

Dave Kubeczko - DNR

From: Dave Kubeczko - DNR
Sent: Monday, November 24, 2014 9:04 AM
To: dave.kubeczko@state.co.us
Subject: FW: Permit No. 400607994, Lynch 34-6-18 Nos. 1 and 2, NW 18U-T34N-R6W
Attachments: Form 2A 400607994 Catamount response to surface owner objection (00304198).PDF

Categories: Operator Correspondence

Scan No 2107164 CATAMOUNT's RESPONSE TO PUBLIC COMMENT (dated 09-11-14) 2A#400607994

From: Steve Sullivan [mailto:ssullivan@wsmtlaw.com]
Sent: Thursday, September 18, 2014 5:37 PM
To: dave.kubeczko@state.co.us
Cc: Jared Rush; amy@waterland-law.com
Subject: Permit No. 400607994, Lynch 34-6-18 Nos. 1 and 2, NW 18U-T34N-R6W

NOTICE: This electronic mail transmission including any attachment is intended only for the person to whom it is addressed and contains information that is confidential and legally privileged. If you are not the intended recipient, please immediately notify the sender at the email address above and destroy all copies of this message. Thank you.

Dear Mr. Kubeczko:

Attached is Catamount's response to the objection of Mr. Jay Lynch contained in the September 11, 2014 letter from Ms. Amy Huff to Ms. Jane Stanczyk. In Exhibit A, dollar amounts have been redacted from responses previously supplied to Mr. Lynch. Although it is not clear that La Plata Open Sapce Conservancy has standing to request information or be a party to this process, Catamount has also included in the attached letter a response to the Conservancy's requests for information, most of which has been previously supplied to that entity and to Mr. Lynch. I am sending this e-mail to Ms. Huff because it is my understanding that she represents both Mr. Lynch and La Plata Open Space Conservancy.

Please let me know if there is any additional information you may need. We appreciate your participation in this process.

Best Regards,
Stephen J. Sullivan
Welborn Sullivan Meck & Tooley, P.C.
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September 18, 2014

Mr. Matt Lepore
Director
Colorado Oil and Gas Conservation Commission
1120 Lincoln Street, Suite 801
Denver, Colorado 80203

Re: Form 2A No. 400607994
Lynch No. 34-6-18 Well #1 (900631155)
Lynch No. 34-6-18 Well #2 (400667619)
Catamount Energy Partners LLC

Dear Director Lepore:

We represent Catamount Energy Partners LLC in matters related to permitting of the Lynch No. 34-6-18 Well Nos. 1 and 2 proposed to be drilled in the NW of Section 18U, Township 34 North, Range 6 West, N.M. P.M., La Plata County, Colorado. Catamount disagrees with assertions made in Ms. Amy Huff's letter to you dated September 11, 2014 and opposes her request to withhold approval of the permits. There is no basis for her claim that Catamount's actions related to the proposed wells or location are in material violation of COGCC's rules, regulations, orders or statutes, or otherwise present an imminent threat to public health, safety and welfare, including the environment, or a material threat to wildlife resources.

The objection raised by Mr. Jay Lynch through his attorney, Ms. Amy Huff, in her September 11, 2014 letter is that Catamount has not provided the surface owner with sufficient information. The first communication between Mr. Lynch and Mr. Mike Mankin, a representative of Catamount, occurred on March 13, 2014. At that time it was clear that Mr. Lynch was familiar with COGCC procedures because he requested that Mr. Mankin execute a document stating that the meeting was not a consultation. During that meeting the parties discussed the location of the well and issues associated with the location.

Over the next six months Catamount and Mr. Lynch exchanged communications. These communications included a proposed surface use agreement (sent May 27, 2014), the Notice of Intent to Conduct Oil and Gas Operations (June 11, 2014), and the Oil and Gas Location Assessment Notice (August 19, 2014). In addition, Catamount has responded multiple times to questions from Mr. Lynch and La Plata Open Space Conservancy when the information became

known. In response to Ms. Huff's claim that the information provided was insufficient, I have attached as Exhibit A the questions asked by Mr. Lynch in his August 29, 2014 e-mail (which are nearly identical to the questions in his June 17, 2014 letter) and to answers provided to him and to La Plata Open Space Conservancy on September 3, 2014. Also attached are answers to requests for information received from La Plata Open Space Conservancy. Most or all of this information has been previously provided to that organization in written or oral form.

Mr. Lynch, representatives of La Plata Open Space Conservancy, Catamount and La Plata County Planning Department, and Mr. Dave Kubeczko of the COGCC met on location on September 8, 2014. It is my understanding that the on-site meeting date was proposed by Mr. Kubeczko and rescheduled at the request of Colorado Parks and Wildlife.

The well location is located in a hay meadow and described as sensitive wildlife habitat in Catamount's Application for Permit to Drill. The location is also described as a hay meadow in Exhibit A to the recorded deed creating the conservation easement. Siting of the location is limited by other factors, such as setbacks from ponds, buildings and roads. Based upon a review of the GIS map maintained by the La Plata County Assessor, it appears that Catamount's proposed location may be further away from Mr. Lynch's house than an existing well pad on neighboring land. Mr. Lynch has requested that the wells be located on nearby land owned by the Southern Ute Tribe, but Catamount has no rights to access or use those lands.

Mr. Lynch does not own the mineral estate and entered into the conservation easement without the consent of the mineral owners. Catamount understands that he has agreed to prohibit mineral development to the extent he can, and that to obtain benefits of the easement he represented in the Deed of Conservation Easement that the possibility of mineral development was "so remote as to be negligible." Catamount, therefore, does not anticipate Mr. Lynch will agree to any surface use agreement. Nevertheless, Catamount values maintaining positive relationships with surface owners affected by its oil and gas operations, and will continue to work to accommodate Mr. Lynch's concerns.

Sincerely,

WELBORN SULLIVAN MECK & TOOLEY, P.C.



Stephen J. Sullivan

EXHIBIT A

CATAMOUNT'S SEPTEMBER 3, 2014 RESPONSES TO QUESTIONS CONTAINED IN MR. LYNCH'S AUGUST 29, 2014 E-MAIL:

1. Is Mankin Land Company an agent of Catamount Energy Partners LLC? If so, are you designated on the 1-A Form? We would like to see a copy of that form. We are assuming that Mankin Land Company is no longer involved. Is that correct?

Mankin Land Company has been an agent for Catamount and may be used in the future by Catamount, however, Mankin Land Company does not file forms with the COGCC on Catamount's behalf and therefore Catamount is not required to designate him as an agent on a Form 1-A.

2. What lease gives Catamount the right to use my surface estate? We want to see a copy of that lease. We would still like to see a copy of that lease.

A copy of Catamount's leases will come by separate email as it is a large file.

3. Does Catamount have an agreement with the Forest Service to tap Forest Service minerals from the wells on my property? If so, we would like to see a copy of that agreement.

The Lynch 34-6-18 #1 well as described in the Form 2 permit, also attached, has a bottom whole location on fee land and therefore we do not need a permit with the BLM or forest to drill.

4. We want to see a firm plan with time-line as to how Catamount proposes to develop this well site. We understand that Catamount wants to begin drilling on or about October 1, 2014. However, we have yet to see a reasonable offer for the use of our property.

Attached is a copy of the Surface Damage and Release Agreement first given to you on May 27, 2014 by Mike Mankin that offers compensation for surface damages. Currently we are planning on beginning operations when our permit is approved, but no earlier than October 2014. Actual timeline of activities is dependent on the availability of a drilling rig and other services.

5. The surface damage and release agreement is rather broad and gives Catamount the right to construct nearly anything on my property. We want to know exactly what Catamount intends to install on the pad and through my property. Thank you for some of the specifics. Is any of the engineering presented negotiable? For example if the pumps were located at the West side of the wells they might be less obtrusive to our home.

The Form 2a Permit includes the following facilities: 2 Wells, 2 Pumping Units with 2 Gas Motors, 2 Separator/Production Units, 2 Water Tanks and 1 Pigging Station. Because of the setback requirements from well heads to roads and well heads to production equipment we do not have much flexibility in the layout of the pad.

6. What groundwater sampling has been done within this quarter section? We would like to see the results of whatever has been done. We would like to see the results of any ground water sampling within this quarter section.

Below are links to previous water well sampling information from two wells in the NW/4 of Section 18U-34N-6W on the COGCC website. We will do additional testing as required by COGCC rules and regulations.

These well have been sampled in the past in the north half of 18.

<http://cogcc.state.co.us/cogis/envirosample.asp?facid=701908>

<http://cogcc.state.co.us/cogis/envirosample.asp?facid=701899>

There was no question no. 7.

8. Fracking: We were told that the operator will frack the vertical well but not the horizontal well. Is that correct? What chemicals will be used and how will they be stored? How will my property be protected from the contamination of the well by-products? Thank you for the information in the form 2 document , however we are still curious as to what is planned for the two well bores.

We are planning to hydraulic fracturing the vertical/slant wells that are currently being permitted. Catamount recently completed a similar hydraulic fracturing treatment on a Fruitland Coal well near Ignacio. The Frac Focus Disclosure for the wells is attached. The chemicals used will be brought to location by truck soon before the actual hydraulic fracturing job will be commenced. The Chemicals will be pumped directly when used in the job. Surface Casing will be set to below the shallow drinking water zones and will be cemented to the surface. Then the production casing is placed within the surface casing and is cemented in place to the surface. The hydraulic fracturing stimulation will then be pumped down the production casing.

Produced water will be stored until removal in a steel tanks that will be surrounded by metal secondary containment with a capacity of 110% of the tanks.

9. Mitigation: It will take more than a handful of trees to protect our home from the Activities at the well pad. We need some specific coordination from Catamount. Also, we would like to use the topsoil stripped from the well pad as a berm just north of the well pad for the primary barrier between us and the well pad. If this is not possible, it will change our approach to the mitigation between the well pad and the house. You are only planning to reclaim 0.3 Acres. What is the plan for the remainder of the stripped topsoil?

The attached previously provided Side Letter Agreement provides that we are willing to pay you ████████ to purchase trees to screen the pad. Paragraph 6 of the agreement describes the Berm we are willing to construct at our expense as part of the agreement.

Catamount will separate and store the topsoil horizon or the top six (6) inches, whichever is deeper, and mark or document stockpile locations to facilitate subsequent reclamation. Any remaining topsoil after interim reclamation and berm construction will be available for your use.

10. Will there be fencing around the well pad and a gate into the well pad or will you rebuild the fence line along County Road 523? It is our observation that this is a primary wildlife crossing area (particularly deer) and any fencing along there ought to be in compliance with the Colorado Division of Wildlife recommendations.

We are not planning to fence our pad, but we will install a gate at the county road entrance.

11. We will probably be irrigating the area south of the well pad with a sprinkler system. We will at least need a 6" pipe sleeve under the road that will provide the operator with access from CR 523 onto the well pad. Will you cooperate with this plan?

The Side Letter Agreement provides for [REDACTED] in compensation to you for the installation of a pipeline crossing across the lease road. In lieu of the [REDACTED], Catamount is willing to install a pipe sleeve when we are constructing the road. To clarify, you are speaking of crossing Catamount's lease road not CR 523, correct?

12. The La Plata Open Space Conservancy concurs with us in asking for a specific limit to the kinds of chemicals, especially herbicides, to be used on the well pad. We want to know the specifications regarding the kinds and amounts of planned herbicides. Neighbors have been adversely affected by well pad applications of persistent herbicides in spite of the recommendations of the La Plata County weed control office.

We have contacted Rod Cook at La Plata County Weed Control for his recommendation for weed control chemicals. He offered to come by the property to look at what is growing so he can give specific suggestions. Are you willing to allow Rod to enter your property and provide us with a recommendation?

EXHIBIT B

CATAMOUNT'S RESPONSES TO LA PLATA COUNTY OPEN SPACE CONSERVANCY LETTERS AND E-MAILS:

Response to La Plata Open Space Conservancy
From April 18, 2014 Letter

- Description of why the mineral estate must be accessed from the current surface location;
Siting of the location is limited by factors such as setbacks from ponds, buildings and roads and technical constraints of drilling direction or slant wells.
- A detailed plan of the proposed well pad. Showing proposed uses of the area;
A detailed plan of the well pad is depicted in the Pad Drawing included in the drilling permit previously sent to you on September 2, 2014.
- A schedule for activities associated with the proposed well pad and contact information for all Involved entities:
Currently we are planning on beginning operations when our permit is approved, but no earlier than October 2014. Actual timeline of activities is dependent on the availability of a drilling rig and other services. If you have any questions you may contact Jared Rush at 720-484-2354 or jrush@catamountep.com.
- A detailed description of mineral rights/owners that will be accessed:
The Lynch Wells will be spaced N/2 of Section 18U-34N-6W N.M.P.M. S.U.L.
- A detailed description of the land surface ownership from which the minerals will be extracted;
The surface owners in the N/2 are as follows: Jay Lynch, Gary & Sheri McMurtrey, Roy W. Secord, and the United States of America.
- A description of the physical nature and materials of the structures and materials to be placed on the well pad:
The Form 2A Permit sent to you on September 2, 2014, shows the following facilities which will be placed on the well pad: 2 Wells, 2 Pumping Units with 2 Gas Motors, 2 Separator/Production Units, 2 Water Tanks and 1 Piggling Station. Because of the setback requirements from well heads to roads and well heads to production equipment we do not have much flexibility in the layout of the pad.
- A detailed description of any chemicals that will be applied to and surrounding the proposed well pad, including but not limited to herbicides and pesticides: and
As we discussed, the La Plata County Weed Control office went to the location on 9/12/14 and recommended Rodeo or Accord for herbicides. Catamount does not anticipate using pesticides of any kind.
- A rehabilitation plan for shrinking the well pad following its construction so as to minimize impact to nearby wetlands, Wildlife habitat, and other conservation values.
The size of the location will be reduced to 1.5 acres after the wells and drilled and completed. Catamount will follow the procedures laid out in Colorado Oil and Gas Conservation Commission ("COGCC") Rule 1003.

From August 29, 2014 Letter

- No reference is made the conservation easement encumbering this property. What is the justification for not identifying the protection of natural resources (including wetlands), scenic open space, and wildlife habitat?

The well location is located in a hay meadow and described as sensitive wildlife habitat in Catamount's Application for Permit to Drill. The location is also described as a hay meadow in Exhibit A to the recorded deed creating the conservation easement.

- Date and details of wetland delineation or similar survey used to determine the proposed well pad site is not in a sensitive are for water resources. Justification for not filing an Army Corps of Engineer Section 404 permit.

No Army Corp of Engineers section 404 permit has been pursued because no jurisdictional waters of the United States are inside the planned area of disturbance for our operation.

- Has Catamount pursued use of nearby existing well pad location on non-conservation easement property? If so, please provide details.

The nearby existing well pad is located on Southern Ute Indian Tribal lands. Catamount has no rights to access or use those lands.

- A detailed description of the land surface ownership from which the minerals will be extracted.

The surface owners in the N/2 are as follows: Jay Lynch, Gary & Sheri McMurtrey, Roy W. Secord, and the United States of America

- A detailed description of the mineral rights that will be extracted.

The minerals of the NE/4 are owned by the United States of America. The minerals in the NW/4 are owned by various private parties. The owners in the N/2 are entitled to share in production from the well.

- A description of the physical nature and materials of the structures and materials to be placed on the well pad:

The Form 2A Permit sent to you on September 2, 2014, shows the following facilities will be placed on the well pad: 2 Wells, 2 Pumping Units with 2 Gas Motors, 2 Separator/Production Units, 2 Water Tanks and 1 Piggging Station. Because of the setback requirements from well heads to roads and well heads to production equipment we do not have much flexibility in the layout of the pad.

- A rehabilitation plan for shrinking the well pad following its construction so as to minimize impact to nearby wetlands and wildlife habitat.

The size of the location will be reduced to 1.5 acres after the wells and drilled and completed. Catamount will follow the procedures laid out in COGCC Rule 1003.

From September 10, 2014 E-mail

- Details regarding use of existing nearby well pad.

The well pad to the West of the Lynch Residence is located on Southern Ute Indian Tribal lands. Catamount has no rights to access or use those lands.

- Updated well pad details, dimensions, materials, etc. that include the tertiary containment requirement/trench surrounding the entire well pad and noise barriers.

Well pad details, dimensions, and materials are provided in the form 2 and form 2A. If tertiary containment is required by COGCC at the well pad location, it will consist of a lateral collection trench or ditch along the east side of the pad (outside of the well pad berm). A catchment basin will be constructed for the ditch to flow into. This basin will be surrounded by straw waddle(s) and/or silt fencing. We will install noise barriers if they are needed to comply with COGCC Rule 802.

- Timeline for construction of well pad.

Currently we are planning on beginning operations when our permit is approved, but no earlier than October 2014. Actual timeline of activities is dependent on the availability of a drilling rig and other services.

- Copies of the maps used to determine that the proposed well pad site is not in a wetland and not in bald eagle habitat.

Included with this letter is a map from the United States Fish and Wildlife Service National Wetlands Inventory website and a map from the COGCC Website map server with Bald Eagle lays depicted in orange.



U.S. Fish and Wildlife Service

National Wetlands Inventory

Wetlands Map

Sep 15, 2014



Wetlands

- Freshwater Emergent
- Freshwater Forested/Shrub
- Estuarine and Marine Deepwater
- Estuarine and Marine
- Freshwater Pond
- Lake
- Riverine
- Other

Riparian

- Herbaceous
- Forested/Shrub

Riparian Status

- Digital Data

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

User Remarks:

Bald Eagle Roost

