

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

IN THE MATTER OF THE APPLICATION)
OF GUNNISON ENERGY CORPORATION FOR)
AN EXTENSION OF TIME FOR PERMITS-TO-DRILL,)
DELTA AND GUNNISON COUNTIES, COLORADO)

CAUSE NO. 1

ORDER NO. 1-103



REPORT OF THE COMMISSION

This cause came on for hearing before the Commission on October 27, 2003 at 10:00 a.m. in Suite 801, the Chancery Building, 1120 Lincoln Street, Denver, Colorado, on the application of Gunnison Energy Corporation, for an order granting a variance extending the time within which Gunnison Energy Corporation may commence operations on eight (8) wells.

FINDINGS

The Commission finds as follows:

1. Gunnison Energy Corporation ("GEC"), 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.

4. On November 21, 2002, Rich Griebeling, Director of the Colorado Oil and Gas Conservation Commission ("COGCC"), approved GEC's Applications for Permits-to-Drill ("APDs") the Leon Lake #4 and Leon Lake #5 Wells, located in Section 13, Township 12 South, Range 94 West, 6th P.M. On January 17, 2003 Director Griebeling approved GEC's APD for the Powerline Federal Well, located in the SE¼ SW¼ of Section 17, Township 12 South, Range 91 West, 6th P.M. On January 21, 2003, Director Griebeling approved the APD for the Oakbrush Federal Well, located in the NE¼ SE¼ of Section 26, Township 12 South, Range 91 West, 6th P.M. On January 25, 2003, Director Griebeling approved the APDs for the Bullpark Federal Well, located in the NE¼ NE¼ of Section 31, Township 12 South, Range 91 West, 6th P.M., the Hubbard Creek Federal Well, located in the SW¼ SE¼ of Section 23, Township 12 South, Range 91 West, 6th P.M., and the Thompson Creek Federal Well, located in the NE¼ SW¼ of Section 15, Township 14 South, Range 95 West, 6th P.M. On May 2, 2003, Director Griebeling approved GEC's APD for the Hawksnest Federal Well, located in the SE¼ NW¼ of Section 2, Township 13 South, Range 90 West, 6th P.M.

5. GEC was required to seek approval from the Bureau of Land Management ("BLM") for all eight (8) of the natural gas wells listed above, and was required to seek U.S. Forest Service approval only for the Leon Lake #4, Leon Lake #5, Powerline Federal, Oakbrush Federal, Bullpark Federal, and Hubbard Creek Federal wells. On December 31, 2002, the Forest Service and the BLM formally initiated the National Environmental Policy Act ("NEPA") process by issuing a scoping notice and requesting comments on GEC's proposal to drill, complete, test, and monitor eight (8) natural gas wells within the Grand Mesa National Forests and the Uncompahgre Resource Management Area. The scoping and comment period for the GEC's Proposed Exploratory Gas Drilling Project closed on January 31, 2003.

6. The Forest Service and the BLM, with the assistance of ENSR, an environmental consulting firm and other retained contractor specialists, conducted an environmental analysis ("EA") concerning GEC's Proposed Exploratory Gas Drilling Project. The EA for GEC's Proposed Exploratory Gas Drilling Project was released in May of 2003 and was made available for public comment from May 23, 2003, until June 23, 2003. The EA is over 300 pages in length and contains extensive and detailed information concerning the proposed project and the potential impacts it may have upon the environment in the North Fork Valley. Based on the information contained in the EA and comments received from the public, the Forest Service and the BLM issued separate Decision Notices and Findings of No Significant Impact on August 29, 2003, and September 5, 2003, respectively. Each agency determined that the proposed project would not have a significant impact on the human environment.

7. In connection with its September 5, 2003 Finding of No Significant Impact and Decision Record, the BLM issued approved federal APDs for the Thompson Creek and Hawksnest Federal wells. As both the Thompson Creek Federal and Hawksnest Federal well sites are located on BLM lands, the BLM APDs constitute final approval and GEC is authorized to begin operations on those well locations. Pursuant to the applicable Forest Service regulations, authorization to commence operations on the Leon Lake #4, Leon Lake #5, Powerline Federal, Oakbrush Federal, Bullpark Federal, and Hubbard Creek Federal wells will not be issued until after a required appeal period. The appeal period may last between 50 and 105 days depending on whether appeals are actually filed.

8. The eight (8) APDs previously approved by the Commission are now scheduled to expire on November 20, 2003 (for the Leon Lake #4 and the Leon Lake #5 Wells), on January 16, 2004 (for the Powerline Federal), on January 20, 2004 (for the Oakbrush Federal), on January 24, 2004 (for the Bullpark Federal, the Hubbard Creek Federal, and the Thompson Creek Federal) and on May 1, 2004 (for the Hawksnest Federal). GEC anticipates commencing operations on the Thompson Creek Federal and the Hawksnest Federal wells on or before the expiration of the APDs. Nonetheless, many factors beyond the control of GEC 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, lease stipulations, APD conditions of approval, surface and road conditions, and potential appeals and future litigation.

9. On September 22, 2003, GEC, by its attorney, filed with the Commission a verified application for an order for a variance extending the time within which GEC may commence operations on the Leon Lake #4 Well and Leon Lake #5 Well from November 20, 2003, until November 20, 2004; on the Powerline Federal Well, the Oakbrush Federal Well, the Bullpark Federal Well, the Hubbard Creek Federal Well, and the Thompson Creek Federal Well from January 16, 2004, January 20, 2004, and January 24, 2004, respectively, until January 24, 2005, and on the Hawksnest Federal Well from May 1, 2004, until September 30, 2004. GEC 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.

10. On October 7, 2003, the Board of County Commissioners of the County of Gunnison submitted a Motion to Intervene on GEC's application with respect to the two (2) wells located in Gunnison County.

11. A prehearing conference was held on this matter on October 16, 2003. At the time of the prehearing conference, the attorney for the Board of County Commissioners stated that the Board wanted to participate in the Commission's process and therefore filed the Motion to Intervene; however, the Board is not opposed to the Commission granting a variance to GEC but would like to have the Commission include a requirement that GEC comply with Gunnison County's Temporary Regulations for Oil and Gas Operations prior to the commencement of work on the Hawksnest Federal Well and the Thompson Creek Federal Well.

12. The Assistant Attorney General's ("AAG") response at the prehearing conference indicated that the State has not taken a position on the federal/county preemption issues and therefore the AAG could not advise the Commission to condition the two (2) APDs with the County's request. In addition, the AAG stated that the decision from Judge Patrick in the BDS case would need to be considered and it would not be out for ten (10) days. Further, she stated that the COGCC has challenged specific provisions of the County's regulatory process and cannot take a contrary position.

13. At the time of the prehearing conference, the attorney for the Board of County Commissioners stated he did not plan to attend the Commission hearing and would let the Motion to Intervene stand on its own.

12. Testimony and exhibits presented at the hearing described the history behind the BLM process to approve the APDs and indicated that no material change in the APDs or the approved drilling and reclamation plans have been made to render the APDs outdated.

13. The Commission finds that the granting of a variance under Rule 502.b.(1) to Rule 303.h. does not violate the basic intent of the Oil and Gas Conservation Act and the application should be approved.

ORDER

NOW, THEREFORE IT IS ORDERED that a variance in accordance with 502.b.(1) is hereby granted extending the time within which Gunnison Energy Corporation may commence operations on the Leon Lake #4 Well and Leon Lake #5 Well to November 20, 2004; on the Powerline Federal Well, the Oakbrush Federal Well, the Bullpark Federal Well, the Hubbard Creek Federal Well, and the Thompson Creek Federal Well to January 24, 2005, and on the Hawksnest Federal Well to September 30, 2004.

IT IS FURTHER ORDERED, that the provisions contained in the above orders 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 6th day of November, 2003, as of October 27, 2003.

OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

By 
Patricia C. Beaver, Secretary

Dated at Suite 801
1120 Lincoln Street
Denver, Colorado 80203
November 5, 2003