

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

IN THE MATTER OF THE PROMULGATION AND) CAUSE NO. 407
ESTABLISHMENT OF FIELD RULES TO GOVERN)
OPERATIONS FOR THE CODELL AND NIOBRARA) DOCKET NO. 170900522
FORMATIONS, WATTENBERG FIELD, WELD AND)
BROOMFIELD COUNTIES, COLORADO) TYPE: SPACING
)
) ORDER: 407-2515

REPORT OF THE COMMISSION

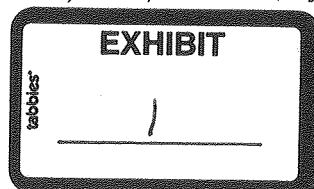
The Commission heard this matter on July 31, 2018, at the Colorado Oil and Gas Conservation Commission ("Commission" or "COGCC"), 1120 Lincoln Street, Suite 801, Denver, Colorado, upon application for an order to establish an approximate 1,920-acre drilling and spacing unit for portions of Sections 22, 23, 26 and 27, Township 1 North, Range 68 West, 6th P.M., and to authorize one horizontal well within the unit, for the production of the oil, gas, and associated hydrocarbons from the Niobrara and Codell Formations.

The Commission finds as follows:

1. Crestone Peak Resources Operating LLC (Operator No. 10633) ("Crestone Peak" or "Applicant"), as applicant herein, is an interested party in the subject matter of the above-referenced hearing.
2. The City and County of Broomfield ("Broomfield"), as protestant, is an interested party in the subject matter of the above-referenced hearing.
3. Due notice of the time, place and purpose of the hearing has been given in all respects as required by law.
4. 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.

FACTUAL AND PROCEDURAL HISTORY

1. On April 27, 1998, the Commission adopted Rule 318A, the Greater Wattenberg Area Special Well Location, Spacing and Unit Designation Rule. Sections 22, 23, 26 and 27, Township 1 North, Range 68 West, 6th P.M., are subject to this Rule for the Niobrara and Codell Formations.
2. On February 19, 1992, the Commission entered Order No. 407-87 (amended August 20, 1993) which, among other things, established 80-acre drilling and spacing units for the production of oil, gas, and associated hydrocarbons from the Codell-Niobrara Formations, the Codell Formation, and the Niobrara Formation underlying certain lands, including Sections 22, 23, 26 and 27, Township 1 North, Range 68 West, 6th P.M., with the permitted well locations in accordance with the provisions of Order No. 407-1.
3. On June 5, 2017, Crestone, by its attorneys, filed a verified application ("Spacing



Application”) pursuant to §34-60-116, C.R.S., for an order to establish an approximate 1,920-acre drilling and spacing unit for the following lands (“Application Lands”), and to approve up to 44 horizontal wells within the unit, for the production of oil gas and associated hydrocarbons from the Niobrara and Codell Formations, with the productive interval of the wellbore to be located no closer than 460 feet from the unit boundaries, and no closer than 150 feet from the productive interval of any other wellbore located in the unit, without exception being granted by the Director:

Township 1 North, Range 68 West, 6th P.M.

Section 22: E½
Section 23: All
Section 26: All
Section 27: E½

The Applicant requested that the wells be drill from no more than four multi-well pads in the unit, or on lands adjacent thereto, unless an exception is granted by the Director.

4. On July 10, 2017, Broomfield filed a protest in compliance with Commission Rule 509 to the Spacing Application.

5. On October 18, 2017, Ms. Kjersti Drott submitted a protest to the Spacing Application. Ms. Drott’s protest was based on the environmental impacts of oil and gas development.

6. On January 22, 2018, after consulting with Broomfield, Crestone amended the Spacing Application changing its request from 44 horizontal wells within the proposed unit to one horizontal well.

7. On January 22, 2018, Crestone also filed a concurrent increased density application in Docket No. 180300276 for an order to approve up to an additional 40 horizontal wells within the proposed approximate 1,920-acre drilling and spacing unit in Docket No. 170900522 (“Additional Wells Application”).

8. Crestone’s Additional Wells Application requests an order to approve up to 40 horizontal wells in the proposed approximate 1,920-acre drilling and spacing and unit for the Application Lands, for the production of oil, gas, and associated hydrocarbons from the Niobrara and Codell Formations. Crestone subsequently modified its request to seek up to 32 horizontal wells in the proposed approximate 1,920-acre drilling and spacing unit for the production of oil, gas, and associated hydrocarbons from the Niobrara and Codell Formations. The amended Additional Wells Application requests 460-foot setbacks from the boundaries of the unit, unless an exception is granted by the Director and requests that there be no more than three well pads in the unit, or adjacent thereto, unless an exception is granted by the Director.

9. On May 10, 2018, Crestone submitted a Motion to Dismiss Ms. Drott’s protest on the grounds that Ms. Drott lacked standing to protest as she was not a mineral owner in the Application Lands.

10. On May 10, 2018, Crestone submitted a Motion to Strike Broomfield’s Exhibits B-5 through B-17. Broomfield responded on May 17, 2018.

11. On July 17, 2018, a final prehearing conference was held at which the parties discussed the time allocations for hearing, witnesses and exhibits.

12. The Hearing Officer granted Crestone's Motion to Dismiss Ms. Drott's protest but allowed Ms. Drott to submit a revised written 510 Statement to the Commission and make an oral statement at hearing.

13. The Hearing Officer granted Crestone's Motion to Strike Broomfield's Exhibits B-5 through B-17, finding that the Exhibits were irrelevant as they were not sufficiently related to the proposed oil and gas development. The Hearing Officer allowed Broomfield to attach the stricken exhibits to any 510 Statement Broomfield wished to file.

14. On July 18, 2018, Ms. Drott submitted a 510 Statement, with exhibits.

15. On July 18, 2018, Broomfield submitted a written 510 Statement.

16. On July 22, 2018, the Hearing Officer issued a Final Prehearing Order which identified stipulated facts, identified the issues for hearing, identified and admitted exhibits for hearing, identified witnesses, and provided the time allotted to each party at hearing.

17. Docket Nos. 170900522 and 180300276 were consolidated for purposes of hearing.

HEARING

18. On July 31, 2018, the Commission conducted an adjudicatory hearing.

19. Ms. Drott appeared at hearing and provided an oral 510 statement to the Commission. Ms. Drott was subject to cross-examination and admitted that she did not own a mineral interest in the proposed drilling and spacing unit.

20. Land testimony and exhibits submitted in support of the Spacing and Additional Well Applications by Sheila Frazier of Crestone, showed that Crestone owns leasehold interests with the right to drill in the Application Lands.

21. Land testimony and exhibits submitted in support of the Spacing and Additional Well Applications by Jason Oates, Director of External Affairs for Crestone, showed that Crestone is prepared to begin drilling operations in the fourth quarter of 2018, that Crestone is in the process of responding to comments made to its permit applications by Broomfield, and that Crestone filed a Use by Special Review permit with Broomfield in the spring of 2018 and met with Broomfield more than seven times regarding the Spacing and Additional Well Applications.

22. Geoscience testimony and exhibits submitted in support of the Spacing and Additional Well Applications by Dan Harrington, Geoscience Manager at Crestone, showed the Niobrara Formation is present throughout the Application Lands and ranges from approximately 380-410 feet thick. Further testimony showed the Codell Formation is present throughout the Application Lands and is approximately 19 to 20 feet thick.

23. Engineering testimony and exhibits submitted in support of the Spacing and Additional Well Applications by Mark Stouffer, Reservoir Engineering Manager for Crestone Peak, demonstrated that the offset analog wells have an average lateral length of 7758 feet for

the Niobrara Formation and when normalized to a lateral length of 9640 feet per well has a drainage area of 50.4 acres and for the Codell Formation and when normalized to a lateral length of 9640 feet per well has a drainage area of 200.1 acres. Based on each drilling and spacing unit area of 1,920 acres, the drainage calculations are consistent with the development of up to 32 Niobrara and Codell horizontal wells within the proposed drilling and spacing unit and will increase total recovery, allow more efficient reservoir drainage, will prevent waste, will assure a greater ultimate recovery of hydrocarbons, and will not violate correlative rights. Crestone also submitted evidence that the proposed wells would be economic and yield positive rates of return.

24. Broomfield's counsel read a 510 Statement from Tammi Yellico, the Director of Strategic Initiatives for Broomfield, which urged the Commission to ensure that any oil and gas development is consistent with Commission Rules. Other than this 510 Statement, Broomfield did not present any witnesses at hearing.

25. Broomfield argued that Section 34-60-116(3) of the Colorado Oil and Gas Conservation Act ("Act") requires one well be producing before the Commission authorizes the drilling of additional wells. Broomfield also argued that approval of the Spacing and Additional Well Applications would be contrary to the requirements of § 34-60-102, C.R.S., and the Colorado Court of Appeals decision in *Martinez, et al. v. Colorado Oil and Gas Conservation Commission, et al*, 2017COA37.

26. Crestone agreed to be bound by oral order of the Commission.

COMMISSION DELIBERATIONS

27. Commissioner Hawkins stated that the technical evidence submitted by Crestone demonstrated that the Codell and Niobrara Formations constitute a common source of supply, and that evidence of the drainage areas and economics show that the area can be efficiently and effectively drained, and that the proposed unit would prevent waste protect correlative rights.

28. Commissioner Boigon stated that Broomfield failed to submit any evidence that was directed toward the proposed development, and that the permitting process is when surface considerations are taken into account. Further, the Commission still considers public health, safety, and welfare in its decisions.

29. The Commission closed the record. The Commission voted unanimously to approve Crestone's Spacing Application.

COMMISSION FINDINGS AND CONCLUSIONS

30. The Commission has the authority to establish drilling units "[T]o prevent or assist in preventing waste, to avoid the drilling of unnecessary wells, or to protect correlative rights." §34-60-116(1), C.R.S.

31. Prior to its amendment, made effective July 1, 2018, the Oil and Gas Conservation Act ("Act") provided that "[t]he order establishing drilling units shall permit only one well to be drilled and produced..." § 34-60-116(3), C.R.S.

33. Section 116 does not contain any requirement that an operator address impacts to public health, safety, and welfare.

34. The Commission concludes that testimony and documents presented by Crestone show that the Spacing Application meets the requirements of Sections 116, and that the proposed unit would prevent waste, avoid the drilling of unnecessary wells, and protect correlative rights. In reaching this conclusion, the Commission notes that Broomfield did not present any evidence to contradict the technical evidence presented by Crestone. Broomfield only argued that the evidence regarding drainage and economics was a speculative prediction of future well performance. The Commission, however, routinely accepts evidence of future well performance, if that evidence is based on sound information. The Commission found no reason to question the technical evidence and conclusions presented by Crestone.

35. The Commission historically does not closely examine surface issues during the spacing. The establishment of drilling and spacing units and authorization of additional wells under §34-60-116 C.R.S., entail a technical evaluation of downhole reservoir characteristics. Applications to establish a drilling and spacing unit and/or seeking increased well density implicate waste, protection of correlative rights, and avoiding the drilling of unnecessary wells, not concerns related to the impacts of surface facilities on public health, safety, and welfare. Broomfield conflates the requirements necessary for establishment of units and authorization of additional wells under Section 116, with the requirements to obtain permits from the Commission.

36. Further, Crestone submitted testimony that impacts to public health, safety, and welfare would be and are being taken into account through the Commission's and Broomfield's permitting processes. Broomfield failed to offer any evidence that the Commission's permitting rules and processes were inadequate to protect public health, safety, and welfare.

ORDER

IT IS HEREBY ORDERED:

1. Crestone's Spacing Application is APPROVED and an approximate 1,920-acre drilling and spacing unit for the below-described lands, is hereby established, and a total one well within the unit is hereby approved, for the production of oil, gas, and associated hydrocarbons from the Niobrara and Codell Formations:

Township 1 North, Range 68 West, 6th P.M.

Section 22: E½
Section 23: All
Section 26: All
Section 27: E½

2. The productive interval of the wellbore will be located no closer than 460 feet from the unit boundaries, and no closer than 150 feet from the productive interval of any other wellbore located in the unit, unless the Director grants an exception.

IT IS FURTHER ORDERED:

1. The provisions contained in the above order shall become effective immediately.

2. The Commission expressly reserves its right, after notice and hearing, to alter, amend or repeal any and/or all of the above orders.

3. Under the State Administrative Procedure Act, the Commission considers this Order to be final agency action for purposes of judicial review within 35 days after the date this Order is mailed by the Commission.

4. An application for reconsideration by the Commission of this Order is not required prior to the filing for judicial review.

ENTERED this 28th day of August 2018, as of July 31, 2018.

OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

By  _____
Julie Spence Prine, Secretary

CERTIFICATE OF SERVICE

On August ~~28~~²⁸, 2018, a true and correct copy of the foregoing was sent by electronic mail to the following:

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James P. Rouse, Hearing Officer