Agenda. Commission Houpt requested that Cause 112, Docket No. 0812-AW-34 and Cause No.474, Docket Nos. 0902-SP-07 through 0902-SP-09 be taken off the consent agenda and considered separately. Commissioner Cutright disclosed a business relationship with Samson Resources, Inc., the applicant for in Cause No. 474, Docket Nos. 0902-SP-07 through 0902-SP-09. A motion was made by Vice Chair Epel to approve Cause No. 139, Docket No. 0812-SP-25, Cause No. 191, Docket No. 0901-SP-03, and Cause No. 449, Docket No. 0901-SP-04, seconded by Commissioner Martin, and approved unanimously. The following matters were approved:

Cause No. 139, Docket No. 0812-SP-25, Garfield County, request for an order to vacate the 320-acre drilling and spacing unit consisting of the W $\frac{1}{2}$ of Section 21, Township 6 South, Range 93 West, 6th P.M., and establish an approximate 80-acre laydown drilling and spacing unit consisting of the N $\frac{1}{2}$ NW $\frac{1}{4}$ of said Section 21, and allow one well per 10 acres, with the permitted well to be located no closer than 100 feet to the unit., for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Cause Nos. 191, Docket No. 0901-SP-03, Garfield County, request for an order to establish various drilling and spacing units and allow one well per 10 acres, with the permitted well to be located no closer than 100 feet to the unit for the S $\frac{1}{2}$ of Section 18 and Lot 1 of Section 19, Township 6 South, Range 92 West, 6th P.M., and the S $\frac{1}{2}$ of Section 13, Township 6 South, Range 93 West, 6th P.M., for the production of gas and associated hydrocarbons from the Mancos Group.

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Cause No. 449, Docket No. 0901-SP-04, Cheyenne County, request for an order to vacate 80-acre drilling and spacing units established in Order No. 449-7 and place the lands under Rule 318.a. for Section 33, Township 14 South, Range 42 West, 6th P.M., for the production of gas and associated hydrocarbons from the Morrow Formation, and lift existing production restrictions.

Cause No. 474, Docket Nos. 0902-SP-07 through 0902-SP-09, Moffat County, was considered separately by the Commission. A Rule 510. statement by M.E. Denomy, President of Rocky Mountain Chapter of National Association of Royalty Owners, was made orally and considered by the Commission. A motion was made by Vice Chair Epel to approve Cause No. 474, Docket Nos. 0902-SP-07 through 0902-SP-09, seconded by Chair Sherman, and approved unanimously. The following matters were approved:

Cause No. 474, Docket No. 0902-SP-07, Moffat County, request for an order to establish a 320-acre drilling and spacing unit consisting of the E½ of Section 5, Township 6 North, Range 91 West, 6th P.M., and allow one additional well, with the bottom hole location no closer than 660 feet to the outside boundary of the unit with no setback required to any interior quarter section line, for the production of gas and associated hydrocarbons from the Niobrara Formation.

Cause No. 474, Docket No. 0902-SP-08, Moffat County, request for an order to establish a 320-acre drilling and spacing unit consisting of the N½ of Section 8, Township 6 North, Range 91 West, 6th P.M., and allow one additional well, with the bottom hole location no closer than 660 feet to the outside boundary of the unit with no setback required to any interior quarter section line, for the production of gas and associated hydrocarbons from the Niobrara Formation.

Cause No. 474, Docket No. 0902-SP-09, Moffat County, request for an order to establish a 320-acre drilling and spacing unit consisting of the S½ N½ and N½ S½ of Section 15, Township 6 North, Range 91 West, 6th P.M., and allow one additional well, with the bottom hole location no closer than 660 feet to the outside boundary of the unit with no setback required to any interior quarter section line, for the production of gas and associated hydrocarbons from the Niobrara Formation.

Cause No. 112, Docket No. 0812-AW-34, La Plata County, was considered separately. A motion was made by Commissioner Houpt to approve Cause No. 112, Docket No. 0812-AW-34, seconded by Commissioner Dowling, and approved unanimously. The following matter was approved:

Cause No. 112, Docket No. 0812-AW-34, La Plata County, request for an order to allow up to four optional wells in certain 320-acre drilling and spacing units, with the permitted well to be located no closer than 660 feet from the unit boundary and no closer than 130 feet to any interior quarter section line, for certain lands in Township 34 North, Ranges 8 and 9 West, N.M.P.M. and Township 34.5 North, Range 9 West, N.M.P.M., for the production of gas and associated hydrocarbons from the Fruitland coal seams.

The following matter has been continued to the May 2009 hearing:

Cause No. 1, Docket No. 0809-GA-01, Adams County, request for an order to designate Barr Lake State Park as a Designated Outside Activity Area.

Implementation of New Rules – 0803-RM-02: Acting Director Neslin stated that there is an interim policy set forth to navigate the rulemaking map areas and plotting the location of APDs. If an APD falls within a drinking water protection area, the COGCC staff will notify CDPHE. If an APD falls within a restricted surface occupancy area, a sensitive wildlife habitat area, or a riparian area, the COGCC staff will notify the Colorado Division of Wildlife (“CDOW”). Each respective agency will have an opportunity to review the relevant APDs and provide recommended conditions of approval prior to

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the COGCC Director's approval of the APD.

The Interim Policy, the certificate of compliance that should be attached to each APD submitted during the interim period, and the tutorial for using the maps are found on the COGCC's website homepage: www.colorado.gov/cogcc. Outreach training is being coordinated by Thom Kerr, COGCC Information Systems Manager.

On December 11, 2008, the COGCC also adopted an Interim Policy for applications for permits-to-drill (APDs). The policy covers APDs submitted during the interim period between January 5, 2009, and the effective date of the Final Amended Rules (*i.e.*, April 1, 2009, for non-federal lands, and May 1, 2009, for federal lands). The policy requests operators to identify whether each APD submitted during the interim period falls within one or more of the following areas: (1) drinking water protection area; (2) restricted surface occupancy area; (3) sensitive wildlife habitat area; and (4) riparian areas. The protected areas are identified on maps found on the COGCC website. The updated drinking water protection area map has been finished and will be added to the COGCC website, and will be the subject of rulemaking in the upcoming months.

The hearing adjourned at 12:15 p.m.

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The Secretary was therefore authorized to issue the following orders:

Order No. 112-216, Ignacio-Blanco Field, La Plata County: Approves the request for an order to allow up to four optional wells in certain 320-acre drilling and spacing units, with the permitted well to be located no closer than 660 feet from the unit boundary and no closer than 130 feet to any interior quarter section line, for certain lands in Township 34 North, Ranges 8 and 9 West, N.M.P.M. and Township 34.5 North, Range 9 West, N.M.P.M., for the production of gas and associated hydrocarbons from the Fruitland coal seams.

Order No. 139-104, Rulison, Garfield County: Approves the request for an order to vacate the 320-acre drilling and spacing unit consisting of the W½ of Section 21, Township 6 South, Range 93 West, 6th P.M., and establish an approximate 80-acre laydown drilling and spacing unit consisting of the N½ NW¼ of said Section 21, and allow one well per 10 acres, with the permitted well to be located no closer than 100 feet to the unit., for the production of gas and associated hydrocarbons from the Williams Fork and Iles Formations.

Order No. 191-61 Mamm Creek Field, Garfield County: Approves the request for an order to establish various drilling and spacing units and allow one well per 10 acres, with the permitted well to be located no closer than 100 feet to the unit for the S½ of Section 18 and Lot 1 of Section 19, Township 6 South, Range 92 West, 6th P.M., and the S½ of Section 13, Township 6 South, Range 93 West, 6th P.M., for the production of gas and associated hydrocarbons from the Mancos Group.

Order No. 449-34, Arapahoe Field, Cheyenne County: Approves the request for an order to vacate 80-acre drilling and spacing units established in Order No. 449-7 and place the lands under Rule 318.a. for Section 33, Township 14 South, Range 42 West, 6th P.M., for the production of gas and associated hydrocarbons from the Morrow Formation, and lift existing production restrictions.

Order No. 474-5, Craig Field, Moffat County: Approves the request for an order to establish a 320-acre drilling and spacing unit consisting of the E½ of Section 5, Township 6 North, Range 91 West, 6th P.M., and allow one additional well, with the bottom hole location no closer than 660 feet to the outside boundary of the unit with no setback required to any interior quarter section line, for the production of gas and associated hydrocarbons from the Niobrara Formation.

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Order No. 474-6, Craig Field, Moffat County: Approves the request for an order to establish a 320-acre drilling and spacing unit consisting of the N $\frac{1}{2}$ of Section 8, Township 6 North, Range 91 West, 6th P.M., and allow one additional well, with the bottom hole location no closer than 660 feet to the outside boundary of the unit with no setback required to any interior quarter section line, for the production of gas and associated hydrocarbons from the Niobrara Formation.

Order No. 474-7, Craig Field, Moffat County: Approves the request for an order to establish a 320-acre drilling and spacing unit consisting of the S $\frac{1}{2}$ N $\frac{1}{2}$ and N $\frac{1}{2}$ S $\frac{1}{2}$ of Section 15, Township 6 North, Range 91 West, 6th P.M., and allow one additional well, with the bottom hole location no closer than 660 feet to the outside boundary of the unit with no setback required to any interior quarter section line, for the production of gas and associated hydrocarbons from the Niobrara Formation.

Robert A. Willis, Acting Secretary

Approved:

Harris Sherman, Chair