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

APR 21 03

COGCC

IN THE MATTER OF THE APPLICATION )  
OF GUNNISON ENERGY CORPORATION )  
FOR PERMITS TO DRILL NOS. 20021173, )  
20021195, 20021196, AND 20021268 )

CAUSE NO. 1

Docket No. 0306-GA-04



**VERIFIED APPLICATION FOR AN EXTENSION OF TIME TO  
COMMENCE OPERATIONS ON PREVIOUSLY APPROVED  
APPLICATIONS FOR PERMITS TO DRILL**

COMES NOW Gunnison Energy Corporation, through its attorneys, Bjork, Lindley, Danielson & Little, P.C., and respectfully petitions the Colorado Oil and Gas Conservation Commission of the State of Colorado as follows:

**I. Statement of Factual and Legal Basis for the Application**

**A. Summary**

1. In July 2002, Richard Griebing, Director of the Colorado Oil and Gas Conservation Commission ("Commission"), approved Gunnison Energy Corporation's Applications for Permits to Drill ("APDs") four proposed natural gas wells in Delta County, Colorado. These four wells are the Spaulding Peak #1 well (APD #20021173), the Dever Creek #1 well (APD #20021196), the Lone Pine #1 well (APD #20021195) and the Stevens Gulch #1 well (APD #20021268).

2. Gunnison Energy has been unable to commence operations on these four natural gas wells due to the ongoing refusal of Delta County to issue county permits and approvals authorizing operations. In addition, in August 2002, Delta County and others filed a lawsuit in Denver District Court challenging the Commission's issuance of these permits to drill and asserting that the county has the power to condition or prohibit certain oil and gas operations approved by the Commission.

3. Following a recent court ruling adverse to the county, Delta County reversed course and, on April 21, 2003, authorized Gunnison Energy to commence oil and gas operations pursuant to the terms of a specific development agreement mandated by county regulations.

4. The permits to drill previously approved and issued by Director Griebing are now scheduled to expire on July 2, 2003 (for the Spaulding Peak #1, the Dever Creek #1 and the Lone Pine #1 wells) or on July 14, 2003 (for the Stevens Gulch #1 well).

5. Gunnison Energy anticipates being able to commence operations of each of the four approved natural gas wells on or before the dates these permits are to expire. Nonetheless, factors beyond the control of Gunnison Energy including, but not limited to, local weather, surface and road conditions and developments in the ongoing litigation could conceivably prevent Gunnison Energy from commencing operations before the approved permits expire.

6. Therefore, for the reasons set forth herein, Gunnison Energy respectfully requests the Commission issue an order or other approval for a variance extending the time within which Gunnison Energy may commence operations on the Spaulding Peak #1 well, the Dever Creek #1 well and the Lone Pine #1 well from July 3, 2003, until July 3, 2004, and on the Stevens Gulch #1 well from July 15, 2003, until July 15, 2004.

**B. Background**

7. Gunnison Energy holds title to the oil and gas leasehold estate in approximately 98,000 acres of federal, state, and private fee lands. These leases grant Gunnison Energy the exclusive right to drill for, produce, remove, and sell oil and gas resources from the leased premises.

8. During June 2002, Gunnison Energy filed APDs for four natural gas wells in Delta County designated as the Spaulding Peak #1 well, the Stevens Gulch #1 well, the Dever Creek #1 well, and the Lone Pine #1 Well. The APD for the Spaulding Peak #1 well was filed on June 10, 2002. Gunnison Energy filed the APDs for the Stevens Gulch #1 well and the Dever Creek #1 well on June 12, 2002, and the APD for the Lone Pine #1 well on June 26, 2002.

9. These APDs complied in all respects with the rules and regulations of the Commission. They included, among other things, detailed information addressing area geology, drilling procedures, well construction diagrams, site maps, easement and access agreements, a rehabilitation plan, a surface use plan, detailing planned operations and surface restoration, a surface water runoff hydrology plan, and a grading plan. Gunnison Energy subsequently submitted an amended APD discussing additional information requested by the Commission staff.

10. In further compliance with the rules and regulations of the Commission, Gunnison Energy served Delta County with a copy of a Notice of Intent to Drill for each of these proposed wells at the same time as the APDs were filed. These notices enclosed the full application package submitted to the Commission. Gunnison Energy also provided Delta County with its amended application and with all additional information provided to the Commission.

11. The Commission also provided timely notice to Delta County by advising Delta County's Local Governmental Designee, Bruce Bertram, of Gunnison Energy's APDs.

12. On June 26, 2002, the Delta County Board of County Commissioners ("BOCC") wrote the Commission expressing, among other things, concern about possible impacts of the proposed natural gas wells on water and the environment.

13. By letter dated June 27, 2002, Mr. Bertram, in his role as Delta County's Local Governmental Designee, submitted lengthy additional technical comments on behalf of the BOCC addressing the pending APDs. His letter included, among other things, comments on possible impacts of the proposed wells on water and the environment.

14. The Commission also received numerous written comments from other persons addressing, among other things, concerns about public health and the environment.

15. On July 2, 2002, the Commission staff visited the proposed well sites and engaged in on-site consultations with Mr. Bertram, members of the BOCC and others as provided in COGCC Rule 306.a.3.

### **C. Approval of the APDs**

16. As noted above in paragraph 1, Director Griebing approved three of the APDs on July 3, 2002, and the fourth on July 15, 2002. In a letter issued to members of the public contemporaneously with his approval of the first three APDs, Mr. Griebing commented as follows

I have carefully reviewed all the letters from citizens and the comments from Delta County with several members of our staff. Onsite inspections were conducted by COGCC staff with the Delta County Commissioners, the Delta County Local Governmental Designee and Gunnison Energy Corporation ("GEC") which included confirmation that the surface owners of the proposed wells are in agreement with the well sites and access roads. As a result, I have concluded that there is no basis for withholding issuance of the APDs and conducting a hearing under Rule 303.k.

The three APDs filed by GEC are complete application packages submitted using standard petroleum industry practices and complying with COGCC rules. The APDs have been issued with conditions of approval, taking into account those issues raised by Delta County and its citizens. That document is attached herein and includes a description of how pertinent COGCC rules and the proposed well bore construction protect public health, safety and welfare.

A similar letter was sent to members of the public after Director Griebing approved the APD for the Stevens Gulch #1 well.

**D. Initial Denial of Approval and Permission by Delta County and Subsequent Denver District Court Litigation**

17. On July 22, 2002, the BOCC adopted Resolution 2002-R-025. This resolution denied Gunnison Energy's request for a county permit and approval to commence operations on the Spaulding Peak #1 well, the Dever Creek #1 well and the Stevens Gulch #1 well. In addition, the resolution proposed to approve Gunnison Energy's request to commence operations on the Lone Pine #1 if, but only if, Gunnison Energy agreed to comply with dozens of conditions different from and in addition to conditions imposed by the Commission.

18. On August 2, 2002, the BOCC, Mr. Bertram and others filed a lawsuit in Denver District Court, Case No. 02-CV-5735, against Director Griebing, the Commission, and Gunnison Energy. Among other things, these plaintiffs challenge the propriety of the Commission's approval of the four APDs and assert the county has the power to condition or prohibit certain oil and gas operations approved by the Commission. This lawsuit is ongoing.

19. Thereafter, Delta County refused Gunnison Energy requests to let it commence operations on the four approved natural gas wells according to the terms and conditions established by the Commission and its rules and regulations.

**E. Reconsideration by Delta County**

20. On April 21, 2003, Delta County changed course. It reconsidered its position and issued Resolution No. 2003-R-016. In pertinent part, the Resolution states as follows:

On March 18, 2003, the District Court of the City and County of Denver found and ordered that the denial of the four wells by the County, to the extent that such denial was based on water considerations, was disapproved. Based upon this order of the Court and the statement of the Applicant that Gunnison Energy Corporation would not be running powerlines and waterlines to the well sites (the other basis for denial), Gunnison Energy Corporation has requested reconsideration of the Board's decision of July 22, 2002; . . . .

4. The four wells remaining under Phase I of SD 02-007, Gunnison Energy Corporation, Applicant, shall be and hereby are approved, subject to the terms and conditions set forth in the Delta County Development Agreement. . . .

**II. Relief Requested by Applicant**

21. As noted above in paragraph 4, the four APDs previously approved by the Commission are now scheduled to expire on July 2, 2003, or July 14, 2003.

22. Gunnison Energy anticipates commencing operations on each of the four approved wells on or before the expiration of the APDs.

23. Nonetheless, many factors beyond the control of Gunnison Energy could conceivably delay the commencement of operations on one or more of the approved wells. These factors include, but are not limited to, local weather, surface and road conditions and developments in the ongoing litigation.

24. Under these circumstances, the Commission should exercise its discretion and issue an order or other approval for a variance extending the time within which Gunnison Energy may commence operations on the Spaulding Peak #1 well, the Dever Creek #1 well and the Lone Pine #1 well from July 3, 2003, until July 3, 2004, and on the Stevens Gulch #1 well from July 15, 2003, until July 15, 2004.

**III. Certification of No Material Change**

25. Gunnison Energy certifies that no material change in its application or approved drilling and reclamation plan has been made, other than those previously filed with the Commission, which render its application outdated or otherwise infirm.

**IV. Notice**

Rule 507 does not specify the class of persons to whom notice of this form of Application should be directed. Attached hereto as Exhibit A are the addresses of those persons who own the minerals rights and the surface upon which the four proposed wells will be located and the address of Mr. Bertram, the Local Governmental Designee for Delta County. Gunnison Energy requests that the Commission serve these persons, as well as all others deemed entitled to notice by the Commission, with notice of this Application.

WHEREFORE, for the reasons stated above, Gunnison Energy respectfully requests this Commission, consistent with its rules and regulations and other relevant law, give notice of this Application, and issue an order or other approval for a variance extending the time within which Gunnison Energy may commence operations on the Spaulding Peak #1 well, the Dever Creek #1 well and the Lone Pine #1 well from July 3, 2003, until July 3, 2004, and on the Stevens Gulch #1 well from July 15, 2003, until July 15, 2004.

DATED this 24<sup>th</sup> day of April, 2003.

Respectfully submitted,

BJORK, LINDLEY, DANIELSON & LITTLE, P.C.



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Peter A. Bjork (# 5498)  
David R. Little (# 13340)  
Robert C. Mathes (# 32324)  
1600 Stout Street, Suite 1400  
Denver, Colorado 80203

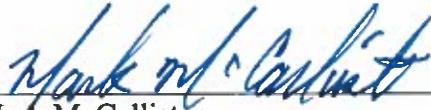
Applicant's Address:

Gunnison Energy Corporation  
1801 Broadway, Suite 1200  
Denver, CO 80202

VERIFICATION

STATE OF COLORADO )  
 ) ss.  
COUNTY OF DENVER )

Mark McCallister upon oath, deposes and says that he is the Operations Manager with Applicant; that he has read the foregoing Verified Application before the Oil and Gas Conservation Commission of the State of Colorado, and states that the matters therein are true to the best of his knowledge and belief.

  
\_\_\_\_\_  
Mark McCallister

Subscribed to and sworn to before me this 24<sup>th</sup> day of April, 2003, by Mark McCallister of Gunnison Energy Corporation.

My Commission expires:  
June 12, 2003

  
\_\_\_\_\_  
Notary Public

Address: 1801 Broadway, Suite 1200  
Denver, CO 80202

EXHIBIT "A"  
VERIFIED APPLICATION OF GUNNISON ENERGY CORPORATION FOR AN  
EXTENSION OF TIME TO COMMENCE OPERATIONS ON PREVIOUSLY APPROVED  
APPLICATIONS FOR PERMITS TO DRILL

Dever Creek Mineral and Surface Owner

Nick Hughes  
708 1250 Road  
Delta, CO 81416

Lone Pine Mineral and Surface Owner

Hotchkiss Ranches, Inc.  
P.O. Box 479  
Hotchkiss, CO 81419-0479

Spaulding Peak Mineral and Surface Owner

James J. Vela  
2211 M-50 Road  
Eckert, CO 81418

Stevens Gulch Mineral and Surface Owner

Turkey Track Ranch (Albert S. Donald - Trustee)  
907 Cheniere Drew Road  
West Monroe, LA 71291

Local Government Designee

Bruce Bertram  
Delta County Local Government Designee  
501 Palmer Street, Suite 227  
Delta, CO 81416-1796

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FOR PERMITS TO DRILL NOS. 2021173, )  
200221195, 20021196, AND 20021268 )

CERTIFICATE OF MAILING

I hereby certify that on April 24, 2003, a true and correct copy of the Foregoing Verified Application for an Extension of Time to Commence Operations on Previously Approved Applications for Permits to Drill was served by placing same in the United States mail, postage prepaid, addressed to the following:

Nick Hughes  
708 1250 Road  
Delta, CO 81416

Hotchkiss Ranches, Inc.  
P.O. Box 479  
Hotchkiss, CO 81419-0479

James J. Vela  
2211 M-50 Road  
Eckert, CO 81418

Turkey Track Ranch (Albert S. Donald - Trustee)  
907 Cheniere Drew Road  
West Monroe, LA

Bruce Bertram  
Delta County Local Government Designee  
501 Palmer Street, Suite 227  
Delta, CO 81416-1796

DATED this 24<sup>th</sup> day of April, 2003.

Respectfully submitted,

BJORK, LINDLEY, DANIELSON & LITTLE, P.C.

  
Peter A. Bjork (# 5498)  
David R. Little (# 13340)  
Robert C. Mathes (# 32324)  
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