



Colorado Petroleum Association

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September 3, 2008

VIA HAND DELIVERY

Mr. Harris D. Sherman

Chairman

Colorado Oil and Gas Commission

1313 Sherman Street, Room 718

Denver, CO. 80203

Re: COGCC September rulemaking deliberations

Dear Mr. Chairman:

We are writing to respectfully request that the Colorado Oil and Gas Conservation Commission postpone its scheduled deliberations next week in order to allow the stakeholder parties additional time to continue dialogue and discussion on the proposed draft rules.

As we are sure you are aware, there have been a series of discussions over the past few weeks between various stakeholders on several of the key rules awaiting decision by the Commission. The industry parties are pleased that these discussions have commenced and have a strong interest in pursuing additional dialogue on the proposed rules, but the issues are complex and will take time to work through. Additional time prior to deliberations will help the parties narrow the areas of disagreement, result in improved rule language, and facilitate better, more informed Commission rule deliberations.

Further, the industry parties believe that in order to reach a successful conclusion, stakeholder meetings should be structured to provide adequate notice of meetings and the opportunity for all interested parties to attend, with appropriate scheduling over a period of months that allows for deliberate and meaningful discussion with all stakeholders at the table. In some cases, it may be useful to have meetings facilitated with Commissioners or outside third parties. The industry parties would welcome the thoughts of the Commissioners in this regard.

Thank you for your consideration of this request. We look forward to working with you in coming weeks.

Sincerely,

Jep Seman- Attorney for:
Colorado Petroleum Association

Ken Wonstolen- Attorney for:
Colorado Oil and Gas Association

Cc: David Neslin, Acting Director



EARTHJUSTICE

BOZEMAN, MONTANA DENVER, COLORADO HONOLULU, HAWAII
INTERNATIONAL JUNEAU, ALASKA NEW YORK, NEW YORK OAKLAND, CALIFORNIA
SEATTLE, WASHINGTON TALLAHASSEE, FLORIDA WASHINGTON, D.C.

September 5, 2008

David Neslin
Director
Colorado Oil and Gas Commission
1120 Sherman Street, Suite 801
Denver, CO 80203

BY ELECTRONIC MAIL
david.neslin@state.co.us

Re: September 3 letter from COGA and Colorado Petroleum Association

Dear Director Neslin:

On behalf of the Colorado Environmental Coalition, Western Colorado Congress, and our affiliated parties, I am writing to express our strong opposition to Wednesday's request by the Colorado Oil and Gas Association ("COGA") and the Colorado Petroleum Association ("CPA") to postpone all deliberations on the draft rules for "a period of months." COGA and CPA apparently advocate that the Commission defer the promulgation of all of the draft rules and instead convene an extensive series of additional stakeholder meetings.¹

We are always open to continued dialogue with industry and other stakeholders in this process. In fact, we have been engaged in such a dialogue for months, including several meetings in recent weeks with industry and other interested parties. We also are open to further discussions before next week's scheduled deliberations. COGA's and CPA's proposal for a blanket postponement of all the rules, however, is a transparent delay tactic. Last year, the Assembly recognized that Colorado's environment, public health, and wildlife need additional protections, and even imposed a deadline for promulgating those rules. The Commission should move forward now to put those protections into place, rather than deferring the new regulations for months.

Commission staff, non-industry parties, and the Commission itself, already have devoted countless hours over many months to negotiating and developing the rules. These efforts should not simply be discarded for the commencement of another stakeholder process.

Any suggestion that industry's concerns "have not been heard," or that these issues have not already been thoroughly analyzed, is simply false. The staff recommendations represent the fourth public draft of the proposed rules (including the pre-draft proposal). The Commission, of course, has held lengthy rulemaking hearings that lasted several weeks this summer. Moreover, Commission staff and other parties have made extensive efforts -- prior to, during, and after those hearings -- to meet with industry and to accommodate complaints by industry. We expect that the staff recommendations this week will show that staff has taken industry's complaints (which

¹ We note that COGA and CPA directed their communication on an *ex parte* basis to Chairman Sherman without serving it on the other parties to this rulemaking, or apparently to the other Commissioners.

Director Neslin
9/5/2008
Page 2

we believe in many cases are exaggerated or baseless) to heart and extensively revised the proposed rules to accommodate industry.

At each step in this process, however, industry representatives have "moved the goal posts," responding to the revisions with additional objections. Indeed, some provisions of the draft rules arguably are now less protective of public health, the environment, and wildlife, than what some industry parties proposed earlier in this process.

The eleventh hour request by COGA and CPA for a blanket deferral of any new rules promises further delay and intransigence by industry during the new stakeholder process. We urge the Commission to reject such a blanket deferral of much-needed new rules.

Thank you for your consideration of these comments.

Sincerely,

s/ Michael S. Freeman
Michael S. Freeman