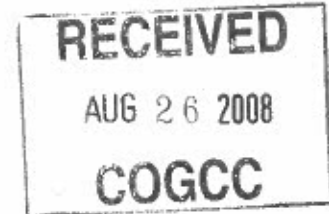




U.S. Department of Agriculture/U.S. Department of the Interior
Forest Service / Bureau of Land Management
Region II / Colorado State Office
740 Simms St. / 2850 Youngfield St.
Golden, CO 80401 / Lakewood, CO 80215



August 21, 2008



Colorado Oil and Gas Conservation Commission
Attention: Patricia Beaver, Hearings Manager
1120 Lincoln Street, Suite 801
Denver CO 80203

Re: U.S. Bureau of Land Management and U.S. Forest Service Comments, Draft Colorado Oil and Gas Conservation Commission (COGCC) Regulations, Docket No. 0803-RM-02

Dear Commissioners:

On behalf of the Bureau of Land Management (BLM) and the United States Forest Service (USFS), we are writing to reiterate our agencies' positions regarding the draft COGCC regulations and to update the Commission about recent Federal and State meetings.

In the BLM's June 6, 2008, comment letter, the BLM described its working relationship with the State of Colorado and expressed its hope that this relationship would continue. The BLM explained its legal rationale regarding federal preemption of conflicting State laws. The BLM also stated its preferred option for resolving disagreements about the applicability of the Commission's new regulations to federal lands and minerals. It recommended that the Commission incorporate the following language into the new regulations:

These regulations shall not apply to federal lands and minerals unless the BLM concurs in their application. In the event of BLM's concurrence, the applicability of these regulations to federal lands and minerals shall be governed by the terms of the MOU between the Colorado BLM and the Colorado Oil and Gas Conservation Commission.¹

The USFS also made its views known. It filed a Prehearing Statement on May 9, 2008, in which it proposed, among other things, entering into an MOU with federal land management agencies to govern the integration of State surface use requirements and federal laws. The USFS's Prehearing Statement echoed the concerns of the BLM about federal preemption and also raised the possibility of leaseholder takings claims.

¹ If the Commission adopted this language, it should include a reference to the USFS or perhaps the "federal land management agencies."

On Friday, July 25, 2008, we met with COGCC Acting Director David Neslin and other State agency personnel to discuss the State's perspective on existing federal regulations. The State explained its views regarding BLM and USFS practices in regulating federal public lands. Though the BLM and USFS did not always agree with the State's comments, all parties agreed that the MOU represented a potential vehicle to achieve agreement. We resolved to set up additional meetings between Federal and State agency personnel to develop the MOU. Due to the State's workload in preparing for the Commission's August hearings and uncertainty about the final content of the Commission's regulations, we agreed to begin inter-agency discussions following the conclusion of the August hearings. Acting Director Neslin explained that, if necessary, the new regulations could be amended to account for a revised MOU.

In summary, it is the clear preference of both agencies to exempt federal lands and minerals from the application of the new regulations. If the Commission chooses not to include the preferred language in its new regulations, both agencies will consider other options. This may include resolving issues through the MOU process with the expectation that the Commission will either amend the regulations to account for the MOU or take the necessary actions to formalize the MOU.

We continue to look forward to working with the Commission and its staff to ensure resolution of these issues.

Sincerely,



Sally Wisely
Colorado State Director, BLM



Rick Cables
Regional Forester, USFS

cc: David Neslin, Acting Director, Colorado Oil and Gas Conservation Commission
Kelly Rees, Assistant Attorney General