

**BEFORE THE OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO**

IN THE MATTER OF THE APPLICATION OF CM  
PRODUCTION LLC REGARDING THE DISPOSITION  
OF ORDER NOS. 1V-412 AND 1V-413 AND  
WITHDRAWN DOCKET NO. 150500143 REGARDING  
ALLEGED VIOLATIONS OF THE RULES AND  
REGULATIONS OF THE COLORADO OIL AND GAS  
CONSERVATION COMMISSION, JACKSON COUNTY,  
COLORADO

CAUSE NO. 1V

DOCKET NO.

**Application for Hearing**

Pursuant to Commission Rule 503(b)(10), CM Production LLC ("CM"), by and through its attorneys, Davis Graham & Stubbs LLP, seeks relief from the Oil and Gas Conservation Commission of the State of Colorado ("Commission" or "COGCC") in matters related to the Amendment of Order Nos. 1V-412 and 1V-413 in negotiation of an Administrative Order by Consent in Docket No 150500143. In support of this application, CM states as follows:

**Affected Interest**

1. CM is a limited liability corporation authorized to conduct business in the State of Colorado and is a registered operator in good standing with the Commission.
2. CM is a small operator with a longstanding presence in Colorado, and has invested in a variety of wells and other production facilities in the state.
3. CM owns leasehold interest and conducts operations at the Margaret Spaulding location (Location No. 324634) in Jackson County, Colorado, formerly owned by Lone Pine Gas, Inc. ("Lone Pine") (the "Lands") at issue in Order Nos. 1V-412 and 1V-413 and Docket No 150500143.

**Background and Procedural History**

1. On May 6, 2013, the Commission and Lone Pine entered into an Administrative Order by Consent ("Lone Pine AOC" or "Order 1V-412") to resolve Notices of Alleged Violations ("NOAV") issued by the Commission against Lone Pine on or about September 27, 2010 (NOAV No. 200272892) and on or about December 22, 2011 (NOAV No. 200334881). Order 1V- 412 required numerous remedial actions related to exploration and production wastes and pit use.
2. On May 6, 2013, the Commission also entered a Stipulated Order with CM ("Order 1V-413") which acknowledged CM's willingness to become jointly and severally liable with Lone Pine for performing all corrective actions required by, and for payment of any penalty imposed under Order 1V-412.

3. On June 25, 2014, the Director granted CM's request to extend the deadline for compliance under Order 1V-412 and 1V-413. Among other things, CM was given an extension to November 1, 2014, to decommission the former water treatment pits to Table 910-1 standards.

4. On November 21, 2014, Staff issued a NOAV (No. 200417500) to CM for allegedly violating Order 1V-412 and 1V-413 by allegedly failing to decommission the former water treatment pits to Table 910-1 standards by the extended deadline of November 1, 2014 ("Pending NOAV").

5. CM actively disputed the pending NOAV through various detailed written responses and met with Commission Staff in furtherance of settlement of the Pending NOAV. Commission Staff and CM, as a result of their negotiations in good faith, executed an AOC resolving all issues related to the Pending NOAV and amending the deadlines under Order 1V-412 and Order 1V-413 ("2015 AOC").

6. On April 1, 2015, the Commission filed a Notice and Application for Hearing for this matter (Docket No. 150500143) concerning the Pending NOAV and 2015 AOC.

7. On May 18, 2015, at hearing, the Commission was scheduled to consider on the consent agenda the executed 2015 AOC. However, Commissioner Wolk moved to pull Docket No. 150500143 off of the consent agenda "due to timing issues with the Water Quality Control Division." COGCC Minutes, May 18, 2015 at 23. "There being no objection, Docket No. 150500143 was deferred to the Commission's July 20, 2015 hearing." *Id.* No independent representative from CDPHE's Water Quality Control Division commented on or opposed the 2015 AOC at the May 18, 2015 Hearing.

8. Commission Staff articulated good cause in the 2015 AOC for further extending deadlines for remediation activities. The 2015 AOC acknowledges that "CM has been engaged in corrective actions under the previous orders..." and finds that remediation to table 910-1 standards will take more effort "than what was originally contemplated;" that "CM has made progress in remediating the Location, yet considerable work remains;" but "imposition of a significant penalty . . . . Is counterproductive to achieving ultimate environmental compliance at this location." 2015 AOC at ¶14.

9. On June 26, 2015, after one additional meeting with CM, Director Lepore issued a Notice and Demand for Payment Letter to CM on the matters still pending in Docket No. 150500143 ("Demand Letter"). The Demand Letter demanded payment for alleged noncompliance under Order 1V-412 and Order 1V-413.

10. On July 8, 2015, the Commission Staff purported to withdraw Docket No. 150500143 from consideration (the "Withdrawal"). However, the Pending NOAV remains outstanding.

11. CM is advised that on August 12, 2015 Director Lepore likewise sent a similar notice and demand for payment letter to Lone Pine.

## General Allegations

1. The actions of the Commission Staff following the COGCC's May Hearings are impermissible under COGCC Rules and severely impair CM's substantive and procedural rights in these matters, including its ability to progress with environmental and operational improvements at the Margaret Spaulding location.

2. Any penalty arising from a NOAV may be imposed only by Commission order after a hearing. See C.R.S. § 34-60-121(1); Rule 522. If an AOC is negotiated by the parties, the Commission may approve the AOC by motion, without formal hearing. Rule 522(e)(1)(C). However, if the Commission does not approve the AOC, it will remand the matter to the Director for further proceedings. Rule 522(e)(1)(D).

3. In this regard, Rule 520.b.(3) provides that "any matter removed from the Consent Agenda shall be heard at the end of the remaining agenda ... or, if not, scheduled for hearing at the next regularly scheduled meeting of the Commission."

4. Pursuant to Rule 522.e.(1), Commission Staff and CM negotiated the 2015 AOC provisionally resolving the issues related to the decommissioning of the pits at issue here. The AOC also amended several provisions of Order 1V-412 and Order 1V-413 including extending the time to comply with certain provisions of the Orders to September 1, 2018 and extending the penalty dates.

5. The 2015 AOC has not been heard by the Commission, and has not been rescheduled for hearing by the Staff. As such, there has been no approval or disapproval of the AOC, nor has the AOC been remanded to the Director under Rule 522 e.(1)D.

6. The Demand Letter improperly disregarded pending proceedings to amend Order 1V-412 and Order 1V-413 and demanded immediate payment under each order. The Director may not demand a penalty on a matter that is pending before the Commission and which has not been decided or remanded. Demand for payment under an AOC is permitted under the rules only after the AOC and any pending amendments affecting such payments are final.

7. The Demand Letter was filed twelve days before the Commission Staff withdrew Docket No. 150500143 by filing the Withdrawal. Not only did the filing of such a Demand while the 2015 AOC was pending violate Commission Rules, it deprived CM of any fair opportunity to adequately address the issues raised in the course of this matter, which CM assumed had been resolved by the fully-executed 2015 AOC.

8. The Withdrawal also purports to deprive CM of the opportunity to rebut Commission Staff's assertion that the November 1, 2014 deadline cited in the Pending NOAV was not met and that such alleged failure triggers the \$150,000.00 penalty. CM must be afforded full opportunity to respond to such assertions especially in light of the resolution of the matter evidenced by the signed 2015 AOC.

## General Allegations

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9. Since acquiring the Lone Pine Field in 2013, CM has been unable to produce any oil or gas and has not realized any income from the Lands. Rather, CM has devoted extensive capital into reclamation, environmental compliance and other site improvements.

10. CM Production has made significant progress in addressing the environmental impacts and necessary operational and maintenance issues at the Lone Pine Field since acquiring the field in 2013 and has honored its commitments under Order 1V-412 and 1V-413 to the best of its abilities, especially in light of the financial conditions brought on by the drastic drop in gas prices, including decommissioning Pits 112268 and 112269 prior to the November 1, 2014 deadline. Providing CM an opportunity to expend funds on remediation, as opposed to payment of penalties, is in accord with Commission policies and is in the best interest of the State of Colorado.

#### Relief Requested

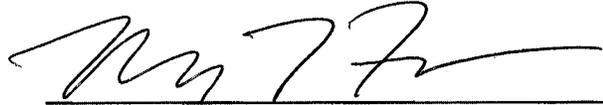
For the reasons set forth above, CM respectfully opposes the withdrawal of Docket No. 150500143 and seeks a hearing of the matter with the Commission to:

1. Present evidence and arguments relating to corrective actions, and environmental improvements taken to date under Order Nos. 1V-412 and 1V-413;
2. Present evidence and arguments regarding the substantive and procedural issues raised herein regarding the executed 2015 AOC and subsequent Demand Letter and Withdrawal;
3. Vacate the Director's demand for a penalty assessment under the Demand Letters;
4. Approve the 2015 AOC entered into between Commission Staff and CM;  
and
5. For such other findings and orders as the Commission may deem proper or advisable in the matter.

DATED this 11<sup>12</sup> day of September 2015.

Respectfully submitted:

**CM Production LLC**



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**CERTIFICATE OF SERVICE**

I hereby certify that on this 11<sup>th</sup> day of September 2015, a true and correct copy of the foregoing **Application for Hearing** was filed and served via on the persons/entities listed below:

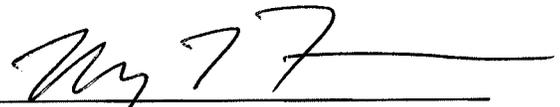
Via Email and U.S. Mail:

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