

# RECORD OF PROCEEDINGS

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September 17-18, 2018

The Colorado Oil and Gas Conservation Commission (“COGCC” or “Commission”) met on September 17 – 18, 2018, at the Garfield County Sheriff’s Office Annex at 106 County Road 333-A in Rifle, Colorado, 81650.

## Monday, September 17, 2018

9:00 am **Roll Call of Commissioners:**

Present:

John Benton	Chair
Tommy Holton	Vice Chair (by phone @ 9:02 am)
Ashley Ager	Commissioner
Bill Hawkins	Commissioner
Kent Jolley	Commissioner
Karin McGowan	Commissioner
Erin Overturf	Commissioner

Staff present:

Julie Murphy	Director
Kyle Davenport	Assistant Attorney General
Julie Prine	Secretary

9:02 am **Public Comment:**

The Commission heard general public comments.

10:15 am **Report from the Executive Director’s Office**

Commissioner Randall was not present to make a report.

10:15 am **Report from the Director**

Director Murphy extended gratitude to Garfield County for hosting the hearing, and introduced Commissioner Karin McGowan representing the Colorado Department of Public Health & Environment, in Dr. Wolk’s vacant spot. Director Murphy also updated the commission on the status of the Rifle office; still waiting on internet connection, and staff are working from home until relocation is complete.

Detailed efforts are underway to coordinate with PUC and quarterly meetings between COGCC, PUC & PHASMA have been planned.

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\* Commission proceedings began at 9:00 am MDT on September 17, 2018. Time stamps provided throughout these minutes reflect the approximate time of day that the agenda item was addressed by the Commission. The audio recording of this Hearing can be found at <https://www.youtube.com/watch?v=1a1jcm6RuME>

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Director Murphy updated the Commission on the Swan pad; public comments raised questions as to the status.

Director Murphy provided an update on the Governor's initiatives:

- The Orphaned Well Fund has given legislative authority to spend \$5 Million plugging and remediating orphaned wells. An Executive Order from the Governor requires regular reporting on the status of this project. A Financial Assurance Workgroup has been formed.
- Flowline regulations, 811 compliance and restriction on domestic taps have already been accomplished with the new Flowline rules in place.
- Mike Leonard, COGCC Community Relations Manager, is coordinating with OSHA to provide worker safety training to comply with the workgroup on training initiative.
- SOGRE review of rules is in progress, and the commission will be updated on the status at the October or December hearing.
- An ambient methane leak detection program is in progress.

10:35 am **Report from the Secretary**

Secretary Prine introduces Hannah Hickam as the new COGCC Office Administrator. The Secretary announced a Rulemaking Hearing in the Wasatch Room at the COGCC office in Denver on Wednesday, October 3<sup>rd</sup>, and the October 29<sup>th</sup> & 30<sup>th</sup> hearing has been moved to the Wasatch Room as well. The hearings unit is steadily reducing backlog despite the 167 new applications filed for the October hearing; there are approximately 90 protested matters remaining. Some consent agenda items did not make it on the September docket due to lack of time to prepare and push to Commissioner portfolio. Attorneys have requested adding consent agenda to the October 3<sup>rd</sup> Rulemaking hearing.

Motion:	Commissioner Hawkins moved to add consent agenda matters to October 3 <sup>rd</sup> Rulemaking hearing <u>IF</u> those matters are complete, and <u>IF</u> there is no additional burden to staff to get them ready.		
Second:	Commissioner Jolley		
Yea:	Benton, Ager, Hawkins, Jolley, McGowan & Overturf	Abstain:	None
Nay:	Holton	Recused:	None
<b>Result:</b>	<b>Motion passed (6-1).</b>		

10:50 am **Commissioner Comments:**

Commissioner Hawkins requested an update on School Setback Rulemaking status / timeline. Commissioner Jolley requested an update on Piceance Basin downhole setback Order. Commissioner Benton asked how potential passage of Proposition 112 will change school setbacks.

Commissioner Overturf asked if staff will provide any report / memo on Proposition 108. Assistant Attorney General Kyle Davenport will work with staff to provide additional information to Commission at Oct 3 hearing.

11:07 am **Approval of Minutes**

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Motion:	Commissioner Hawkins moved to approve minutes for both June 2018 hearings.		
Second:	Commissioner Ager		
Yea:	Ager, Benton, Hawkins, Holton, Jolley, McGowan & Overturf	Abstain:	None
Nay:	None	Recused:	None
<b>Result:</b>	<b>Motion passed (7-0).</b>		

Motion:	Commissioner Hawkins moved to approve minutes for July/August 2018 hearings.		
Second:	Commissioner Ager		
Yea:	Ager, Benton, Hawkins, Holton, Jolley, McGowan & Overturf	Abstain:	None
Nay:	None	Recused:	None
<b>Result:</b>	<b>Motion passed (7-0).</b>		

11:10 am **Presentation by Jeremy Ferrin, Enforcement Supervisor**

Commissioner Overturf requested clarity on “patterns of violations”.

Commissioner Ager requested information on the process used to assign “impact”.

11:32 am **General Consent Agenda:**

Motion:	Commissioner Jolley moved to approve Consent Agenda Groups A-T		
Second:	Commissioner Ager		
Yea:	Ager, Benton, Hawkins, Holton, Jolley, McGowan & Overturf	Abstain:	None
Nay:	None	Recused:	None
<b>Result:</b>	<b>Motion passed (7-0).</b>		

11:33 am **Enforcement Consent Agenda:**

Motion:	Commissioner Hawkins moved to approve Enforcement Consent Agenda Group A		
Second:	Commissioner Jolley		
Yea:	Ager, Benton, Hawkins, Holton, Jolley, McGowan & Overturf	Abstain:	None
Nay:	None	Recused:	None
<b>Result:</b>	<b>Motion passed (7-0).</b>		

11:47 am **180700383 Kerr-McGee Enforcement matter:**

- Was on July’s Consent Agenda, Commission requested more information.
- Commissioners questioned why the matter not classified as Class 3, or no Aggravating Factor used to push the penalty to the maximum \$15,000.
- Staff relied on “Enforcement Policy” – Commissioners asked if Policy needs to be revisited.

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Motion:	Commissioner Hawkins moved deny approval of AOC, send back to Director, recommend maximum penalty.		
Second:	Commissioner Overturf		
Yea:	Ager, Benton, Hawkins, Holton, Jolley, McGowan & Overturf	Abstain:	None
Nay:	None	Recused:	None
<b>Result:</b>	<b>Motion passed (7-0).</b>		

12:20 pm **Lunch Break**

1:07 pm **180700383, continued:**

- AOC renegotiated during lunch break to raise penalty to \$15,000

Motion:	Commissioner Overturf moved to approve AOC as modified.		
Second:	Commissioner McGowan		
Yea:	Ager, Benton, Hawkins, Holton, Jolley, McGowan & Overturf	Abstain:	None
Nay:	None	Recused:	None
<b>Result:</b>	<b>Motion passed (7-0).</b>		

1:10 pm **General Hearing:**

**Docket Number 171000746, Weld County**

Applicant: Extraction Oil & Gas, LLC (Operator No. 10459)  
 Attorneys: Robert A. Willis

Hearing Officer: James P. Rouse

Subject: Request for an order to among other things: Pool all interests in two approximate 640-acre designated horizontal wellbore spacing units established for the Application Lands, for the development and operation of the Niobrara Formation.

Protested by: Bergfeld Land & Minerals Group  
 Attorney: Christopher Hayes & Joe Gilmore

Motion:	Vice Chair Holton moved to approve application.		
Second:	Commissioner McGowan		
Yea:	Ager, Hawkins, Holton, Jolley, Benton, McGowan & Overturf	Abstain:	None
Nay:	None	Recused:	None
<b>Result:</b>	<b>The motion passed (7-0).</b>		

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3:18 pm Docket No. 180100076, Weld County

Applicant: Mallard Exploration, LLC  
(Operator No. 10670)

Attorneys: Jamie L. Jost & Kelsey H. Wasylenky

Hearing Officer: James P. Rouse

Subject: Request for an order to among other things:  
Establish an approximate 960-acre drilling and spacing unit for the Application Lands and to approve up to 16 new horizontal wells within the unit, with 12 horizontal wells to be drilled to the Niobrara Formation and four horizontal wells to be drilled in the Codell Formation, for the production of oil, gas and associated hydrocarbons from the Codell and Niobrara Formations, with the Fort Hays and Carlile Formations as non-target formations.

Protested by: Verdad Resources LLC  
Attorney: Michael T. Jewell & Courtney M. Shephard

Motion:	Vice Chair Holton moved to deny the application.		
Second:	Commissioner Hawkins		
Yea:	Ager, Benton, Hawkins, Holton, Jolley, McGowan & Overturf	Abstain:	None
Nay:	None	Recused:	None
<b>Result:</b>	<b>Motion passed 7-0.</b>		

5:03 pm

Motion:	Commissioner McGowan moved to adjourn until 9:00am, Tuesday 9/18/18		
Second:	Commissioner Hawkins		
Yea:	Ager, Benton, Hawkins, Holton, Jolley, McGowan & Overturf	Abstain:	None
Nay:	None	Recused:	None
<b>Result:</b>	<b>Motion passed 7-0</b>		

# RECORD OF PROCEEDINGS

July 30 – August 1, 2018

The Colorado Oil and Gas Conservation Commission (“COGCC” or “Commission”) met on September 17 – 18, 2018, at the Garfield Country Sheriff’s Office Annex at 106 County Road 333-A in Rifle, Colorado, 81650.

## Tuesday, September 18, 2018

### 8:55 am Roll Call of Commissioners:

Present:

John Benton	Chair
Tommy Holton	Vice Chair (by phone)
Ashley Ager	Commissioner
Bill Hawkins	Commissioner
Kent Jolley	Commissioner
Karin McGowan	Commissioner
Erin Overturf	Commissioner

Staff Present:

Julie Murphy	Director
Kyle Davenport	Assistant Attorney General
Julie Prine	Secretary

### 8:57 am Docket No.180400360, 180700536, Weld County

Applicant: Raisa Energy, LLC (Operator No. 10636)  
Attorneys: Jamie L. Jost & Kelsey H. Wasylenky

Hearing Officer: James P. Rouse

Protested by: Kerr-McGee Oil & Gas Onshore LP  
Attorney: James Parrot & Jillian Fulcher

Subject: Request for an order to among other things: Establish an approximate 1280-acre drilling and spacing unit for the Application Lands, and approve up to 22 horizontal wells in the proposed unit, for the production of oil, gas and associated hydrocarbons from the Niobrara and Codell Formations.

- Commissioners expressed need to establish updated policies or rules to reflect how spacing contests will be settled – do not believe “first in time” is best /only way to make decisions

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Motion:	Vice Chair Holton moved to approve the Raisa application w/ following limitations – only 1 specified site approved and Raisa must return to Commission in 12 months' time to report on progress		
Second:	Commissioner Ager		
Yea:	Ager, Benton, Holton, McGowan	Abstain:	None
Nay:	Hawkins, Jolley, Overturf	Recused:	None
<b>Result:</b>	<b>Motion passed 4-3</b>		

Motion:	Vice Chair Holton moved to deny Kerr-McGee application.		
Second:	Commissioner Ager		
Yea:	Ager, Benton, Hawkins, Holton, Jolley, McGowan and Overturf	Abstain:	None
Nay:	None	Recused:	None
<b>Result:</b>	<b>Motion passed 7-0</b>		

2:04 pm

Motion:	Commissioner Hawkins moved to enter Executive Session.		
Second:	Commissioner Overturf		
Yea:	Ager, Benton, Hawkins, Holton, Jolley, McGowan & Overturf	Abstain:	None
Nay:	None	Recused:	None
<b>Result:</b>	<b>Motion passed 7-0</b>		

2:50 pm

Motion:	Commissioner McGowan moved to exit Executive Session.		
Second:	Commissioner Hawkins		
Yea:	Ager, Benton, Hawkins, Holton, Jolley, McGowan & Overturf	Abstain:	None
Nay:	None	Recused:	None
<b>Result:</b>	<b>Motion passed 7-0</b>		

3:00 pm

**Docket No. 180400279, 180400308, 180400309, 180400343, 180700527, Weld County**

Applicant:	Extraction Oil & Gas, LLC, (Operator No. 10459)
Attorneys:	Robert A. Willis
Hearing	Officer: James P. Rouse
Subject:	Request for an order to among other things: Establish an approximate 1,920-acre drilling and spacing unit for the Application Lands, and authorizing the drilling of 20 horizontal wells within the proposed unit, for the production of oil, gas, and associated hydrocarbons from the Codell-Niobrara Formation.

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Protested by: Nickel Road Operating, LLC  
 Attorney: Jamie L. Jost & Kelsey H. Wasylenky

Motion:	Commissioner Jolley moved to approve Nickel Road applications (180400308, 180400309, 180400343), deny Extraction applications (180400279, 180700527), and request Extraction APDs be withdrawn.		
Second:	Commissioner Hawkins		
Yea:	Ager, Benton, Hawkins, Jolley, McGowan & Overturf	Abstain:	None
Nay:	Holton	Recused:	None
<b>Result:</b>	<b>Motion passed 6-1</b>		

5:30 pm **Docket No. 180700626, 180700627, Weld County**

Applicant: Nickel Road Operating LLC (Operator No. 10669)  
 Attorneys: Jamie L. Jost & Kelsey H. Wasylenky

Hearing Officer: James P. Rouse

Subject: Request for an order to among other things: 1) The Director provide a copy of this Exception to the Commissioners on a forthwith basis. 2) The Commission issue an immediate stay of approval of Extraction’s Falcon Applications for Permit to Drill (APDs) listed above for the Falcon Wells.

Protested by: Extraction Oil & Gas, Inc.  
 Attorney: Robert A. Willis

- 303.j. cases
- Based on outcome to Nickel Road v Extraction matters heard previously, Nickel Road withdraws exceptions

5:35 pm **Docket No. 180700493, 180700625, Weld County**

Applicant: HighPoint Operating Corp. (Operator No. 10071)  
 Attorneys: Jamie L. Jost & Kelsey H. Wasylenky

Hearing Officer: James P. Rouse

Subject: Request for an order to among other things: 1) A hearing before the Commission on nine Applications for Permit-to-Drill, Form 2s, and on three Oil and Gas Location Assessments, Form 2As, for the development of the “Grinde” wells on the Application Lands, which passed completeness



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review more than 75 days prior to HighPoint filing the Application; and 2) That the Hearing Officer schedule an immediate pre-hearing conference on the Application pursuant to Rule 527, and that this matter be set for hearing at the June 11-12, 2018 Commission Hearing.

Protested by:                      Verdad Resources, LLC  
 Attorney:                            Joseph C. Pierzchala & Geoffrey W. Storm

- 303.j. case and 303.c. case

Motion:	Vice Chair Holton moved to affirm Hearing Officer dismissal in 180700625.		
Second:	Commissioner Jolley		
Yea:	Ager, Benton, Hawkins, Holton, Jolley, McGowan and Overturf	Abstain:	None
Nay:	None	Recused:	None
<b>Result:</b>	<b>Motion passed 7-0</b>		

Motion:	Commissioner Overturf moved to dismiss Verdad's protest.		
Second:	Commissioner Holton		
Yea:	Ager, Benton, Hawkins, Holton, Jolley, McGowan & Overturf	Abstain:	None
Nay:	None	Recused:	None
<b>Result:</b>	<b>Motion passed 7-0</b>		

Motion:	Commissioner Overturf moved to to deny 180700493; request for hearing on 303.c. and direct HighPoint and Verdad to place APDs / Form 2As on "priority list" with Permitting staff, no direction to staff		
Second:	Vice Chair Holton		
Yea:	Ager, Benton, Hawkins, Holton, Jolley, McGowan & Overturf	Abstain:	None
Nay:	None	Recused:	None
<b>Result:</b>	<b>Motion passed 7-0</b>		

Motion:	Vice Chair Holton moved to adjourn the hearing.		
Second:	Commissioner McGowan		
Yea:	Ager, Benton, Hawkins, Holton, Jolley, McGowan & Overturf	Abstain:	None
Nay:	None	Recused:	None
<b>Result:</b>	<b>Motion passed 7-0</b>		

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Approved General Consent Orders: See Appendix A

Approved Enforcement Consent Orders: See Appendix B

-END-

FOR THE COLORADO OIL AND GAS  
CONSERVATION COMMISSION



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Julie Spence-Prine, Secretary

Approved:



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John Benton, Chair