



October 3, 2012

Colorado Oil and Gas Conservation Commission
Attn: Director Matt Lepore
1120 Lincoln Street, Suite 801
Denver, Colorado 80203

RE: PDC Energy, Inc. Setback Straw Man Comments

Director Lepore,

Thank you again for the opportunity to provide additional commenting on the proposed Amended Setback Rules outlined in the Straw Man Narrative provided by the Colorado Oil and Gas Conservation Commission ("COGCC"). PDC Energy, Inc. ("PDC") looks forward to a continued dialogue throughout the stakeholder and rulemaking process.

In anticipation of the initial draft for the proposed rule amendment, PDC has identified several areas of concern relating to the proposed Straw Man narrative. This letter addresses some of PDC's concerns as well as providing some suggestions that we would appreciate the COGCC staff to consider prior to the release of the initial draft later this week.

- Restrictions on operating hours as a mitigation measure can extend the total number of days on a site exponentially to the detriment of nearby occupants. There are safety, logistical and economic reasons for continuous operations. Instead, operators should be given the opportunity to propose other site-specific mitigation measures to offset 24 hour/day activities. All proposed mitigation requirements and COA's should be qualified as Best Management Practices ("BMP's") and/or Best Available Technologies ("BAT's").
- The proposed Zones 1-3 should apply only to locations requiring a COGCC Form 2, Application for Permit to "Drill" and submitted after the effective date of the amended setback rules. As stated at recent setback stakeholder meetings, the majority of complaint concerns involve noise, lighting, traffic, hours of operation, dust and odors. These issues for the most part are related to drilling and completion operations, and not tank battery operations. After tank batteries have been constructed and wells put on production, the facilities are unmanned, traffic is typically restricted to daylight hours, and dust, noise and odors issues are minimal. The current setback requirements for production equipment in Rules 603 and 604 are adequate and should remain in place.

- Imposing the proposed setback requirements for new wells on existing pads will have unintended consequences. Operators may be forced to construct a new well pad, thereby increasing cumulative surface disturbances, operational footprints to the landscape, and environmental impacts.
- The areal extent of the proposed setbacks for Zones 1-3 are excessive and overreach the extent of the surface area significantly affected by operations. The commission should consider utilizing Setbacks of 200' (Zone 1), 500' (Zone 2) and 750' (Zone 3) as a more practical approach to those actually affected by the operations in their area. This would allow for additional notice, in comparison to current notice requirements, to those in close proximity to Oil & Gas operations and input from those principally affected by the operations themselves.
- Alternatively, should the suggested setback distance for Zone 1 set forth above be unacceptable, the commission should consider eliminating Zone 3 and maintaining Zone 1 and 2 with setback distances as set forth in the current Straw Man document.
- The requirement in Zone 1 to obtain written consent of **all** owners of surface property and/or Building Units (“owner”) is extremely problematic. By merely refusing to sign, any property owner within 350 feet can stop access to mineral rights. It also gives adjacent property owners “equal standing” as the property owner of the proposed location. This puts in question the constitutional rights of the location’s property owner under real property law and generates a legal issue regarding the “taking” of mineral reserves. Additionally, the imposition of these setbacks, especially in Zone 1, could potentially restrict an operator from drilling “infill” wells, thereby leaving reserves in the ground. This also would essentially be a “taking” of mineral rights.
- Any requirement to arrange a public meeting for owners of surface property and/or Building Units (“owner”) on any proposed location is unnecessary without prior indication of owner concerns. The notice process for all zones should be revised to streamline the public notice process in situations where consultation is unnecessary, but still provide COGCC staff knowledge of concerns and/or flexibility to request further consultation (similar to Landowner Notice under Rule 305.e). The notice provision for Zones 1-3 should be considered as follows:
 - Zone 1 notice should include notice via certified mail to all owners of Building Units within the Zone 1 boundary. Said notice shall include a COGCC request for consultation stamped postcard as is in Rule 305.e. This will require COGCC and operator to consult with any Building Unit owner that responds within the notice period provided. However, the “approval” by an adjacent surface owner will **not** be **required** for approval of the permit, but as in Rule 305.e, will call for additional consultation with the operator during the permitting process, at which time COA’s/mitigation measures may be agreed upon. The additional consultation may include the need for a COGCC hearing if deemed necessary.

- Zone 2 notice should include notice via certified mail to all owners of Building Units within the Zone 2 boundary, but greater distance than the Zone 1 boundary, and should include a COGCC request for consultation stamped postcard similar to Rule 305.e. This will require COGCC to contact the Building Unit owner responding within the notice period to hear their concerns. Any objections to the operations will not delay the permitting process, but can, at COGCC's discretion, initiate additional consultation with the operator during the permitting process, at which time COA's/mitigation measures may be agreed upon.
- Zone 3 notice should include posting of intended operations within the Zone 3 boundary, but greater than the Zone 2 boundary, at the nearest intersection of any major public road as well as posting of notice in the local paper. Concerns over operations would be heard by COGCC and handled based on COGCC's discretion upon consultation with operator during the permitting process.
- The comment period for all owners of Building Units should be set at 30 days from receipt of notice in order to provide consistency with the majority of commenting periods set forth in the existing COGCC 300 series Rules.
- Maximum permissible noise levels are currently set forth in Rule 802. Noise Abatement. Allowable noise levels have been established for four (4) designated zones:

Residential/Agricultural/Rural
Commercial
Light Industrial
Industrial

- Accepted setback rule amendments should only apply to locations requiring a Form 2, Application for Permit to "Drill" and submitted after the effective date of the amendment. Any other requirement would cause immediate severe economic harm and potential lay-offs, as it would jeopardize project inventory and operator flexibility intended to accommodate crop timing, contractual obligations, lease agreements, gas gathering issues, landowner requests and many others.
- The implementation of **required** COA's and/or prevention of permit approval per the objection of a Building Unit owner will make planning impossible and may have unintended consequences by potentially creating an opportunity for owners to demand consideration (which could include payment for unknown damages) in exchange for waiver signatures and/or the withdrawal of their objections.

As this letter may indicate, details in regards to rule specifics remain of great concern to PDC. We are cognizant of your desired timeline to complete this rulemaking. However, PDC cannot stress enough the importance for in-depth discussion over the specifics of the initial draft proposal, including those captured herein, prior to submittal of a published draft rule to the Secretary of State.

Thank you again for your time and consideration during the stakeholder process. We look forward to further communications regarding PDC's concerns in this matter.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Bart Brookman".

Bart Brookman
Senior Vice President E&P

Cc: Mr. Thom Kerr - Permitting Manager COGCC