

RECORD OF PROCEEDINGS

March 25, 2010

The Oil and Gas Conservation Commission met on March 25 at 9:00 a.m. in Suite 801, The Chancery Building, 1120 Lincoln Street, Denver, Colorado, for a hearing to Cause Nos. 1 (4 matters), 421, 369, 399, 429, and 191.

Those present were:

Joshua Epel	Chairman
Michael P. Dowling	Vice Chairman
James B. Martin	Commissioner
Richard D. Alward	Commissioner
Mark Cutright	Commissioner
Tom Compton	Commissioner
Tresi Houpt	Commissioner
Deann Craig	Commissioner
Matt Lepore	Assistant Attorney General
David Neslin	Director
Carol Harmon	Hearings Manager

Executive Director's Report: The General Assembly will address the Long Bill in the next ten days. There is continued work with JBC and the General Assembly to bring that bill into balance. Xcel and some conservation groups, along with a number of natural gas companies are working together to produce a bill that is designed to dramatically reduce air pollution from a number of aging, relatively inefficient coal fired plants located in the Denver metro area, and to replace those resources with much cleaner resources including natural gas.

The Governor has signed Senate Bill 165. This is very important to a number of operators in the state for two reasons; firstly it extends the deadline for the processing produced water permits from CBM wells and from wells that are deemed to be tributary. Secondly the bill also permits the use of produced water from non CBM tributary wells in the process of mining and oil and gas.

The Joint Budget Committee looks to be positive about hiring more persons for the COGCC. If so, then the COGCC will be the only agency with more FTEs at the start of the next fiscal year.

Director's Report:

Northwest Colorado: On March 4, 2010, the meeting of the Northwest Colorado Oil and Gas Forum was held at the Colorado Mountain College on the West Garfield Campus. The next meeting is scheduled for June 3, 2010, at 10:00 am.

Project Rio Blanco: As permit applications are being reviewed, in the vicinity of Project Rio Blanco, work is being conducted on a Rio Blanco sampling and analysis plan to ensure that public health, safety and welfare are protected. Last month the COGCC had a meeting with a number of stakeholders from federal government, state government and operators. A plan will be put together in the next two to three months prior to approval of permit applications in that area.

Southwest Colorado: The next Gas and Oil Regulatory Team (GORT) /Southwest Colorado Oil and Gas Stakeholders meeting is scheduled for April 15, 2010, at the La Plata County Fairgrounds in Durango, Colorado.

Ongoing progress has been reported in the 4M Monitoring Wells La Plata and Archuleta Counties. There have been some additional wells installed in this area. Additional reports and information are posted on the website.

RECORD OF PROCEEDINGS

The San Juan Basin Coalbed Methane Water Quality Analysis project continues. A contractor has been retained to review the water quality data on approximately 2,000 water wells in La Plata County that have been collected for the past 10 to 15 years. The COGCC had hoped to include data received from the Southern Ute Indian Tribe but determined that relatively few wells had the requisite number of sampling events. The COGCC have a draft report in progress and further update on this will be given in the next two months. This information will be useful to better understand the potential impact of the oil and gas development on ground water and water wells.

An additional report on Fruitland Outcrop Monitoring has been posted on COGCC website.

Some additional work has been completed in the ongoing investigation project conducted by Four Corners Geoscience in the vicinity of the Bryce 1-X Well Area, Bondad, Colorado.

COGIS Projects: Progress continues on updates and changes to electronic form (eForm) submissions. Nearly 75% of permit applications are being submitted electronically. EForm submissions expedite the permitting process. The IT staff is preparing eForms for Forms 5 and 5A, which the COGCC hopes to release in the next month. The COGCC is working now on creating an electronic Form 4 sundry notice.

The COGCC will be having another round of training sessions on the E form with the operators at the end of this month. Some sessions to provide additional training on E-filing and E form are scheduled to be held on March 31st and April 1st.

Variances: The COGCC granted a variance to ExxonMobil Oil Corporation from production casing compression strength requirement under Rule 37 (i). The COGCC has issued similar variances from that rule to Exxon for this in the past.

A permit under the exigent circumstances rule was issued to Vectra Oil and Gas. Vectra was in an unusual situation due to a variety of circumstances and was faced with having a rig on-site and not being able to begin work, if the COGCC went through the normal permitting process. The COGCC did consult with the local government, which supported issuing the permit. There had been an opportunity of a week or 10 days for public comments, but no comments were received. Under the circumstances the COGCC took advantage of the rule and issued a permit, so that the operator would not suffer those standby costs.

A third variance was granted to Kerr-McGee, allowing it to recomplete a well 51 feet outside of the drilling window under the Wattenberg field rules. The COGCC staff granted this variance because that slight discrepancy from the drilling window would not significantly affect the drainage of the field or the recovery of the resource and would create efficiencies for the operator and avoid unnecessary expenditure or development.

Permits: The COGCC has received at least 100 to 160 permit applications per week over the last four weeks. Rig numbers are going up slowly.

The staff are making a minor change in terms of issuing permits. This change does not change COGCC rules or require any action by the Commission. When the amendments were adopted by the COGCC, the staff began holding permits for a period of 10 days after a permitting decision was made to see whether any appeals were filed. The staff were not sure how many appeals or hearing requests they would receive under the expanded appeal rights of the amended rules so, out of caution, they alerted the operator and those with appeal rights that the permit would be issued but would not physically issue the permit for 10 days to see whether an appeal was received. A small number of appeals have been filed during the past year. So from April 1st the staff will issue permits without holding them for a period of 10 days. The procedure will be more efficient

RECORD OF PROCEEDINGS

for staff and should also be beneficial to operators. This does not change COGCC rules. If an appeal is filed, the permit is suspended automatically. Hence this does not diminish the rights of appellants.

Mr. Thom Kerr provided an update on permits. In the month of February, COGCC received only 216 permits as compared to January, when COGCC received nearly 500 permits. The backlog has continued to increase; however, nearly 1000 permits have been cleared from the backlog from older months. At present, there are less than 3 % of the drilling permits pending from last year.

Garfield County has the highest level of permit activity, followed by Weld County. A lot of Garfield County's activities are refiled permits. The report on Form 2A's shows the activity level by county, the number that are subject to consultation, or are within sensitive wildlife habitat or restricted surface occupancy area. There is also a breakdown of locations that are closer than 300 feet to a structure. All the staff reports are on the COGCC website.

Audience Comments:

COGCC received a rule making petition from the Colorado Petroleum Association (CPA), suggesting an amendment to the rules dealing with the disposal of synthetic pit liners. During the 2008 rulemaking, it was concluded by the Commission, in consultation with the Attorney General's Office and the Department of Public Health and Environment, that synthetic pit liners were solid waste and had to be disposed of consistent to the state laws and regulations governing disposal of solid waste. The initial legal issue is whether the COGCC has authority to regulate disposal of synthetic pit liners as E&P waste, or whether they are solid waste and, therefore, not within the COGCC's jurisdiction.

Mr. Jep Seman, representing CPA, indicated the need to change the pit liner disposal rule is because members are incurring substantial costs disproportionate to the benefits. In addition, federal rules do not prohibit burial of pit liners in place, which CPA operators in a difficult position because of the clear inconsistency between the state and the federal law. COGCC has asked CPA to provide additional information related to costs and benefits and operators' experience over the past year.

Mr. Mike Freeman, on behalf of Colorado Environmental Coalition, expressed concerns and objections to CPA's proposal. During rulemaking, the legal issue of whether pit liners were solid waste was decided. He also suggested that the Commission look into other high priority matters that were deferred during rulemaking before revisiting the pit liner issue.

Ms. Mary Halstead, former Supervisor of the Oil and Gas Location Assessment (Form 2A) group, commented on the consultation process with the Division of Wildlife (DOW). The timeframe of her memorandum was April 1, 2009 to February 2010, the first 11 months of the amended rules. Approximately 900 Form 2As were received, 63 of which were in sensitive wildlife habitat or restricted surface occupancy areas and on which DOW consultations were conducted. Out of this total, the vast majority (49) were in the northwest part of the state; the southwest had seven, the northeast had six, and southeast had one. The staff report for this is available on the COGCC website. The review time of Form 2As decreased from 83 days to approximately 50 days on average. Consultation with DOW decreased to approximately 20 days. Ms. Halstead's memorandum set forth a breakdown of the results of DOW consultation, whether it resulted in conditions of approval and what the conditions of approval were or whether and for what reason DOW did not impose conditions of approval.

RECORD OF PROCEEDINGS

Commissioner Comments:

Commissioner Alward reported on his and Commissioner Houpt's attendance at a gas symposium in Hotchkiss, Delta County, that involved stakeholders from industry, local government, and environmental and citizens' groups.

Commissioner Houpt requested an update on recent impacts to water wells in Garfield County. David Dillon, Engineering Manager for COGCC, stated that investigations under COGCC's standard procedures are being carried out on the Miller well. Testing has shown the presence of thermogenic gas in the water, and the staff are looking at all wells that are being drilled within a half mile of the Miller water well. The staff have identified five wells that may have issues with the cementing job, and the operators of those wells are being asked to conduct Bradenhead tests.

Steve Lindblom, Eastern Environmental Supervisor for COGCC, stated that Encana sampled the Moon water well in February. Encana met with the landowner and discussed the increase in thermogenic gas in the Moon 2 well, which is the replacement for the former Dietrich water well. Encana provided Mr. Moon with a gasometer and installed a fixed gas detector in the Moons' basement. The storage tank in the Moons' basement was measured at a lower explosive level of 29%, although the basement air was measured at 0% LEL. Encana will check Bradenhead measurements on the F11E pad and submit the results to the COGCC. Encana has increased the size of the vent on the storage tank from a ¾ inch-diameter to three inch-diameter. Encana has been monitoring the Moon 2 and Dietrich water wells on a monthly basis since November and December 2009 and plans to continue sampling through April 2010 or, possibly longer, depending on the results of the most recent gas analysis.

Chairman Epel congratulated Mr. Dillon on starting his own business and thanked him for his invaluable guidance to the COGCC over the past few years.

Audience Comments:

Ms. Tisha Schuller, introduced herself as the new president of the Colorado Oil and Gas Association ("COGA"). She also mentioned her emphasis on education and outreach on behalf of the industry and hopes to work with the COGCC on this matter. She described how natural gas is important in the context of backing up renewables, reduction of air pollution, environmental stewardship, and to the economy of the state.

She mentioned that the Energy Epicenter Conference is coming up on July 7-9, 2010.

She also mentioned that there are two bills in the state legislature that are of critical importance to COGA. Senate Bill 165, the produced water bill has passed. This bill directed that water permits will not be required for conventional non-coalbed methane, non-tributary wells in Colorado. This also continued the deadline for permit applications from March 31 to April 1 and for approvals to August 1.

The second bill, House Bill 1365, the clean air, clean jobs bill, proposes to retire 900 megawatts of coal with consideration being given to replacement with natural gas. It is not mandatory. Colorado's natural gas industry supports the bill.

Mr. Ed Ingve, owner and operator of Renegade Oil and Gas Company, asked the Commission to revisit the visual mitigation rule that requires production tanks to be painted tan. He owns around 150 wells mostly Elbert, east Arapahoe, east Adams, Prowers, and Baca Counties. The rule imposes economic hardship on marginal operators like him. He raised the issue of the definition of public highway and the Commission's jurisdiction to regulate visual mitigation on private property.

RECORD OF PROCEEDINGS

Consent Agenda: Chairman Epel asked if any Commissioners had a conflict of interest with any of the items on the consent agenda. Commissioner Cutright mentioned that he had a business relationship with Petroleum Development Corporation, but this would not materially interfere with his decision. Commissioner Martin informed the Commission that he was informed by the CPHE staff, that they had not received consultation on Cause No. 191, Docket No. 1002-SP-07.

Ms. Harmon said that he has had a conversation with Kate Fay, CHPHE, who agreed that the language added to the Battlement Mesa applications last month would be acceptable on Antero's Cause No. 191, Docket No. 1002-SP-07. Mr. William Keefe, attorney for Antero, wanted the Commission to conditionally approve this particular matter. If his client does not agree, then the matter could be docketed for hearing next month. The matter was pulled from the consent agenda.

Commissioner Cutright and Chairman Epel expressed concerns about requiring consultation to address cumulative impacts in the absence of a voluntary Comprehensive Drilling Plan. Battlement Mesa is a high density area, and this application is outside Battlement Mesa.

Commissioner Martin moved to defer a decision on Cause No. 191, Docket No. 1002-SP-07 until later in the day; it was seconded by Commissioner Houpt; the motion passed.

A motion was made by Commissioner Dowling to approve the consent agenda, seconded by an unidentified Commissioner and approved unanimously as follows:

Cause No. 252, Docket No. 1003-SP-10, Left Hand Field, Kiowa County, request for an order to establish two approximate 80-acre drilling and spacing units consisting of the N $\frac{1}{2}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 21, Township 18 South, Range 47 West 6th P.M., for the production of oil and gas and associated hydrocarbons from the Marmaton Formation.

Cause No. 252, Docket No. 1003-SP-11, Left Hand Field, Kiowa County, request for an order to modify the well location rules, particularly setbacks, pertaining to the previously established ten approximate 80-acre drilling and spacing units under Order No. 252-6 for certain lands in Sections 27, 28 and 34, Township 18 South, Range 47 West 6th P.M., for the production of gas and associated hydrocarbons from the Marmaton Formation.

Cause Nos. 232 and 407, Docket No. 1003-UP-15, Wattenberg Field, Weld, request for an order to designate various 80- and 160-acre drilling and spacing units in certain lands in Sections 28 and 33, Township 5 North, Range 67 West, 6th P.M., and to pool all nonconsenting interests in such units, for the production of gas and associated hydrocarbons from the Codell, Niobrara and "J" Sand Formations.

Cause No. 252, Docket No. 1003-UP-16, Left Hand Field, Kiowa County, request for an order to pool all nonconsenting interests in one proposed approximate 80-acre drilling and spacing units for the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 21, Township 18 South, Range 47 West, 6th P.M., for the development and operation of the Marmaton Formation.

Cause No.404, Docket No. 1003-UP-17, Red Mesa Field, La Plata County, request for an order to establish an approximate 40-acre drilling and spacing unit for the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 34, Township 33 North, Range 12 West, N.M.P.M., and to pool a nonconsenting interest in said unit, for the development and operation of the Gallup and Dakota Formations.

Cause No.404, Docket No. 1003-UP-18, Red Mesa Field, La Plata County, request for an order to establish an approximate 40-acre drilling and spacing unit for the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, Township 33 North, Range 12 West, N.M.P.M., and to pool a nonconsenting interest in said unit, for the development and operation of the Gallup and Dakota Formations.

RECORD OF PROCEEDINGS

Cause No.404, Docket No. 1003-UP-19, Red Mesa Field, La Plata County, request for an order to establish an approximate 40-acre drilling and spacing unit for the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, Township 33 North, Range 12 West, N.M.P.M., and to pool a nonconsenting interest in said unit, for the development and operation of the Gallup and Dakota Formations.

Cause No.404, Docket No. 1003-UP-20, Red Mesa Field, La Plata County, request for an order to establish an approximate 40-acre drilling and spacing unit for the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, Township 33 North, Range 12 West, N.M.P.M., and to pool a nonconsenting interest in said unit, for the development and operation of the Gallup and Dakota Formations.

During the lunch break, COGCC consulted with CDPHE about the following deferred matter; CDPHE withdrew its request to add language similar to that included in the Battlement Mesa orders last month, and so the language would not be added to the order. Commissioner Houpt moved to approve the matter; it was seconded by Commissioner Compton; it passed unanimously::

Cause No. 191, Docket No. 1001-SP-07, request for an order to establish three approximate 320-acre drilling and spacing units consisting of the W $\frac{1}{2}$ and the E $\frac{1}{2}$ of Section 11, and the W $\frac{1}{2}$ of Section 12, Township 6 South, Range 92 West, 6th P.M., and that such order allow one well per 10 acres for said unit, and a conditionally approval. The matter has been continued from February 2010 hearing.

The Commission heard Cause No. 1, Docket No. 1003-GA-04, an unprotested request by Applicant, Corsentino Dairy Farms, Inc., for an order to grant funds from the Conservation and Environmental Response Fund to mitigate the losses incurred on property located in certain lands in Section 31, Township 27 South, Range 65 West, 6th P.M., and Sections 35 and 36 of Township 27 South, Range 66 West 6th P.M., Huerfano County. Applicant was represented by John D. Faught, Esq. Petroglyph Energy Inc. submitted a 510 statement. Losses of corn crops resulted from the legal discharge of produced water upstream of the farm's irrigation source. Motion by Commissioner Dowling to deny the application; seconded by Commissioner Cutright; application was denied, 7-1.

On its own motion, the Commission heard Cause No. 1, Docket No. 1003-GA-06, two Applications for Permits-to-Drill (APDs) submitted by Magpie Operating Company ("Magpie") for locations on Moqui Meadows, located in the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 36, Township 5 North, Range 68 West, 6th P.M., Johnson's Corner Field, Larimer County. Mineral lessor is the Colorado State Land Board. Representing the parties were:

John Jacus and Sam Niebrugge, Davis, Graham & Stubbs LLC, attorneys for Magpie;
Ryan Warner, Vice President, Magpie;
Heather Warren, Assistant Attorney General, attorney for the Colorado State Land Board;
Philip D. Barber, attorney for Wendy Chase and Mike Sutak;
Wendy Chase, surface owner, Moqui Meadows.

Magpie voluntarily withdrew one APD. The Commission considered staff's recommendation (presented by Director Neslin) for one drilling location and the associated tank battery. Motion by Commissioner Dowling to accept staff's recommendation with minor changes to the conditions of approval; seconded by Commissioner Compton; approved, 6-1 (Commissioner Martin, absent.)

The Commission heard Cause No. 1, Docket No. 1003-GA-03, application by Gas Development Corporation ("GDC") for an order approving a change of operator of the Mary Akin No. 2 Well located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 27, Township 38 North Range 14 West 6th N.M.P.M.; the matter was protested by the current operator, Black Resources, Inc. ("Black") and the U.S. Department of Interior, Bureau of Land Management ("BLM") (under the Memorandum of

RECORD OF PROCEEDINGS

Understanding (“MOU”) between the COGCC and the BLM, dated August 22, 1991. Representing the parties were:

Philip D. Barber, attorney for GDC;
Tom Kimmell, attorney for Black;
Kristen Guerriero and Tyson Powell, attorneys for the BLM.

Assistant Attorney General Lepore explained that the well is in a federal unit. The Commission’s choices under the MOU were to either accept the recommendation of the BLM, which was to deny GDC’s application or to relinquish jurisdiction to the BLM. BLM believed it could resolve the issue, and AAG Lepore recommended relinquishing jurisdiction. After hearing arguments by GDC and Black, Commissioner Cutright made a motion to relinquish jurisdiction to the BLM; Commissioner Houpt seconded; motion passed, 6-0 (Commissioner Compton was absent).

The hearing adjourned at approximately 5:00 p.m. on March 25, 2010.

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The Secretary was therefore authorized to issue the following orders:

Order No. 252-8, Left Hand Field, Kiowa County: Approves the request for an order to establish two approximate 80-acre drilling and spacing units consisting of the N½ SW¼ and S½ SW¼ of Section 21, Township 18 South, Range 47 West 6th P.M., for the production of oil and gas and associated hydrocarbons from the Marmaton Formation.

Order No. 252-9, Left Hand Field, Kiowa County: Approves the request for an order to modify the well location rules, particularly setbacks, pertaining to the previously established ten approximate 80-acre drilling and spacing units under Order No. 252-6 for certain lands in Sections 27, 28 and 34, Township 18 South, Range 47 West 6th P.M., for the production of gas and associated hydrocarbons from the Marmaton Formation.

Order No. 252-10, Left Hand Field, Kiowa County: Approves the request for an order to pool all nonconsenting interests in one proposed approximate 80-acre drilling and spacing units for the S½ SW¼ of Section 21, Township 18 South, Range 47 West, 6th P.M., for the development and operation of the Marmaton Formation.

Order No. 232-255 and Order No. 407-354, Wattenberg Field, Weld County: Approves the request for an order to designate various 80- and 160-acre drilling and spacing units in certain lands in Sections 28 and 33, Township 5 North, Range 67 West, 6th P.M., and to pool all nonconsenting interests in such units, for the production of gas and associated hydrocarbons from the Codell, Niobrara and “J” Sand Formations.

Order No. 404-2, Red Mesa Field, La Plata County: Approves the request for an order to establish an approximate 40-acre drilling and spacing unit for the NW¼ SW¼ of Section 34, Township 33 North, Range 12 West, N.M.P.M., and to pool a nonconsenting interest in said unit, for the development and operation of the Gallup and Dakota Formations.

Order No.404-3, Red Mesa Field, La Plata County: Approves the request for an order to establish an approximate 40-acre drilling and spacing unit for the SW¼ NW¼ of Section 34, Township 33 North, Range 12 West, N.M.P.M., and to pool a nonconsenting interest in said unit, for the development and operation of the Gallup and Dakota Formations.

RECORD OF PROCEEDINGS

Order No.404-4, Red Mesa Field, La Plata County: Approves the request for an order to establish an approximate 40-acre drilling and spacing unit for the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, Township 33 North, Range 12 West, N.M.P.M., and to pool a nonconsenting interest in said unit, for the development and operation of the Gallup and Dakota Formations.

Order No.404-5, Red Mesa Field, La Plata County: Approves the request for an order to establish an approximate 40-acre drilling and spacing unit for the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, Township 33 North, Range 12 West, N.M.P.M., and to pool a nonconsenting interest in said unit, for the development and operation of the Gallup and Dakota Formations.

Order No. 191-72, Mamm Creek Field, Garfield County: Approves the request for an order to establish three approximate 320-acre drilling and spacing units consisting of the W $\frac{1}{2}$ and the E $\frac{1}{2}$ of Section 11, and the W $\frac{1}{2}$ of Section 12, Township 6 South, Range 92 West, 6th P.M., and that such order allow one well per 10 acres for said unit, and a conditionally approval. The matter has been continued from February 2010 hearing.

Order No. 1-148, Purgatoire River Field, Huerfano County: Denies the request for an order to grant funds from the Conservation and Environmental Response Fund to compensate for property losses incurred on certain lands in Section 31, Township 27 South, Range 65 West, 6th P.M., and Sections 35 and 36 of Township 27 South, Range 66 West 6th P.M., Huerfano County.

Order No. 1-149, Johnson's Corner Field, Larimer County: Approves with conditions an Application for Permit-to-Drill and an associated tank battery location in the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 36, Township 5 North, Range 68 West, 6th P.M.

Order No. 1-150, Mary Akin Federal Unit, Montezuma County: Relinquishes jurisdiction to the U.S. Department of Interior, Bureau of Land Management ("BLM") of an application for an order approving a change of operator of the Mary Akin No. 2 Well located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 27, Township 38 North Range 14 West 6th N.M.P.M.

Carol Harmon, Secretary

Approved:

Joshua Epel, Chair