



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

IN THE MATTER OF THE APPLICATION OF
UNIOIL FOR AN EXTENSION OF TIME FOR
PERMITS-TO-DRILL, WELD COUNTY,
COLORADO

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CAUSE NO. 1

ORDER NO. 1-146
CORRECTED

REPORT OF THE COMMISSION

This cause came on for hearing before the Commission at 9:00 a.m. on November 30, 2009, in Suite 801, The Chancery Building, 1120 Lincoln Street, Denver, Colorado, for an order for a variance under Rule 502.b. for a one-year extension to commence drilling operations for the Zeiler #23-7U Well, the Zeiler #24-7U Well, the Zeiler #13-7U Well, and the Zeiler #14-7U Well.

FINDINGS

The Commission finds as follows:

1. Unioil ("Unioil"), a wholly owned subsidiary of Petroleum Development Corporation, 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 December 23, 2008, the Applications for Permits-to-Drill ("APDs") for the Zeiler #23-7U Well (API No. 05-123-26539) located in the NE¼ SW¼ of Section 7, Township 5 North, Range 67 West, 6th P.M. and the Zeiler #24-7U Well (API No. 05-123-26540) located in the SE¼ SW¼ of Section 7, Township 5 North, Range 67 West, 6th P.M. were issued by the Colorado Oil and Gas Conservation Commission to Unioil, with an expiration date of December 22, 2009.
5. On December 24, 2008, the APDs for the Zeiler #13-7U Well (API No. 05-123-26538) located in the NW¼ SW¼ of Section 7, Township 5 North, Range 67 West, 6th P.M. and the Zeiler #14-7U Well (API No. 05-123-25448) located in the SW¼ SW¼ of Section 7, Township 5 North, Range 67 West, 6th P.M. were issued by the Colorado Oil and Gas Conservation Commission to Unioil, with an expiration date of December 23, 2009.
6. Rule 303.h of the Rules and Regulations of the Colorado Oil and Gas Conservation Commission, which were in effect on the dates that the afore-referenced APDs were approved, states: "If operations are not commenced on the permitted well within one (1) year after date of approval, the permit shall become null and void."
7. Under Rule 502.b.(1), the Commission may grant a variance to a rule or regulation upon a showing by the applicant that "it has made a good faith effort to comply, or is unable to comply with the specific requirements contained in these rules to secure a waiver or exception, if any, and that the requested variance will not violate the basic intent of the Oil and Gas Conservation Act."
8. On November 3, 2009, Unioil, by its attorney, filed with the Commission a written request for an order for a variance under Rule 502.b. for a one-year extension to commence drilling operations for the Zeiler #23-7U Well, the Zeiler #24-7U Well, and the Zeiler #13-7U Well, for the production of gas and associated hydrocarbons from the Codell, Niobrara, and "J" Sand Formations, and the Zeiler #14-7U Well, for the production of gas and associated hydrocarbons from the Sussex, Shannon, Codell, Niobrara, and "J" Sand Formations.
9. On November 18, 2009, an administrative hearing was convened wherein sworn testimony and supporting exhibits were presented by Unioil in support of the application. Unioil appeared by and through its attorney, Ken Wonstolen, and the Hearing Officer noted appearances by Tony Sharp, Asset Manager for Petroleum Development Corporation, and John Krattenmaker, Landman for Petroleum Development Corporation.
10. Testimony and exhibits presented at the administrative hearing demonstrated that Unioil is presently unable to commence drilling operations for the Zeiler #23-7U Well, the Zeiler #24-7U Well, the Zeiler #13-7U Well, and the Zeiler #14-7U Well due to ongoing litigation in federal district court, wherein the surface owner, Zeiler Farms, Inc., seeks declaratory relief requiring Unioil to drill the proposed wells directionally or to incur damage liability for the permitted locations to include the area that would be undevelopable under the Town of Windsor setback regulations. A trial date had been set for early November 2009, and a favorable verdict to Unioil would have allowed Unioil to make a business decision as to whether or not any, or all, of the wells would be drilled under their existing permits. The November trial date has been vacated by the court due to a scheduling conflict and that matter has been reset into April 2010 (beyond the existing permit expiration dates.)
11. Testimony and exhibits presented at the administrative hearing demonstrated that Unioil has cross-referenced the permitted well locations as to those maps found on the Colorado Oil and Gas Conservation

Commission website, and found that the permitted locations are not positioned in any identified Rule 317B. public water system or sited within an area identified to conserve state wildlife resources as sensitive wildlife habitat or restricted surface occupancy. The examination of photographs taken on the surface demonstrates that there are no buildings on the lands and that the primary use is agricultural with an existing well located near the center of the quarter section (the Gove #1 Well operated by Unioil and completed in the Codell, Niobrara, and "J" Sand Formations.) Testimony showed that granting the one-year extension on the approved permits for the wells will maintain the status quo pending resolution of litigation.

12. The above-referenced testimony and exhibits showed that granting the application will protect public health, safety, and welfare, including the environment and wildlife resources.

13. Unioil agreed to be bound by oral order of the Commission.

14. Based on the facts stated in the application, having received no protests, and the matter having been considered by the Hearing Officer at administrative hearing, the Commission should enter an order for a variance under Rule 502.b. for a one-year extension to commence drilling operations for the Zeiler #23-7U Well, the Zeiler #24-7U Well, and the Zeiler #13-7U Well, for the production of gas and associated hydrocarbons from the Codell, Niobrara, and "J" Sand Formations, and the Zeiler #14-7U Well, for the production of gas and associated hydrocarbons from the Sussex, Shannon, Codell, Niobrara, and "J" Sand Formations.

ORDER

NOW, THEREFORE IT IS ORDERED, that a variance under Rule 502.b. is hereby granted to extend the time within which Unioil may commence drilling operations for the Zeiler #23-7U Well (API No. 05-123-26539) located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, Township 5 North, Range 67 West, 6th P.M., for the production of gas and associated hydrocarbons from the Codell, Niobrara, and "J" Sand Formations, for a period of one-year or until December 22, 2010.

IT IS FURTHER ORDERED, that a variance under Rule 502.b. is hereby granted to extend the time within which Unioil may commence drilling operations for the Zeiler #24-7U Well (API No. 05-123-26540) located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, Township 5 North, Range 67 West, 6th P.M., for the production of gas and associated hydrocarbons from the Codell, Niobrara, and "J" Sand Formations, for a period of one-year or until December 22, 2010.

IT IS FURTHER ORDERED, that a variance under Rule 502.b. is hereby granted to extend the time within which Unioil may commence drilling operations for the Zeiler #13-7U Well (API No. 05-123-26538) located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, Township 5 North, Range 67 West, 6th P.M., for for the production of gas and associated hydrocarbons from the Codell, Niobrara, and "J" Sand Formations, for a period of one-year or until December 23, 2010.

IT IS FURTHER ORDERED, that a variance under Rule 502.b. is hereby granted to extend the time within which Unioil may commence drilling operations for the Zeiler #14-7U Well (API No. 05-123-25448) located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, Township 5 North, Range 67 West, 6th P.M., for the production of gas and associated hydrocarbons from the Sussex, Shannon, Codell, Niobrara, and "J" Sand Formations, for a period of one-year or until December 23, 2010.

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 7th day of December, 2009, as of November 30, 2009.

CORRECTED this - 21st - day of December, 2009, as of November 30, 2009.

OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

By


Robert A. Willis, Acting Secretary

Dated at Suite 801
1120 Lincoln Street
Denver, Colorado 80203
December 21, 2009