

## RECORD OF PROCEEDINGS

---

July 14-15, 2009

The Oil and Gas Conservation Commission (“COGCC”) met on July 14, 2009 and July 15, 2009, both sessions commencing at or near 9:00 a.m., in the Devereux Room of the Hotel Colorado, 526 Pine Street, Glenwood Springs, Colorado, for a hearing in Cause Nos. 1V, 191 (2 matters) and 407 (2 matters).

Those present were:

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

Vice-Chair Epel did not attend the afternoon session on July 15, 2009 due to a conflict.

Chair Sherman called the Commission hearing to order at 9:10 a.m. on July 14, 2009. A motion was made by Commissioner Dowling to approve the June 2009 minutes, seconded by Commissioner Compton, and unanimously approved.

Report from the Executive Director. Chair Sherman, Department of Natural Resources (“DNR”) Executive Director, stated that the State of Colorado will be significantly impacted by budget shortfalls this year, and that those budget concerns will likely impact DNR – however, it is speculative to project just how those concerns will affect the COGCC.

The COGCC 2008 Outstanding Operations Awards were presented at the Rocky Mountain Natural Gas Strategy Conference and Investment Forum hosted by the Colorado Oil and Gas Association (“COGA”) during a luncheon on July 8, 2009. Several nominations were provided by the oil and gas industry, and the award winners were recommended by the COGCC Staff and approved by the COGCC Commissioners.

Staff Report. Director Neslin stated that as of July 9, 2009, there were 2,885 Applications for Permits-to-Drill (“APDs”) approved. It is estimated that there will be 5,000 drilling permits approved this year. This will be a 38% decline in permit activity over the previous record high of 8,027 APDs approved in 2008, which was 26% higher than the 6,368 APDs approved in 2007. This does not correlate with the 60% decline in rig count since the peak of last year, but may be a reflection of the push to get permits in before the effective date of the amended rules. The 2009 drilling permit totals for the top seven counties as of July 9<sup>th</sup> are:

County	2009 (% of Total)	2008	2007	2006	2005	2004
Weld	891 (31%)	2,340	1,527	1,418	901	832
Garfield	883 (31%)	2,888	2,550	1,844	1,508	796
Mesa	298 (10%)	501	293	265	136	54

## RECORD OF PROCEEDINGS

La Plata	216 (7%)	328	251	235	117	102
Rio Blanco	195 (7%)	477	321	360	161	154
Yuma	90 (3%)	545	541	798	782	237
Las Animas	55 (2%)	303	362	500	413	332
<b>State Total</b>	<b>2,885</b>	<b>8,027</b>	<b>6,368</b>	<b>5,904</b>	<b>4,364</b>	<b>2,917</b>

On January 5, 2009, the Interim Policy for APDs went into effect. There were 195 permits that were received on or shortly thereafter that were postmarked prior to January 5th. These permits were accepted without the Interim Policy Form. Through July 9<sup>th</sup> there have been a total of 2,263 permits with 53% of the total requiring no additional environmental review. Below is a table detailing the breakdown of the permits and how they fall into the different categories of additional environmental review.

Report Period	Permits	No Additional Review		Sensitive Habitat		Restricted Surface		Riparian Area		Drinking Water Buffer Area	
Jan-09	283	187	66%	85	30%	1	0%	27	10%	12	4%
Feb-09	394	258	65%	132	34%	0	0%	30	8%	4	1%
Mar-09	1,440	731	51%	671	47%	29	2%	88	6%	63	4%
Apr-09	16	14	88%	2	13%	0		0		0	
May-09	22	0		22	100%	0		0		0	
June-09	108	14	13%	94	87%	1	1%	0	1%	6	6%
Total	2,119	1,180	53%	1,006	44%	31	1%	146	6%	85	4%

The following table shows a summary of oil and gas well permits requiring new well locations that have been approved by the COGCC in 2006 and through July 9, 2009. The summary shows the number of new location permits that have been granted where the surface owner owns mineral rights, where the surface ownership has been severed from the mineral ownership, where surface use agreements have been executed on severed lands, and where surface damage bonds have been posted on severed lands.

Calendar Year	Permits For New Oil And Gas Wells	Surface Owner Party To A Mineral Lease	Surface Owner Is Not Party To A Mineral Lease	Surface Use Agreements	Total Permitted Under A Surface Use Bond	\$25,000 Blanket Surface Damage Bond	\$2,000 Individual Surface Damage Bond For Non-Irrigated Land	\$5,000 Individual Surface Damage Bond for Irrigated Land
2006	5,848	3,933 (67%)	1,915 (33%)	1,223 (21%)	692 (12%)	689 (12%)	3 (<1%)	0 (0%)
2007	6,335	3,876 (61%)	2,459 (39%)	1,558 (25%)	901 (14%)	900 (14%)	1 (<1%)	0
2008	7,974	4,741 (59%)	3,233 (41%)	2,152 (27%)	1,081 (14%)	1,075 (13%)	3 (<1%)	3 (<1%)
2009	2,877	1,831 (64%)	1,046 (36%)	714 (25%)	332 (11%)	328 (11%)	2 (<1%)	2 (<1%)

## RECORD OF PROCEEDINGS

---

April 1, 2009 was the effective date for the change in the rules requiring the submission, and at times the approval, of the Location Assessment, Form 2A. This change will provide for the tracking of new and expansion of existing locations used for oil and gas development facilities. Tracking oil and gas locations provides for the evaluation of the impact to the surface as multiple wells are now drilled from a single location. The Form 2A is also required for other types of oil and gas development facilities that are built to provide the infrastructure necessary to get the product to market.

Month	Year	Received	Final Approved	Director Approved	Withdrawn	Remaining	Percent Remaining
4	2009	0					
5	2009	29	0	2	1	26	89.66
6	2009	40	0		1	39	97.50
7	2009	26	0		0	26	100.0

Northwest Colorado: The Northwest Colorado Oil and Gas Forum (“Forum”) is an informal gathering of local, state, and federal government officials, oil and gas industry representatives, and citizens that have met regularly since 1989. The purpose of the Forum is to share information about oil and gas development in northwest Colorado and to make government officials and oil and gas industry representatives easily accessible to the public. Currently the meetings are conducted once per quarter and are co-chaired by Director Neslin, and Garfield County Commissioner, Mike Samson. The next meeting is scheduled for September 3, 2009, at the Garfield County Fairgrounds in Rifle.

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.

The three operators currently holding most of the oil and gas leases within 3 miles of the Project Rulison test site (Noble Energy, Inc., Williams Production RMT, and EnCana Oil & Gas (USA)) and a third-party consultant, URS Corporation (“URS”), have developed the Rulison Sampling and Analysis Plan (“RSAP”), a comprehensive operational and environmental monitoring, and radiological incident management plan for drilling and production activities within a 3-mile radius of the test site. The current RSAP (Revision 2.0) and all other documents related to Project Rulison and activities are available on the COGCC website, within the Library section under Piceance Basin Area Reports/Data.

The RSAP will be modified as needed to reflect lessons learned through its implementation. As previously reported, COGCC staff met with the operators on November 19, 2008, to discuss possible revisions. Subsequently, a small technical working group met on December 4, 2008, to discuss such revisions in greater detail. The 3<sup>rd</sup> and 4<sup>th</sup> Quarter 2008 Operational and Monitoring Reports for activities subject to the RSAP have been reviewed by staff and posted to the COGCC website.

Southwest Colorado: Ongoing investigation, reclamation and mitigation of residual methane in the vicinity of the Bryce 1-X Well area, near Bondad, Colorado continues. The next sampling round is scheduled for August 2009.

The next Gas and Oil Regulatory Team (“GORT”), Southwest Colorado Oil and Gas Stakeholders meeting scheduled for July 16, 2009, at 8:30 am at the La Plata County Fairgrounds in Durango, Colorado, has been rescheduled for August 20, 2009, at 8:30 a.m. at the same venue.

## RECORD OF PROCEEDINGS

---

As part of the Fruitland Formation Outcrop Mitigation and Monitoring Project ("4M Project"), the Colorado Geological Survey ("CGS") is finalizing 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 Fruitland Formation Outcrop Monitoring ("3M Project"). The work included 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. The final map and associated report will be posted to the website shortly after receipt from the CGS.

Start-up of both 4M Outcrop Mitigation Pilot Projects in La Plata County occurred during the week of May 4, 2009, and continuous operations were implemented during the week of May 18, 2009. Both systems are functioning as planned, however methane concentrations are too low at the Pine River Ranch location for effective combustion. Electricity is being generated at the South Fork Texas Creek location and system optimization is planned to increase the overall methane recovery and electrical generation. Data collection and assessment will continue for a period of one year.

The 4M Monitoring Well Installation for La Plata County proposal (PHA-950) was awarded to Souder Miller and Associates ("SMA") on June 24, 2009. Pending contractual negotiations, it is anticipated that drilling activities will begin sometime during the summer of 2009. COGCC continues to negotiate with private surface owners to finalize access agreements for monitoring well locations. COGCC has contracted with InSitu, Inc. to upgrade the existing 7 La Plata County Outcrop monitoring wells to the same telemetry system that is being used in the Archuleta County monitoring program and that will also be used in the new La Plata County monitoring program. The existing monitoring system was removed from the wells on June 25, 2009, and the new systems were installed during the week of June 29, 2009. Data collection is ongoing.

Drilling and installation of monitoring wells for the 4M Project in Archuleta County. COGCC conducted a pre-reclamation site visit with the U.S. Forest Service ("USFS") and SMA on June 23, 2009 to confirm USFS requirements for final site reclamation. Reclamation activities are anticipated to begin the week of July 6, 2009. SMA continues to work on the final report for the monitoring well installation conducted in 2008. A copy of the report, including formation pressures, well completion diagrams, and coal core analytical results, will be posted on the COGCC website upon completion.

With regards to the 3M Project, the January 2009 monitoring report is available on the COGCC website.

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 CGS, the COGCC, the Colorado State Engineers Office, and the Colorado School of Mines. The NSJB 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 NAH on behalf of several operators.

Northeast Colorado: Many oil and gas wells and associated production facilities permitted by the COGCC have accesses onto Weld County Roads. However, the location and construction of many of these accesses have not been reviewed by the Weld County Department of Public Works for public safety concerns. Weld County requires access permits for all such accesses.

Public safety issues associated with oil and gas facility traffic at these county road access points include sight distances, posted speed limits, road quality (paved vs. graded gravel), restricted bridges, coordination with other driveways and access points, and consideration of heavy truck hauling. Planning issues include allowance for future road widening and insufficient setbacks from the future rights-of-way. Conversion of seasonal farm field accesses to a year-round oil and gas

## RECORD OF PROCEEDINGS

---

driveways is sometimes inappropriate, especially for long-term facility (tank battery) accesses by tanker trucks and work-over rigs.

For these reasons, and the public's safety on county roads, Weld County requests that oil field operators contact the County early in their planning process, prior to negotiation of access points with surface owners to ensure that safe accesses are selected.

In 2008 the COGCC investigated a surface owner complaint in Weld County alleging that trees had been damaged by the application of certain herbicides used by an operator to control weeds. Cuttings from the damaged trees were taken to the Plant Diagnostic Clinic at Colorado State University. Soil samples were also collected within the drip line of the affected trees. After examining the plant specimens and reviewing pictures of the trees and surrounding area, experts at the diagnostic clinic concluded that the damage to the trees was consistent with herbicide injury. The operator was very cooperative and has made the appropriate changes to its weed management plan and has settled this matter with the landowner.

Based on this case, the COGCC would like to encourage all operators to review their weed management practices to ensure that herbicides are being applied properly in accordance with the manufacturer's directions. In addition, employees should be properly trained in the application of these products as well as the associated health and safety hazards. While it is very important to control noxious weeds at oil and gas locations, it is also very important to prevent potential adverse impacts to the environment that can be caused by the improper use of herbicides.

The COGCC re-entered and re-plugged the Powers #1 Well. This well was drilled and plugged in 1947 and was considered to be a possible source of or conduit for migration of thermogenic gas. This well is located approximately 800 feet southwest of the Ellsworth water well and was drilled to a recorded depth of 1,006 feet. The Powers #1 borehole was found to be open and contained standing water at a depth of approximately 10 feet from the ground surface. The COGCC monitored the borehole for the presence of methane gas which was not detected. A representative set of water quality samples were collected from the standing water. The drilling contractor successfully reached the bottom of the well on June 12, 2009, after some initial problems establishing circulation. The wellbore was open without any obstructions and/or cement plugs present. Monitoring for the presence of methane was conducted throughout all stages of the operations and the presence of methane gas was not detected. Analytical laboratory results show the water from the former well to be similar to water sampled from nearby shallow irrigation wells. No methane or other hydrocarbons were detected. The old wellbore was successfully re-plugged by cementing from total well depth to surface. The well casing was then excavated and cut-off at 5 feet below ground surface, a plate welded on top of the existing 10-inch casing, and the site backfilled. The site was re-graded on June 17, 2009. Final reclamation (reseeding) will be conducted in early fall under the COGCC agreement with the landowner. Based on both the reentry findings and the analytical sample results, the COGCC has determined that the former Powers #1 Well does not appear to be the source of thermogenic gas observed in the Ellsworth water well.

Southeast Colorado: Engineering and Environmental staff have been investigating possible locations of unplugged pre-1910 oil and gas wells in a residential area in Florence. One orphaned well has been plugged, but there are indications from venting pipes and from soil gas surveys that one or more other wells may be present on the same property.

Two monitoring wells, 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. Treatment under Phase 1 consists of physically separating dissolved methane from the recovered ground water using a vertical separator. The methane is sent to a controlled flare for combustion. Operation of the pump, treatment, and injection system started on December 8, 2008. More than 3.7 million gallons of water had been pumped to the surface and treated as of May 12, 2009. To date, more than 4.75 million

## RECORD OF PROCEEDINGS

---

gallons of water have been pumped to the surface and treated. More than 99% of that water has been re-injected into the aquifer after treatment. PEI was granted permission by the Bureau of Land Management ("BLM") to drill an exploratory well in the vicinity of the impacted water well located in Section 15, Township 29 South, Range 67 West, 6<sup>th</sup> 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 monitoring well was drilled in this area in mid-May 2009. Water was not encountered during drilling of the 1,180 foot deep BLM 15-12 monitoring well. Some natural gas was detected during and after drilling of this monitoring well. Isotopic and compositional analyses of gas venting from this well are consistent with analyses from Huerfano County CBM and water wells. PEI may leave this hole open to vent methane for one year per their agreement with the BLM. The monitoring well will be plugged and abandoned by May 2010.

PEI drilled an exploratory hole (Haupt #1) through the Vermejo Formation coals, the Trinidad Sandstone and into the Pierre Shale in the area of Seep 643 from the Phase II Raton Basin Baseline study. Methane was detected during drilling and a sample was collected for compositional and isotopic analyses. This exploratory monitoring well is located near the outcrop of the Vermejo Formation coals and is located in an area that was previously mined. Gas flows are monitored at 4 domestic wells by PEI or its consultant and at two domestic wells by COGCC and its consultant. Overall gas flow has decreased in all monitored domestic wells.

During the period from May 13, 2009, to June 14, 2009, PEI screened 71 domestic water wells for the presence of methane with hand-held methane detectors for changes in percent volume of methane, %LEL, and %O<sub>2</sub>; 49 of the monitored wells showed little change from the previous month's monitoring, six wells showed increases in methane concentration, and six wells showed decreases in methane concentration. Variable results were detected at eight wells.

In mitigation, PEI is currently supplying water to 16 homes upon request of the well owner. Methane alarms have been installed in 14 homes.

The EPA expects to hold a public meeting in Walsenburg in the coming months regarding PEI's applications for wells that would be used to inject Vermejo Formation water produced from coalbed methane ("CBM") wells into water bearing units in the Poison Canyon. PEI has submitted an application 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 COGCC will also be needed prior to initiation of Phase II.

Organization: The COGCC is pleased to announce the addition of Denise Onyskiw to our staff as the Underground Injection Control ("UIC") Supervisor. She is filling an existing position (with a new title) in COGCC's Denver office and will oversee all underground injection permitting and UIC enforcement activities. Denise graduated from Pennsylvania State University with a B.S. degree Aerospace Engineering. She previously worked for the Colorado Department of Health and Environment conducting air quality studies and reviews for emission permits from oil and gas processing, compression, and transmission equipment.

2008 Outstanding Oil and Gas Operations Awards. The thirteenth anniversary COGCC 2008 Outstanding Operations Awards were presented by DNR Executive Director Harris Sherman at the Rocky Mountain Natural Gas Strategy Conference and Investment Forum hosted by COGA during the keynote luncheon on July 8, 2009. The awards were for oil and gas operations that occurred during calendar year 2008. Several nominations were provided by the oil and gas industry, and the award winners were recommended by the COGCC Staff and approved by the COGCC Commissioners. The recipients of the 2008 COGCC Outstanding Operations Awards were:

## RECORD OF PROCEEDINGS

---

**Williams Production Company**—Reclamation - for its partnership with CSU's Warner College of Natural Resource and the BLM to study the best methods of reclamation for well sites in Northwestern Colorado.

**Williams Production Company**—Noxious Weed Reduction - for its project to suppress and control tamarisk on over 1,300 acres of property owned by Williams and adjacent BLM lands. The tamarisk is also known as salt cedar because it deposits salt residue through its leaf litter.

**Occidental Oil and Gas Corporation**—Environmental Protection — for its partnership with the Colorado Natural Areas Program (a program of the Colorado Division of State Parks) to protect the "Parachute penstemon," a rare plant found only in Colorado. Three viable populations of this plant occur on Oxy property near Parachute, Colorado.

**Rosetta Resources Operating, LP**—Reclamation — for their closure and reclamation of 22 unlined production pits in Yuma County. Rosetta Resources wished to replace these pits with tanks to eliminate to the possibility of future environmental impacts.

**EnCana Oil and Gas (USA) Inc.**—Community Relations — for establishing a new community relations program in the Erie, Colorado area called "Courtesy Notice Protocol." This program was developed to keep residents of Erie informed of EnCana's activity in their community.

**Noble Energy, Inc.**— Environmental Protection — for working with a number of stakeholders to develop the Rulison "Sampling and Analysis Plan (SAP)" This plan was developed in conjunction with the COGCC, the Colorado Department of Health and Environment, Garfield County, and local citizens.

Public Outreach Opportunities: Peter Gintautas attended the CDPHE WQCD hearing on PEI's application for renewal of their discharge permits. The meeting was held in Walsenburg on June 11, 2009, with approximately 50 members of the public present to express their concerns and opinions regarding the proposed permit conditions for discharge of treated CBM produced water into waters of the state. Many in attendance expressed concerns over the potential for erosion below the discharge point proposed. On June 25, 2009, COGCC staff conducted additional outreach training in Cheyenne Wells. Margaret Ash, Southern Colorado Environmental Supervisor, discussed the E&P Waste Management rules, the Reclamation Series rules, Comprehensive Development Plans, wildlife rules and the chemical inventory process. Stuart Ellsworth, Engineering Supervisor provided a detailed discussion on the changes to the financial assurance requirements, changes to the safety rules and other operation rule amendments such as bradenhead testing. The outreach event was set up by Mike Leonard, Southeast Area Field Inspector, who provided discussions about tank labeling requirements and facilitated discussions about potential waste management issues. Colby Horton, Northeast Area Field Inspector also participated.

A public hearing will be held by the CDPHE WQCD regarding other Raton Basin CBM discharge permit renewal applications in Trinidad on July 15, 2009. These renewal applications are the first to include narrative standards for the protection of downstream agricultural users of water.

On July 8, 2009, Director Neslin, Rob Willis, Acting Hearings Manager, and Bob Randall, DNR Assistant Director for Energy and Minerals, traveled to Parachute and convened a public meeting in the Battlement Mesa Activities Center to discuss the regulatory process as it relates to split surface/mineral estates under Colorado law, and Applications for Permit-to- Drill ("APD") and Comprehensive Drilling Plans ("CDP"), which may impact oil and gas development in or near the Battlement Mesa Planned Unit Development ("PUD"). An estimated 140 individuals attended the meeting and some 50 people took the opportunity to ask questions and/or present concerns.

## RECORD OF PROCEEDINGS

---

HB 07-1298 and HB 07-1341 Rulemaking Update: 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 July 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 Interim Policy will remain in effect for riparian areas until the Commission conducts additional rulemaking to address riparian area protection.

On May 7, 2009, the proposed amendment to Rule 503.b.(7) was duly noticed for rulemaking hearing, and approved by the Commission. Subparts (D) and (E) were deleted from Rule 503.b.(7), said amendment effectively eliminating the ability of CDPHE and CDOW to seek appeal of the approval of APDs. Chair Sherman directed CDPHE and CDOW staff to provide periodic updates on the manner in which their recommendations were being considered in the COGCC approval process.

On May 30, 2009, a permanent rulemaking hearing was held to modify Rule 201A, which resulted in the effective date of the Final Amended Rules being changed from May 1, 2009, to July 1, 2009, on federal lands.

COGCC Staff has initiated stakeholder meetings to address gas measurement practices under a new rulemaking.

The final MOU with BLM and USFS was posted to the COGCC website on July 10, 2009, after the MOU was approved by the Commission at a Special Hearing which took place on June 24, 2009.

Details of all rulemaking hearings can be found on the homepage of the Commission's website at: [www.colorado.gov/cogcc](http://www.colorado.gov/cogcc).

Options for disposal of pit liners are currently being assessed and evaluated by CDPHE on legal advice from the Attorney General's Office. An amendment to the new rules may address this issue with one possibility that pit liners be disposed of onsite as exploration and production ("E&P") waste.

A preliminary docket for the August 2009 hearing was provided.

Variances: (1) ExxonMobil Oil Corporation ("ExxonMobil") submitted a Sundry Notice requesting a variance to the production casing compressive strength requirements of Rule 317.i. for the following planned wells, which are located on the same pad in the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 8, Township 2 South, Range 97 West, 6th P.M.: Freedom Unit 297-8A1, Freedom Unit 297-8A2, Freedom Unit 297-8A3, Freedom Unit 297-8A4, Freedom Unit 297-8A5, Freedom Unit 297-8A6, Freedom Unit 297-8A7, Freedom Unit 297-8A8, Freedom Unit 297-8A9, and Freedom Unit 297-8A10. All of the wells listed above have federal jurisdiction for surface and minerals.

As a result of the use of high-temperature capable cement retarders in the cement slurry, ExxonMobil's production casing cement design for these wells does not meet the temperature requirement of Rule 317.i., which specifies that production casing cement "shall be of adequate quality to achieve a minimum compressive strength of at least three hundred (300) psi after twenty-four (24) hours and eight hundred (800) psi after seventy-two (72) hours measured at ninety-five degrees Fahrenheit (95°F) and at eight hundred (800) psi."

ExxonMobil's production casing cement design will meet the required compressive strengths within the required timeframes at the expected downhole temperatures. ExxonMobil contends that the requested variances do not violate the basic intent of the Oil & Gas Conservation Act. On June 26,

## RECORD OF PROCEEDINGS

---

2009, COGCC Staff approved ExxonMobil's Rule 317.i variance requests for the wells listed above. ExxonMobil submitted similar requests to the BLM in late June 2009.

(2) A variance under Rule 502.b was granted on June 30, 2009, for the Williams Federal RG 34-14-298 Well in Rio Blanco County. This directional well was drilled on a federal lease on un-spaced lands subject to Rule 318.a requiring a minimum lease line setback of 600 feet. As permitted, the objective interval and bottomhole location would be 625 feet from the lease line. As drilled, the well bore drifted such that the objective interval and bottom hole location are slightly (14 feet) less than 600 feet from the lease line, thus encroaching upon the adjacent federal lease. Williams owns 34.69% WI and has obtained signed waivers from the owners of 64.85% WI in the encroached upon lease. Williams has not been able to contact the owners of the remaining 0.46% WI. Williams requested a 502.b Variance to allow the completion of the wellbore. The BLM is in agreement with this resolution.

Thom Kerr, COGCC Permitting and Document Technology Manager, discussed the compilation of reports describing permitting which are regularly presented to the Commission.

Report from the Assistant Attorney General. AAG Rosenberg gave an oral report on the following Commission-related litigation matters: (1) Antero has filed a motion to dismiss the suit in *James R. Carnahan and Colleen Carnahan v. COGCC, et al.*, Case No. 09CV0614, wherein the complainants have requested declaratory judgment for alleged violations of the Oil and Gas Conservation Act and the APA, (2) On May 4, 2009, the Denver District Court entered its decision in *Grand Valley Citizens' Alliance, et al., v. COGCC, et al.*, Case No. 08CV10869, effectively dismissing the lawsuit, however, a Notice of Appeal has been filed by the plaintiffs in that matter, and (3) In the lawsuit filed by the COGA regarding the Final Amended Rules (COGA v. COGCC, Denver District Court, Division 2, Case No. 09CV4435), COGA has requested additional discovery which COGCC feels is not warranted under the APA, and COGCC has filed a motion to clarify that issue which is pending before the court.

Comments from the Commissioners. Commissioner Cutright expressed his thanks to staff for working towards finding a solution on the disposal of pit liners. He also thanked ExxonMobil and Williams Production for guiding the Commission and COGCC Staff through their respective operations in Rio Blanco County during an optional field trip day on July 13, 2009.

Commissioner Martin discussed mandated air quality standards imposed by the EPA. CDPHE is initiating studies on state air quality to look towards attainment of those new standards. Commissioner Martin stated he is unsure as to how these new standards will effect the state's oil and gas industry.

Commissioners Alward and Dowling raised the issue of discussion of COGCC Staff/Commission priorities. It was decided by the Commission to schedule a special session to consider a priority list in the upcoming weeks.

Commissioner Houpt requested that enforcement go forward on alleged contamination of the Prather springs in Garfield County. Director Neslin indicated that staff continues to investigate issues surrounding the alleged contamination, and will bring enforcement action as warranted in due course.

Comments on Oil and Gas Development in Garfield County. Commissioner Houpt, Garfield County Commissioner, made remarks regarding oil and gas development in Garfield County and concerns surrounding the impact of that development in the county.

Comments from the Audience. The Honorable Gail Schwartz, State Senator for District No. 5, gave a statement regarding the new rules and thanked the Commission for working so diligently in passing those rules.

## RECORD OF PROCEEDINGS

---

Leslie Robinson, Rifle resident and a member of Grand Valley Citizens Alliance, gave a statement and posed a question regarding the conflict between the COGCC Rules and county regulations. AAG Rosenberg gave her legal opinion regarding the potential conflict of laws. Director Neslin responded that COGCC Staff will work hard to minimize potential interference from the conflict of laws which were mentioned by Ms. Robinson, and the COGCC will rely on advice from the Attorney General's Office to reconcile those issues where warranted.

Richard and Connie Prather, DeBeque, gave statements regarding their frustration with the pace of the COGCC investigation and monitoring of the Prather springs which are alleged to be contaminated by oil and gas activities.

Sandra Getter, Battlement Mesa, spoke in opposition of oil and gas development at or near the Battlement Mesa PUD with existing setbacks from drilling and production equipment.

Paul Light, Battlement Mesa, voiced his concerns regarding oil and gas development at or near the Battlement Mesa PUD with existing setbacks from drilling and production equipment, and requested air quality monitoring during oil and gas operations.

James Golden, Rifle, gave a statement in opposition of oil and gas development in Garfield County with existing setbacks from drilling and production equipment.

Consent Agenda. Commissioner Cutright gave a disclosure regarding his business relationship with the applicant, Unioil, a subsidiary of Petroleum Development Corporation, in Cause No. 407, Docket No. 0907-UP-13. Commissioner Houpt recused herself from participating in Cause No. 191, Docket No. 0903-UP-03, due to Garfield County being an interested party in that matter. Cause No. 407, Docket No. 0907-UP-16, an application by Kerr-McGee Oil & Gas Onshore, LP, was withdrawn on the record. Vice-Chair Epel moved to approve Cause No. 191, Docket No. 0903-UP-03, seconded by Commissioner Dowling, and approved unanimously (with Commissioner Houpt abstaining). The following matter was approved:

Cause No. 191, Docket No. 0903-UP-03, Garfield County, request for an order to pool all nonconsenting interests in the 80-acre drilling and spacing unit for the E $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 11, Township 6 South, Range 93 West, 6<sup>th</sup> P.M., for the development and operation of the Williams Fork, Iles and Mancos Formations.

Vice-Chair Epel moved to approve all remaining matters set forth under the Consent Agenda, seconded by Commissioner Compton, and approved unanimously. The following matters were approved:

Cause No. 191, Docket No. 0907-UP-12, Garfield County, request for an order to pool all nonconsenting interests in the established approximate 223.578-acre drilling and spacing unit consisting of certain lands in the N $\frac{1}{2}$  of Section 18, Township 6 South, Range 92 West, 6<sup>th</sup> P.M., for the development and operation of the Mancos Formation.

Cause No. 407, Docket No. 0907-UP-13, Weld County, request for an order to pool all nonconsenting interests in established 80-acre drilling and spacing units consisting of SE $\frac{1}{4}$  of Section 21, Township 5 North, Range 67 West, 6<sup>th</sup> P.M., for the development and operation of the Codell and Niobrara Formations.

Cause No. 407, Docket No. 0907-UP-14, Weld County, request for an order to establish a wellbore spacing unit consisting of the W $\frac{1}{2}$  NW $\frac{1}{4}$  of Section 30, Township 5 North, Range 64 West, 6<sup>th</sup> P.M., and the E $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 25, Township 5 North, Range 65 West, 6<sup>th</sup>

## RECORD OF PROCEEDINGS

---

P.M., and to pool all nonconsenting interests in said unit, for the development and operation of the Codell and Niobrara Formations.

Commissioner Cutright moved to approve Cause No. 1V, Docket No. 0906-OV-08, seconded by Vice-Chair Epel, and unanimously approved. The following matter was approved:

Cause No. 1V, Docket No. 0906-UP-08, Cheyenne County, by Administrative Order by Consent ("AOC"), for failure by Samotlor Petroleum Investments, LLC to comply with Rule 319.b.(1), Rule 319.b.(4), and Rule 326.a.(4), for the Golden Hammer Lowe "H" #2 Well located in the SE¼ NW¼ of Section 18, Township 16 South, Range 44 West, 6<sup>th</sup> P.M.

The following matters have been continued to either the August 2009 hearing or a subsequent hearing:

Cause No. 407, Docket No. 0906-UP-05, Weld County, request for an order to establish two approximate 160-acre wellbore spacing units for certain lands located in Section 30, Township 5 North, Range 64 West, 6<sup>th</sup> P.M., and Section 25, Township 5 North, Range 65 West, 6<sup>th</sup> P.M., for production of oil from the Codell and Niobrara Formations, and to pool all nonconsenting interests in said units, for the development and operation of the Codell and Niobrara Formations.

Cause No. 407, Docket No. 0906-UP-06, Weld County, request for an order to establish two approximate 160-acre wellbore spacing units for certain lands located in Section 14, Township 5 North, Range 67 West, 6<sup>th</sup> P.M., for production of oil from the Codell and Niobrara Formations, and to pool all nonconsenting interests in said units, for the development and operation of the Codell and Niobrara Formations.

Cause Nos. 232 and 407, Docket No. 0907-UP-15, Weld County, request for an order to establish two 160-acre drilling and spacing units consisting of the SW¼ of Section 10 and the NW¼ of Section 30, Township 2 North, Range 66 West, 6<sup>th</sup> P.M., and to pool all nonconsenting interests in said units, for the development and operation of the Codell, Niobrara and "J" Sand Formations.

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.

Review of Report Prepared By Dr. Geoffrey Thyne on a Hydrogeologic Study for Garfield County. Director Neslin gave a statement to set the stage for the presentation of technical evidence in support of, and countering, Dr. Thyne's study.

Dr. Geoffrey Thyne, Ph.D., consultant for Garfield County, gave a presentation on his hydrogeologic study for Garfield County and the associated impact on that hydrogeology by oil and gas activities.

Dr. Peter Gintautus, Ph.D., COGCC Environmental Specialist, gave a presentation on the COGCC Staff analysis of Dr. Thyne's Hydrogeologic Study for Garfield County.

Brian Grigsby, COGCC Consultant for S.S. Papadopoulos & Associates, Inc., gave a presentation on his analysis of Dr. Thyne's Hydrogeologic Study for Garfield County.

Mike Paules, Environmental and Safety Manager for Williams RMT Production Co. ("Williams"), and Mark Levenson, URS Consultant for Williams, gave a presentation on Williams' analysis of Dr. Thyne's Hydrogeologic Study for Garfield County.

## RECORD OF PROCEEDINGS

---

Scot Donato, Environmental and Safety Manager for Bill Barrett Corporation (“BBC”) and Robert Sterret, Consulting Hydrogeologist for BBC, gave a presentation on BBC’s analysis of Dr. Thyne’s Hydrogeologic Study for Garfield County.

Dr. Anthony Gorody, Ph.D., Consultant for EnCana Oil and Gas (USA) Inc., gave a presentation on his analysis of Dr. Thyne’s Hydrogeologic Study for Garfield County.

Dr. Thyne gave rebutted some of the points brought out in counter-presentations and requested, on behalf of the Garfield County, a continuing and enhanced monitoring well program.

Pepie Lahgegger, resident of West Divide Creek, Lisa Bracken, resident of West Divide Creek, and Hermann Stauer, resident of West Divide Creek, gave statements regarding their concerns surrounding the West Divide Creek and the impact oil and gas activity has on their lives.

West Divide Creek Seep. David Andrews, COGCC Engineering Supervisor, and Margaret Ash, COGCC Environmental Supervisor, made presentations on the complaint and investigation of a gas seep in the West Divide Creek alleged to be associated by oil and gas activities.

Dr. Geoffrey Thyne, Ph.D., consultant for Garfield County, gave a presentation on his hydrogeologic study for Garfield County and the associated impact on that hydrogeology by oil and gas activities in the area of West Divide Creek.

Lisa Bracken, Silt, gave a statement to the Commission regarding her concerns surrounding an alleged gas seep associated with oil and gas activities near West Divide Creek.

Tim Baer and Chris Williams, employees for EnCana, gave a presentation regarding the West Divide Gas Seep and efforts made by EnCana to conform with COGCC rules.

The hearing adjourned at approximately 6:00 p.m. on July 14, 2009, subject to recall at or around 9:00 a.m. on July 15, 2009.

Chair Sherman recalled the Commission hearing at 9:07 a.m. on July 15, 2009.

Informational Session on Project Rulison Site. Director Neslin gave introductory remarks concerning the Staff recommendation for development around the Project Rulison blast site.

David Andrews, COGCC Engineering Supervisor, gave a presentation on development in and around the area of the Project Rulison blast site.

Chris Canfield, COGCC Environmental Specialist, gave a presentation on testing and sampling in and around Project Rulison.

Various experts associated with the U.S. Department of Energy (“DOE”) were part of a presentation concerning the published DOE Rulison Path Forward document.

Mary Ellen Wells, Garfield County, made a statement regarding the impact that Project Rulison has on her life.

Roy Savage, Garfield County, made a statement regarding the concerns he has regarding the amount of the time that Project Rulison consumes before the Commission.

Luke Danielson, attorney for the Grand Valley Citizens Alliance and Western Colorado Congress, made a presentation regarding his clients’ concerns regarding oil and gas development at

## RECORD OF PROCEEDINGS

---

or around the Project Rulison blast site. Mr. Danielson requested that the Commission appoint an independent and interdisciplinary committee to chart a path forward on Project Rulison.

Elaine Cloninger, Judy Hayward, Christie Koenecki, Cary and Ruth Weldon, Pat Warren, Wesley Kent, Paul Light, and Duke Cox, Garfield County residents, made statements regarding the impact of oil and gas development at or near the Project Rulison blast site.

Mike Wozniak, attorney for Noble, Richard Henry, Consultant for Noble, and Curtis Rueter, Environmental and Regulatory Manager for Noble, made a presentation regarding oil and gas development at or near the Project Rulison blast site from the perspective of industry.

The hearing adjourned at approximately 4:30 p.m. on July 15, 2009.

=====  
The Secretary was therefore authorized to issue the following orders:

Order No. 1V-344, Cheyenne County: Approves the AOC for failure by Samotlor Petroleum Investments ("Samotlor"), LLC to comply with Rule 319.b.(1), for failure to obtain the Director's approval to continue shut-in status of the well for longer than six months, Rule 319.b.(4), for failure to perform a Mechanical Integrity Test ("MIT") on the injection well within two years after the shut-in date, and Rule 326.a.(4), for failure to perform an MIT on the injection well every five years after the date of the initial MIT, at the Golden Hammer Lowe "H" #2 Well located in the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 18, Township 16 South, Range 44 West, 6<sup>th</sup> P.M., assesses a fine of \$6,000, orders Samotlor to conduct an MIT within 45 days of the order, with the failure to timely perform the MIT resulting in the COGCC foreclosure of Samotlor's \$30,000 plugging bond, supplemented as may be necessary by funds from the COGCC's Environmental Response Fund, to plug and abandon said well and reclaim the wellsite and associated facilities, and orders that until such time that Samotlor pays the total fines of \$24,000 assessed by this AOC and under Order No. 1V-248, in conjunction with a finding that a knowing and willful pattern of violations exists, the Director shall not approve any APD, any Certificate of Clearance, and/or Change of Operator, Form 10, or other permit for conducting oil and gas operations for Samotlor or any entity of which Mr. Jesse Ferrer is a principal, majority owner, operational or general manager, or which Mr. Ferrer otherwise controls.

Order No. 191-66, Mamm Creek Field, Garfield County: Approves the request for an order to pool all nonconsenting interests in the 80-acre drilling and spacing unit for the E $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 11, Township 6 South, Range 93 West, 6<sup>th</sup> P.M., for the development and operation of the Williams Fork, Iles and Mancos Formations.

Order No. 191-67, Mamm Creek Field, Garfield County: Approves the request for an order to pool all nonconsenting interests in the established approximate 223.578-acre drilling and spacing unit consisting of certain lands in the N $\frac{1}{2}$  of Section 18, Township 6 South, Range 92 West, 6<sup>th</sup> P.M., for the development and operation of the Mancos Formation.

Order No. 407-333, Wattenberg Field, Weld County: Approves the request for an order to pool all nonconsenting interests in established 80-acre drilling and spacing units consisting of SE $\frac{1}{4}$  of Section 21, Township 5 North, Range 67 West, 6<sup>th</sup> P.M., for the development and operation of the Codell and Niobrara Formations.

Order No. 407-334, Wattenberg Field, Weld County: Approves the request for an order to establish a wellbore spacing unit consisting of the W $\frac{1}{2}$  NW $\frac{1}{4}$  of Section 30, Township 5 North, Range 64 West, 6<sup>th</sup> P.M., and the E $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 25, Township 5 North, Range 65 West, 6<sup>th</sup> P.M., and to pool all nonconsenting interests in said unit, for the development and operation of the Codell and Niobrara Formations.

**RECORD OF PROCEEDINGS**

---

\_\_\_\_\_  
Robert A. Willis, Acting Secretary

Approved:

\_\_\_\_\_  
Harris Sherman, Chair