

BEFORE THE OIL AND GAS CONSERVATION COMMISSION
STATE OF COLORADO

IN THE MATTER OF CHANGES TO THE)	CAUSE NO. 1R
RULES AND REGULATIONS OF THE OIL)	
AND GAS CONSERVATION COMMISSION)	DOCKET NO. 0803-RM-02
OF THE STATE OF COLORADO)	

COLORADO PETROLEUM ASSOCIATION

MOTION TO STRIKE PREVIOUSLY UNIDENTIFIED WITNESSES RECENTLY
NAMES BY COGCC STAFF

In the fourth iteration of the Rulemaking Hearing Schedule (July 15 through July 17, 2008) dated July 14, 2008, for the first time a new witness was listed as part of the Commission's Staff presentation with respect to Draft Rule 205. Cathy Behr was not listed in any of the earlier scheduling orders. When she was first listed just two days ago, Ms. Behr was described as a "staff presenter." Upon information and belief, Ms. Behr is a registered nurse in Durango, Colorado and does not work for the COGCC.

The First Prehearing Order dated April 1, 2008, stated at page 4 that, "**all testimony** to be offered into evidence at the hearing must be provided in writing." (Emphasis added.) Ms. Behr did not submit written testimony in compliance with the First Prehearing Order. Indeed, there was no mention of Ms. Behr in any of the 1,000-plus pages that comprised the staff's Prehearing and Rebuttal Statements. To allow this witness to testify would be highly prejudicial. Parties have had no opportunity to prepare or investigate. They do not know what this witness will say. Parties do not know if there are documents, witnesses or information that might be relevant in order to rebut the proposed testimony. Moreover, to allow this witness/testimony would be inconsistent with this Commission's earlier rulings (e.g., denial of Wildlife Group's late tender of previously unlisted exhibits).

WHEREFOR the CPA requests that Cathy Behr be stricken as a witness for failure to comply with the Commission's First Prehearing Order.

Respectfully Submitted this 16th day of July, 2008:

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Attorneys for Colorado Petroleum
Association

CERTIFICATE OF SERVICE

I, hereby certify that on this 6th day of June, 2008, I caused to be hand-delivered, one original with fifteen (15) true and correct copies, of the above and foregoing MOTION TO STRIKE PREVIOUSLY UNIDENTIFIED WITNESSES RECENTLY NAMES BY COGCC STAFF addressed to the following:

Patricia Beaver, Hearing Manager tricia.beaver@state.co.us
Docket No. 0803-RM-02
Oil and Gas Conservation Commission
1120 Lincoln Street, Suite 801
Denver, CO 80203

With electronic copies sent to:
Marc.fine@state.co.us and all of the Parties
listed on the Party List found at the OGCC
website.

/S/ _____ Linda Etz

I also hereby certify that on this 6th day of June, 2008, I caused to be hand-delivered, two (2) true and correct copies of the above and foregoing MOTION TO STRIKE PREVIOUSLY UNIDENTIFIED WITNESSES RECENTLY NAMES BY COGCC STAFF, addressed to the following:

Kelly Rees kelly.rees@state.co.us
Colorado Department of Law
1525 Sherman Street, 5th Floor
Denver, CO 80203

/S/ _____ Linda Etz