

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

IN THE MATTER OF ALLEGED VIOLATIONS OF THE ) CAUSE NO. 1  
RULES AND REGULATIONS OF THE COLORADO OIL )  
AND GAS CONSERVATION COMMISSION BY THE ) DOCKET NO. 0802-OV-03  
CITY OF TRINIDAD, GUSTAVSON ASSOCIATES, INC., )  
HALLIBURTON SERVICES, AND PIONEER NATURAL )  
RESOURCES USA, INC., LAS ANIMAS COUNTY, COLORADO )

NOTICE OF HEARING

TO ALL INTERESTED PARTIES AND TO WHOM IT MAY CONCERN:

On April 17, 2007, a house ("the Bouvier house") that was being built for Stephen and Audrey Bouvier in Las Animas County by Cornerstone Construction, exploded, injuring three workers and destroying the Bouvier house. A preliminary investigation by the Stonewall District Fire Chief indicated that the source of the explosion appeared to be methane because coal beds crop out nearby, and there was not a gas hook up or other source of explosive materials onsite.

COGCC Staff reviewed COGCC records and determined that three wells (collectively, the "Wells," or individually, a "Well,") which were plugged and abandoned in the 1980s, are located near the explosion site and are all located in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 32, Township 33 South, Range 66 West, 6<sup>th</sup> P.M. The Trinidad MGP #1 Well appeared to be located adjacent to or possibly underneath the Bouvier house.

COGCC Staff immediately retained an environmental contractor, LT Environmental, Inc. ("LTE") to conduct an emergency investigation of the site. LTE arrived on site the afternoon of April 18, 2007 and proceeded to conduct a soil gas survey around the explosion site, mostly around the periphery of the remains of the Bouvier house. (Soil gas surveys could not be conducted inside the footprint of the house initially because of safety reasons.)

On April 19, 2007, this initial soil gas work was completed. LTE conducted a soil gas survey on May 24, 2007, the day after the Trinidad MGP #1 Well was uncovered, and a follow-up survey on August 29, 2007. Results of the surveys indicated that methane was detected in close proximity (less than 100 feet) to the Bouvier house. Methane concentrations recorded on May 24, 2007 from soil gas probes around the structure ranged from 2,000 parts per million ("ppm") to 880,000 ppm (88%). During the April 2007 survey methane was also detected in the soil at a concentration of 5,000 ppm immediately outside the steel casing of the water well located approximately 55 feet west of the Bouvier house. The horizontal extent of the seepage at the ground surface was limited to an area of approximately 27,000 square feet.

While responding to this emergency situation, COGCC Staff and its environmental contractors developed a multi-phased plan to determine the source of the methane that caused the explosion and to ensure that public health, safety, and welfare and the environment were protected during the investigation and through mitigation of the methane seepage. To date, mitigation of the methane seepage is incomplete.

On April 27, 2007, based on a COGCC Staff request, the Commission approved the expenditure of Seventy Four Thousand Nine Hundred Fifty dollars (\$74,950.00) from the One Million Five Hundred Thousand dollars (\$1,500,000) Emergency Response line item of the Oil and Gas Conservation and Environmental Response Fund for the investigation of the cause of the explosion and lingering impacts associated with methane seepage in the area.

In late June, 2007, LTE submitted its final report to the Commission on LTE's investigation into the cause of the explosion, which included the following findings: a.) The presence of methane gas seeping at the Bouvier house was confirmed following the initial emergency response investigation activities. The source of the gas appears to be the Trinidad MGP #1 Well. On April 23, 2007, LTE collected a sample and submitted it to Isotech Laboratories, Inc. for analysis. The gas composition was over 90% methane based on the air-free composition calculation, b.) The horizontal extent of the seepage was defined and is primarily centered around the plugged and abandoned Trinidad MGP #1 Well, and c.) On May 23, 2007, during excavations conducted to look for the source of the methane gas seep, the Trinidad MGP #1 Well was uncovered and was located below the southeastern corner of the crawl space of the Bouvier house. Methane was observed to be leaking out of the well casing during field activities. Soil gas surveys were conducted within the footprint of the Bouvier house, and soil gas concentrations were close to 100% in the area of the crawl space.

The Wells were drilled in the early 1980s as part of a program to test coalbeds as a source of natural gas. On May 31, 2007, Brad Breslau, attorney for the Bouviers and their insurance company, sent the COGCC Staff electronic copies of the Drilling and Completion Report ("Report"), prepared by Gustavson Associates, Inc., for the Wells. The Report is dated February 20, 1981. The Report describes Gustavson Associates, Inc. as the prime contractor selected in October 1979 by the American Public Gas Association for coal degasification projects at five sites (including Trinidad, Colorado) across the United States. The Appendices and attachments to the Report include certain documents that indicate Gustavson Associates, Inc. was the primary contractor of the project at the wellsite and was in charge of selecting other contractors. However, it is apparent that the City of Trinidad may have owned or leased the property where the Wells were located and had the ability to change the location of the Wells within a general area.

According to COGCC's online database, Gustavson Associates, Inc. was originally listed as the operator of the Wells. However, upon examination of the documents in the Well files (after the explosion), it appeared to COGCC Staff that the City of Trinidad should have been listed as the owner or operator of the Wells.

It appeared from the Well files that both the City of Trinidad and Gustavson Associates, Inc. could have been identified as the "operator." Since "owner" and "operator" were used interchangeably in the early 1980s, the City of Trinidad, as "owner," would also have been considered the "operator." However, Gustavson Associates, Inc. appeared to be controlling the field operations and, for that reason, may have been erroneously identified as the "operator" when the Well files were set up in the early 1980s. In the early 1980s (as well as today), an owner may designate a party to act on its behalf for purposes of complying with Commission Rules. Gustavson Associates, Inc. was the "designated agent" according to the Well files. The Well files, in general, and the file for the Trinidad MGP #1 Well, in particular, have forms that variously indicate either the City of Trinidad or Gustavson Associates, Inc. or both as the "operator." The plugging and surface bonds (each posted on June 6, 1980) for the Trinidad MGP #1 Well were posted by "City of Trinidad/Gustavson Associates, Inc., Agent." They were signed by John Rino, Mayor, The City of Trinidad and John B. Gustavson, President, Gustavson Associates, Inc.

It appeared to the COGCC Staff that the City of Trinidad was the owner of the Trinidad MGP #1 Well and that Gustavson Associates, Inc. was the contractor hired by the City of Trinidad to conduct operations on its behalf. This conclusion was based primarily on identification of the City of Trinidad as the provider of the bond and as the "operator" named on the APD (even though Gustavson Associates, Inc. was also listed on both documents). Forms 4 and 5 seem to indicate the City of Trinidad is the operator. Although the COGCC files do not contain mineral or surface title information, there are indications that the Wells were located on property owned or leased by the City of Trinidad (e.g. forms requesting "farm or lease" information completed as "MGP Trinidad." Form 1, "Designation of Agent," was signed by Gustavson Associates, Inc. and designated Gustavson Associates, Inc., represented by John B. Gustavson, as agent. COGCC Staff historically regards information on Form 1 as contact information for a company filing documents with the COGCC, rather than naming an operator. As a result, on June 8, 2007, the COGCC Staff filed a Form 10, "Change of Operator" in the Trinidad MGP #1 Well file to clarify that their belief that the "operator" of the Trinidad MGP #1 Well was the same as the "owner" of the well, *i.e.*, the City of Trinidad.

On June 6, 2007, the COGCC Staff issued Notice of Alleged Violation ("NOAV") #200112532 to the City of Trinidad, citing violation of Rule 319.a., which requires all wells to be plugged in such a manner that confines gas to the reservoir in which it originally occurred and permanently prevent migration of gas from the formation in which it originally occurred. (Rule 331.a. or 332.a. were the equivalent Rules during the early 1980s and had the same requirements to plug in a manner that confines substances to the original reservoir and permanently prevent migration of substances from the original formation in which they occurred.)

The NOAV required the operator to take all necessary precautions to secure the well site from public access and to minimize any danger to the public from leaking gas with an abatement deadline of seven days from the receipt of the NOAV.

The NOAV also required the operator to re-enter and properly plug and abandon the Trinidad MGP #1 Well as soon as practicable (no later than August 1, 2007), to submit a Form 6, "Well Abandonment Report" for COGCC Staff review and approval prior to commencing plugging operations, and to post a plugging bond prior to commencing plugging operations.

The Bouviers' insurance company, Fire Insurance Exchange, initially fenced the explosion site to secure it from public access and posted warning signs. The City of Trinidad has cooperated with COGCC requirements to maintain fencing and warning signs. COGCC Staff

inspections at the present time indicate the site is relatively safe based on the results of LTE's soil gas survey and the maintenance of fencing and warning signs.

The City of Trinidad and Gustavson Associates, Inc. have consistently denied that they were the "operator" of the Trinidad MGP #1 Well.

In August 2007, the City of Trinidad requested a variance to the abatement date (August 1, 2007) for re-entering and re-plugging the Trinidad MGP #1 Well because it thought plugging the Well might damage evidence necessary to determine the actual cause of the methane leak. The City of Trinidad proposed putting a well head on the Trinidad MGP #1 Well to control the flow of gas from the Well while it conducted its investigation. COGCC Staff believed that putting a well head on the Well might cause more methane to migrate into the shallow aquifer or nearby structures. In addition, COGCC staff believed that information about the cause of the methane leak could be collected when the Well was re-entered in preparation for plugging. Therefore, COGCC Staff notified the City of Trinidad's attorney that its request for a variance was denied.

Interested parties have indicated they want an opportunity to test the Trinidad MGP #1 Well before it is plugged, in anticipation of potential litigation. These parties may include the City of Trinidad, Gustavson Associates, Inc., Halliburton Services, and the Bouviers' insurance company, Fire Insurance Exchange. Other potentially interested parties are Pioneer Natural Resources USA, which operates nearby oil and gas wells, and Cornerstone Construction, the company building the Bouvier house prior to the explosion.

No entity has agreed to re-enter and re-plug the Trinidad MGP #1 Well, and the NOAV remains unresolved.

The release of methane from the Trinidad MGP #1 Well is likely due to poor wellbore integrity (including casing leaks), poor cement, or other improper plugging and abandoning method.

The Trinidad MGP #1 Well is a safety hazard and needs to be re-entered and re-plugged as soon as possible.

The Commission should determine the responsible party(ies) pursuant to §34-60-124(7) and (8), C.R.S. (2007) and Rule 524. and order such party(ies) to comply with the NOAV by re-entering and re-plugging the Trinidad MGP #1 Well, submitting a Form 6 for COGCC Staff approval prior to commencing plugging operations, and posting a Twenty-Five Thousand dollar (\$25,000) plugging bond prior to commencing plugging operations.

If the Commission cannot identify the responsible party(ies), or if the responsible party(ies) refuse to comply with the order, the Commission should authorize the COGCC Staff to utilize money from the Oil and Gas Conservation and Environmental Response Fund to retain suitable contractors to perform the necessary re-entering and re-plugging operations. The Commission should bring suit, pursuant to §34-60-124(7), C.R.S. (2007), to recover expenditures authorized and made hereunder by the COGCC Staff. The Commission should further order that any entity requesting tests or investigations of the wellbore prior to plugging operations shall pay for such tests or investigations and provide the data and results to COGCC Staff upon request. The Commission should further order that the COGCC Staff is under no obligation to comply with such requests if they unduly delay the plugging operations or threaten public health, safety, or welfare, or the environment.

NOTICE IS HEREBY GIVEN, that the Oil and Gas Conservation Commission of the State of Colorado, pursuant to the above, has scheduled the above-entitled matter for hearing on:

Date: Monday, February 25, 2008  
Tuesday, February 26, 2008

Time: 9:00 a.m.

Place: Suite 801, The Chancery Building  
1120 Lincoln Street  
Denver, Colorado 80203

In accordance with the Americans with Disabilities Act, if any party requires special accommodations as a result of a disability for this hearing, please contact Margaret Humecki at (303) 894-2100 ext. 139, prior to the hearing and arrangements will be made.

Pursuant to said hearing in the above-entitled matter at the time and place aforesaid, or at any adjourned meeting, the Commission will enter such orders as it deems appropriate to protect the

health, safety and welfare of the public and to prevent the waste of oil and gas, either or both, in the operations of said field, and to carry out the purposes of the statute.

**In accordance with Rule 509., any interested party desiring to protest the granting of the application or to intervene on the application should file with the Commission a written protest or intervention no later than February 11, 2008, briefly stating the basis of the protest or intervention.** Such interested party shall, at the same time, serve a copy of the protest or intervention to the person filing the application. An original and 13 copies shall be filed with the Commission. **Anyone who files a protest or intervention must be able to participate in a prehearing conference during the week of February 11, 2008.** Pursuant to Rule 503.f., if a party who has received notice under Rule 503.b. wishes to receive further pleadings in the above-referenced matter, that party must file a protest or intervention in accordance with these rules.

IN THE NAME OF THE STATE OF COLORADO

OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

By \_\_\_\_\_  
Patricia C. Beaver, Secretary