



November 6, 2008

Certified Mail Return Receipt Requested # 7007 1490 0001 8186 6462

Mr. and Mrs. George and Marilyn Neuberger  
19695 E. Amherst Drive  
Aurora, CO 80013

RE: Complaint 200192820  
Failure to Install and Maintain Adequate Erosion Controls, Failure to Notice Landowner, Impact on  
Surface Water Seep or Sping

Dear George and Marilyn:

Your complaint consisted of three issues. The first issue is that you believe the Mazatlan 23-25 well is drilled on property you own and that the operator did not contact you and attempt to reach a surface use agreement prior to drilling the well. The operator filed the application for permit to drill the well and construct the associated pad with a surface use agreement from the owner of Tract 68 located south of the lot you own (Tract 67). The second issue was that you had observed transport of muddy sediments into an arroyo at crossing the lease road to the Mazatlan well pad. The third issue you described was that in previous years you had observed water seeping into the arroyo to the north of the well and its pad. You further stated that the source of the water in the arroyo had been a seep or spring. You further stated that you thought that the activities of Pioneer had caused the spring or seep to dry up.

In response to the complaint you verbally submitted on July 22, 2008, the Colorado Oil and Gas Conservation Commission (COGCC) conducted field inspections of the Mazatlan 23-25 and Mazatlan 23-25TR and the pad and lease road accessing the pad. The COGCC with your help located two of the three southern boundary corner pins of your lot. You provided the COGCC with a copy of the plat map for your lot. I contacted Pioneer Natural Resource with requests to provide any maps and corner points their surveyor had found on or near to your property.

### **FIELD INSPECTIONS and INVESTIGATIONS**

I visited the site on July 24, 2008 to inspect the Mazatlan 23-25 well and pad as well as areas along the lease road. I also inspected the permitted location of the Mazatlan 23-25TR. Field inspection 200192813 which is a notice of failed inspection was sent via e-mail to Elton Smith and James Roybal of Pioneer on the same day. Inadequate erosion control measures taken during construction of lease access road. A copy of this inspection notice is included as Attachment 1. Photographs of the pad and lease road were also sent to Pioneer and are included as Attachment 2. A Notice of Alleged Violation was issued by COGCC staff to Pioneer Natural Resources with respect to the observed lack of erosion control best management practices along the lease road to the Mazatlan well pad as a result of the July 24, 2008 field inspection conducted as part of the investigation of your complaint. NOAV 200193025 is included as Attachment 3. During the July 24, 2008 filed inspection, I also determined the location of the Mazatlan 23-25 well. The location of the well as determined on July 24, 2008 was within approximately 10 feet of the as proposed drilling location in the Application for Permit to Drill submitted by Pioneer.

I requested that Pioneer provide me more detailed information with respect to the Mazatlan 23-25 location and corners of Tract 67 (your lot) which they forwarded to the surveyor who had determined the location of the Mazatlan well as proposed and as drilled. Through Pioneer, the surveyor supplied a map showing corner pins he had previously located in the area of your lot and the Mazatlan well. That map is included as Attachment 4. That map indicates the as proposed location of the Mazatlan 23-25 was 150 feet south of the line between two of the located corner pins defining your tract. The distance from the lot line transferred from the plat map is indicated at 173 feet north of the proposed Mazatlan 23-25 location. The pins indicate that the corners were initially located and installed by Terry Surveying (PLS 12160) and were likely done as part of the platting of the North Fork Ranch subdivision. As you can see on the attached map the pins as located on the ground are in slightly different locations than the lot line as transferred from the plat map of the subdivision. I provided you with a copy of this map via e-mail on August 5, 2008. We discussed the surveyors location of the well as being proposed and drilled on Tract 68 and not on Tract 67 as you believed was Pioneer's original plan. Pioneer had provided a copy of a surface use agreement with the owners of Tract 68 as part of the APD.

I met you at your property on September 4, 2008 so that you could aid me in finding the corner pins along the southern border of your property. We found two pins near and along the access road to your property. The two pins you helped me locate are labeled as "corner pin a" and "corner pin b" on the attached map. You also showed me a wooden lath that you believe is on your property line, as you related that a previous owner had told you this. On September 4, 2008 we could not locate the pin at the south and east corner of your lot labeled pls12160 tr68/tr64 on the map. I contacted Pioneer to see if they could ask the surveyor to provide coordinates for the third corner pin. Shields Survey Ltd. Co provided latitude and longitude for the pins they had located in the course of surveying the area at the request of Pioneer.

I returned to the location on September 15, 2008 and located the southeastern corner pin using the coordinates provided by Shields and Pioneer. That point is labeled "corner pin c" on the attached map. I returned to the location on September 19<sup>th</sup> and determined the locations of corner pins b and c as well as the location of the Mazatlan 23-25 well using a Corvallis MicroTechnology, Inc. model March-II-E GPS unit. The differentially corrected data from that visit are included as Attachment 5. To better illustrate the locations of the wells and corner pins, I have plotted those locations onto an aerial photograph from 2005 (Attachment 6). This photo is plotted at the same scale as the plat map provided by Pioneer so a direct comparison of plat map and air photo can be made.

After careful examination of the data, I concluded that the Mazatlan 23-25 was not drilled on your property. The GPS locations I gathered do show that the well is located closer than 150 feet to your property line. The mapping I performed shows that the well is located only 137 feet from the line between the corner pins located on the ground. COGCC rule 603.a(2) requires that a well can only be drilled closer than 150 feet to your property line by prior consent of the affected surface owner as quoted below.

### **603. DRILLING AND WELL SERVICING OPERATIONS AND HIGH DENSITY AREA RULES**

a. **Statewide setbacks.** Subparagraph (1) below shall apply to all areas of the state except as provided under subparagraphs b. and e. of this rule. Subparagraph (2) below shall apply to all areas of the state.

(1) At the time of initial drilling of the well, the wellhead shall be located a distance of one hundred fifty (150) feet or one and one-half (1-1/2) times the height of the derrick, whichever is greater, from any occupied building, public road, major above ground utility line or railroad.

(2) A well shall be a minimum distance of one hundred fifty (150) feet from a surface property line. An exception may be granted by the Director if it is not feasible for the operator to meet this minimum distance requirement and a waiver is obtained from the offset surface owner(s). An exception request letter stating the reasons for the exception shall be submitted to the Director and accompanied by a signed waiver(s) from the offset surface owner(s). Such waiver shall be written and filed in the county clerk and recorder's office and with the Director.

Pioneer Natural Resources did not file a signed waiver of this rule when they applied for a permit. The COGCC staff issued a second NOAV to Pioneer Natural Resources on October 24<sup>th</sup> with respect to violation of Rule 603.a.(2). This NOAV is included as Attachment 7.

The drainage to the north of the Mazatlan well locations is shown on a United States Geological Survey Topographic map (Attachment 9). The symbol on the map indicates the feature is an intermittent stream and no symbol for a spring is shown along the drainage feature. I walked the dry arroyo from downstream of the Mazatlan well pad for approximately 0.5 miles during my September 19, 2008 site visit. I saw no evidence of riparian vegetation that would indicate the presence of nearly continuous sources of water. I only observed dry land vegetation such as sparse scrub oak, perennial grasses and sparse small evergreen trees. My observations confirm the map as indicating the presence of an intermittent or ephemeral stream in the drainage and that I observed no evidence of a perennial spring at present or in the past along the drainage.

The staff of the COGCC issued one Notice of Alleged Violation (NOAV) to Pioneer Natural Resources for the Mazatlan 23-25 (200192813) related solely to erosion control issues brought forward in your complaint. The staff of the COGCC issued a second NOAV to Pioneer Natural Resources for not obtaining a waiver from you since the Mazatlan 23-25 well is located less than 150 feet from your property line. The second NOAV (200197113) was also issued with respect to observed failures of the erosion controls installed in response to the first NOAV discussed above. This complaint will be closed with the issuance of these NOAV. This second Notice of Alleged Violation also addressed continued problems with erosion controls along the lease road to the Mazatlan well due to observations made during a follow-up inspection of the problems noted and addressed in the first NOAV. No action was taken regarding your complaint of impacts to a spring in the area as no evidence of a spring was observed at present or in the past based on USGS topographic mapping.

If you have any questions or would like to discuss these matters further, please contact me at 719-846-3091 or by email at [peter.gintautas@state.co.us](mailto:peter.gintautas@state.co.us). Should you be unsatisfied with COGCC staff's handling and resolution of your complaint Rule 522.b. (4) allows you as the complainant to file with the Commission an application for an Order Finding Violation.

Sincerely,  
Colorado Oil and Gas Conservation Commission

Peter Gintautas  
Environmental Protection Specialist

Attachments: Attachment 1 - Field Inspection Notice 200192813 (Mazatlan 23-25) July 24, 2008  
Attachment 2 - Photographs of Erosion Control Problems on Mazatlan lease Road  
Attachment 3 - Notice of Alleged Violation 200193025  
Attachment 4 - Plat Map Including Located Corner Pins  
Attachment 5 - GPS data from September 19, 2008  
Attachment 6 - Aerial Photograph with Wells and Corner Pins  
Attachment 7 - Notice of Alleged Violation 200197113  
Attachment 8 - Photograph - Follow-up Inspection (October 17, 2008)  
Attachment 9 - Topographic Map of Mazatlan Location

cc: David Neslin, Acting COGCC Director w/o attachments  
Debbie Baldwin, COGCC Environmental Protection Manager w/o attachments  
Margaret Ash, COGCC Environmental Protection Supervisor w/o attachments  
Jerry Jacob, Pioneer Natural Resources, w/o attachments

## COGIS - Field Inspection Report

			
API Number:	05-071-09498-00	Well Name:	MAZATLAN #23-25
Well Location:	NESW 25 32S 68W	Lat:	Long:
Operator #:	10084	Operator Name:	PIONEER NATURAL RESOURCES USA INC
Inspection Date:	7/24/2008	Inspector:	PETER GINTAUTAS

Inspection was: **Unsatisfactory**

Insp. Type: <b>ES</b>	Insp. Stat: <b>PR</b>	Plugged: Pass/Fail:
Violation: <b>Y</b>		NOAV Sent: <b>Y</b>
UIC Violation Type:		Brhd. Pressure:
Inj. Pressure:		T-C Ann. Pressure:
Date Corrective Action Due: <b>8/7/2008</b>		Date Remedied:

### **Pit Inspection**

Pit Type: **PW**      Oil on Pit: **N**      Freeboard:

Number of Pits: **1**    Number covered or lined: **0**    Number uncovered or unlined: **0**

Comments: **PIT FENCED AND LINED, 2 COMPARTMENT RESERVE PIT IN USE AS PRODUCED WATER PIT. 3 FEET FREEBOARD**

### **Field Inspection Comments and Observations**

Insp. Comment	Inspection/Violation Comments
ACTION	INSTALL EROSION CONTROLS ALONG LEASE ROAD.
FENCECOMMENT	PIT FENCED
FIREWALL	NONE
GENHOUSE	GOOD
MISC	INADEQUATE EROSION CONTROL PRACTICES IN PLACE ALONG LEASE ROAD. SEDIMENT WASHING INTO ARROYO. NO FILTERING AT DOWSLOPE END OF CULVERT AND 2 FOOT DEEP GULLY HAS ERODED OUT OF ROAD SIDE.
SPILCOM	EROSION CONTROL PROBLEMS AT JUNCTION OF LEASE ACCESS ROAD WITH ROAD TO TALON 34-25.
WELLSIGN	NO SIGNS VISIBLE ON WELL PAD LOCATIO

Crew:  
 Dept:  
 Desc:

Route: NONE  
 Feature list:11080601

Session for static point: 120  
 Default logging mode:Dynamic  
 Interval for dynamic mode: 1

Nav beep:Yes  
 Warning range: 0 Feet  
 Warning message:No  
 Warning beep:No

Datum:NAD 83  
 Unit:US Survey Feet  
 North:True  
 Time mode:UTC  
 Local time offset: -6  
 Coord:LLA

Current Time: 14:29:21  
 Current Date: 11-05-2008

Date Collected:09-19-2008

Seq	Feature name Attribute/Value	Type	Latitude	Longitude Status	HAE PDOP	Time Quality
00001	POINT POINT001 ID	P	037 13 36.8899 N	104 57 10.1480 W C/A Corrected	8276.29 4.4	14:10:55
			:TR67-68			
00002	POINT POINT002 ID	P	037 13 37.4313 N	104 56 55.8389 W C/A Corrected	8075.59 2.7	15:50:02
			:MZTLN 23-25			
00003	POINT POINT003 ID	P	037 13 37.1226 N	104 56 55.0123 W C/A Corrected	8029.44 3.2	15:53:23
			:MZTLN 23-25TR			
00004	POINT POINT004 ID	P	037 13 41.0444 N	104 56 50.5968 W C/A Corrected	8083.84 2.5	16:11:19
			:LS14840 54-56			
00005	POINT POINT005 ID	P	037 13 39.5841 N	104 56 50.0719 W C/A Corrected	8037.50 3.7	16:25:02
			:TR68-TR64 PLS121			