



BEFORE THE OIL AND GAS CONSERVATION COMMISSION  
STATE OF COLORADO

IN THE MATTER OF THE PROMULGATION AND ) CAUSE NO. 1  
ESTABLISHMENT OF FIELD RULES TO )  
GOVERN OPERATIONS IN AN UNNAMED FIELD, ) ORDER NO. 1-150  
MONTEZUMA COUNTY, COLORADO ) CORRECTED

REPORT OF THE COMMISSION

This cause came on for hearing before the Commission on March 25, 2010 at 9:00 a.m. at The Chancery Building, 1120 Lincoln Street, Suite 801, Denver, Colorado, after giving Notice of Hearing as required by law, for an order changing the operator of the Mary Akin #2 Well located in the SE¼ SW¼ of Section 27, Township 38 North, Range 14 West, **N.M.P.M.**

FINDINGS

The Commission finds as follows:

1. Gas Development Corporation ("GDC") as applicant herein is an interested party in the subject matter of the above-referenced hearing.
2. Due notice of the time, place and purpose of the hearing has been given in all respects as required by law.
3. The Commission has jurisdiction over the subject matter embraced in said Notice, and of the parties interested therein, and jurisdiction to promulgate the hereinafter prescribed order pursuant to the Oil and Gas Conservation Act.
4. On October 30, 2009, GDC, by its attorney, filed with the Commission a verified application for an order declaring that GDC is the operator of the Mary Akin No. 2 Well ("the Well") located at a permitted location of 660 feet from the south line and 2,310 feet from the west line in the SE¼ SW¼ of Section 27, Township 38 North, Range 14 West, **N.M.P.M.** GDC alleged that it is the owner of the Well and lease ("Lease") on which the Well is located and that it had been unable to secure the requisite signature of the previous operator, Black Resources, Inc. ("Black"), for the Form 10.

GDC's application set forth a history of litigation (involving at least three lawsuits) between GDC and Black associated with the Well and Lease that began in 1998 and continued through at least March 26, 2009, the date of the most recently announced decision by the Colorado Court of Appeals.

5. On March 10, 2010, Black, by its attorney, filed a protest to GDC's application and alleged that either the Commission lacked jurisdiction to grant the application or, in the alternative, that the Commission should not exercise its jurisdiction since the matter involves an ongoing dispute between private parties and would create an unnecessary conflict with the federal government.

Black's protest alleged that the Well is situated on and remains a part of the Mary Akin Federal Unit ("Unit") and that the U.S. Department of Interior, Bureau of Land Management, Colorado State Office ("BLM") continues to recognize Black as operator of the Unit and the Well.

6. On March 17, 2010, the BLM submitted a protest to GDC's application pursuant to Section F.3 of that certain Memorandum of Understanding ("MOU") between the Commission and the BLM, dated August 22, 1991.

In relevant part, Section F.3 of the MOU provides that matters involving federal and nonfederal minerals shall be initially submitted to the Commission for a decision; however, when matters involve federal or Indian lands, the BLM may submit its protest specifying conditions, if any, under which the BLM would accept the relief requested. The Commission must either issue its order incorporating the conditions or relinquish jurisdiction of the matter to the BLM insofar as it relates to federal or Indian lands.

The BLM's protest under the MOU alleged that the Well is committed to the Unit and is subject to the BLM-approved Mary Akin Unit Agreement for the Development and Operation of

the Mary Akin Unit Area ("Unit Agreement"). The Unit has contracted to Participating Area comprised of 409.86 acres, of which approximately 51% are federal. Effective November 8, 1993, BLM approved the designation of Black as the Unit operator; BLM recognizes Black as the current designated operator of the Unit.

BLM's recommended solution to this matter is for the Commission to accept the Unit Agreement as controlling and deny the request by GDC to be declared the operator of the Well. Pursuant to the MOU, BLM requested the Commission either issue an order incorporating the recommended solution or relinquish jurisdiction over the matter to the BLM.

7. The outcome of the litigation in the state courts is that the Well and Lease belong to GDC and the Lease is not part of the Unit. The outcome of a related matter filed with BLM and appealed to the Interior Board of Land Appeals is the opposite, *i.e.*, that the Lease and Well are committed to the Unit and that Black is the Unit operator.

Rule 312.a. of the Rules and Regulations of the Commission requires an operator to file a Change of Operator, Form 10, within 15 days of the transfer of ownership. Section 34-60-103(6.8), C.R.S., as amended, defines "operator: as any person who exercises the right to control the conduct of oil and gas operations." Black is the operator of the Well according to the Commission's records.

### ORDER

NOW, THEREFORE, IT IS ORDERED, that the Commission hereby relinquishes jurisdiction of this matter to the U.S. Department of Interior, Bureau of Land Management, Colorado State Office, to resolve issues between the parties and make a determination as to the 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, N.M.P.M.

IT IS FURTHER ORDERED, that the provisions contained in the above order shall become effective forthwith.

IT IS FURTHER ORDERED, that the Commission expressly reserves its right, after notice and hearing, to alter, amend or repeal any and/or all of the above orders.

IT IS FURTHER ORDERED, that under the State Administrative Procedure Act the Commission considers this order to be final agency action for purposes of judicial review within thirty (30) days after the date this order is mailed by the Commission.

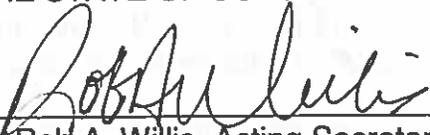
IT IS FURTHER ORDERED, that an application for reconsideration by the Commission of this order is not required prior to the filing for judicial review.

ENTERED this 24<sup>th</sup> day of April, 2010, as of March 25, 2010.

**CORRECTED this 20<sup>th</sup> day of December, as of March 25, 2010**

**CORRECTED this 11<sup>th</sup> day of January, as of March 25, 2010**

OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

By   
Rob A. Willis, Acting Secretary

Dated at Suite 801  
1120 Lincoln Street  
Denver, Colorado 80203  
January 11, 2011