

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

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

**MOTION to STAY ALL FURTHER PROCEEDINGS AS The COMMISSION FAILED
TO MEET STATUTORY DEADLINE BY JULY, 16, 2008**
BY M. SUE SHERIDAN JARRETT

COMES NOW, M. Sue Sheridan Jarrett as an interested person with party status in the above referenced rulemaking proceeding makes the following Motion to Stay all Further Proceedings as the Commission Failed to Meet Statutory Deadline by July 16, 2008 per House Bill 08-1379 which is the governing statutory law.

Once again I state that I testified in support of more time for the commission to deal with House bills 1298 and 1341 when house bill 1379 was before the legislature and the commission staff assured the legislature that the bill allowed for ample time to accomplish passing of the proposed rules by July 16, 2008, by the commission. Certain Legislators, parties, commissioners, and/or staff, cannot unilaterally decide after session that they did not mean what was passed as law therefore the law stands as passed.

While I and others have supported longer hearings for those issues that we believed were outside the scope of bills 1298 and 1341, staff and certain parties have maintained that all proposed rules were within the scopes of the bills. In fact there were motions to Limit and Bifurcate Rulemaking and people tried to get staff and commission to take things a little slower and deliberate more carefully on issues not mandated by the July 16, 2008 deadline. Now we have yet another draft to review and there are significant changes once again. There are so many different color changes that it is extremely burdensome and cumbersome to review all the various issues and reasons for the changes.

The commission adjourned on July 16th, 2008 without deliberations nor a vote taken on any of the proposed rules. I believe they have failed to meet the requirements of House Bills 07-1298, 07-1341, and 08-1379; as previously stated 08-1379 title as set forth in the bill as follows:

**CONCERNING AN EXTENSION OF THE DEADLINE FOR THE COLORADO OIL AND GAS
CONSERVATION COMMISSION TO PROMULGATE RULES CONCERNING A CONSULTATION
PROCESS WITH OTHER STATE AGENCIES UNTIL JULY 16, 2008.**

The commission has certain responsibilities to meet mandates and I use the following excerpts from an Attorney General Opinion as supporting administrative procedures that must be followed per the listed website:

<http://www.ago.state.co.us/agopinions/ago9904.cfm.html>

The Power of the Commission to Promulgate Rules

Administrative agencies are creatures of statute in Colorado, and they may act only within the bounds of the authority delegated to them. *Colorado-Ute Electric Ass'n, Inc. v. Air Pollution Control Com'n*, 648 P.2d 150 (Colo. App. 1981). This rule reflects the separation of powers embedded in the Constitution of the State of Colorado. Colorado Const., Art. V, § 1 (legislative power vested in the General Assembly and reserved by the People); cf. *People v. Holmes*, 959 P.2d 406 (Colo. 1998). Delegations of authority to administrative agencies to promulgate rules are common in Colorado's environmental statutes. See, e.g., § 25-7-105(1), C.R.S., (1999) (delegation of general and specific rulemaking powers to the Commission). ...when a statute clearly and unambiguously requires a particular regulatory approach, the agency has little discretion as it promulgates a rule. See *id.*

Certain members of this commission, staff members, and other parties are attorneys and are sworn to uphold the law and cannot take it upon themselves to violate the law. They must honor their own statements on record, laws as passed, statutory law and the administrative procedures that govern this commission. The following quote and objective and measure is per the commission website:

"The COGCC is involved in rulemaking efforts to implement legislative changes from the 2007 Legislative Session, specifically House Bills 1298 and 1341. The COGCC will hold public meetings (see schedule below) and facilitated stakeholder work groups (see schedule below) to gather comments and information prior to the development of draft rules. The draft rules then will be subject to public notice, comment and a hearing pursuant to the Colorado Administrative Procedure Act, with adoption of the final rules expected by July 1, 2008."

Objective 6: Provide administrative and technical support to assist the Commission in performing its policy, adjudicatory, and rulemaking functions

Measure 1 – Provide information to potential hearing applicants to ensure the most efficient use of the Commission hearing process

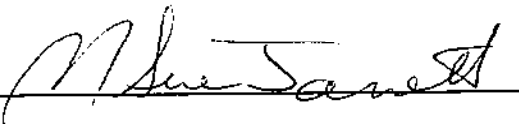
Measure 2 – Ensure compliance with hearing-related statutory deadlines.

Once again staff miscalculated time needed and missed its own published deadline for adopting final rules along with failing to follow objective 6 measure 2. Furthermore, I state that the rules have been a moving target without proper time to review and provide adequate testimony and that my due process as a party status individual has been violated numerous times and I incorporate all previous objections to the proceedings and all other filings.

The commission only has the authority to act as the legislature gives it per statutory laws for administrative proceedings and the commission operates as an arm of the legislature and cannot take authority to operate as it feels at various whims.

Since I have not received a written response to my motion that the commission was out of time I will request in writing that the commission responds immediately before any further actions as to the authority it is continuing these proceedings as I fully believe that the commission is now acting out side of the law. ULTRA VIRES I would appreciate a response first thing August 19th before any further proceedings on the record along with a hard written response immediately by the staff, the commission, and the Attorney General.

Respectfully submitted this 18TH day of August, 2008:

By: 

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion to Stay all Further Proceedings Regarding Failure of the Commission to Meet Statutory Deadline by July 16, 2008 by **M. SUE SHERIDAN JARRETT** were served on August 18th, 2008, by email and hard copies via hand deliveries in person on August 19th as follows:

Original and 15 copies delivered to:

- 1) Patricia Beaver, Hearing Manager
Docket No. 0803-RM-02
Oil and Gas Conservation Commission
1120 Lincoln Street, Suite 801
Denver, Colorado, 80203;

Two hard copies delivered to:

- 2) Kelly Rees, Colorado Department of Law
1525 Sherman Street, 5th Floor,
Denver, Colorado, 80203

with an electronic copy sent to:

Commission Marc.fine@state.co.us
Department of Law Kelly.rees@state.co.us

All other parties listed on the "party list" by email
(http://cogcc.state.co.us/RuleMaking/Party_List.pdf)



A handwritten signature in black ink, appearing to read "Marc Fine", is written over a horizontal line.