

MINUTES

Stakeholder Work Group for HB07-1298/1341 Rulemaking

Process Group – Meeting No.4

COGCC Conference Room, 1120 Lincoln St., #801, Denver, CO 80203

Tuesday, January 29, 2008

Tim Atkeson, Facilitator

Attendees (taken off the sign-up sheets):

Alex Correa	Ann Lane	Jeff Madison	Dave Lovell
Judy Jordan	Scot Donato	Dan Prenzlow	Jerry Alberts
Duke Cox	Ed Graham	John Broderick	David Bell
Fernando Blackgoat	Ken Wonstolen	Reed Scott	Julie Acevedo
Diane Blieszner	Darrin Henke	Al Trujillo	Jevin Croteau
Rob Masden	Susan Aldridge	Mark Cornett	Gina Pingenet
Michael Saul	Dave Brown	Julia Crusius	Linda Pavelka
Megan Kram	Paul Frohardt	Steve Bennett	Pat Garland
Nick Swatzenruber	Doug Lempke	Bruce Barker	Peter Hack
Eileen Dey	Randall Ferguson	David Baumgarten	Martha Whitmore
Joe Barrett	Mike Chiropolos	Amy Wilson	Thomas Williams
Elise Jones	Thom Kerr	Steve Sullivan	

Meeting was called to order at 8:00am.

Tim began the meeting by talking about some of the emails he received over the last week. One was about preemption, and he noted that that topic will be discussed at our last meeting. Another raised a concern about whether DOW and/or CDPHE had a veto power on applications which involved agency consultation. Tim clarified that DOW and CDPHE will make recommendation to the COGCC and it will be up to the COGCC to determine whether to accept all, part, or none of the recommendations. Tim noted in response to another email that in cases where there was no agency consultation the COGCC Director would make his decision on the permit application as close to the end of the public comment process as possible. Another email expressed concern that the COGA alternative didn't get enough air time last week. Tim asked Ken Wonstolen, representing COGA, to make additional comments on the COGA alternative proposal, which Ken did.

The discussion then turned to the Comprehensive Development Plans (CDPs), as referred to in HB 1298. Tim asked the group to focus on the questions: Is a CDP a good idea? and How can we interest people to do CDPs?

Thom Kerr, COGCC, explained the initial thinking behind the CDPs and noted that prior to drilling, the CDPs offered operators a chance to plan out and determine what impact on wildlife and the environment their operations would have and to work out issues with DOW or CDPHE before the submission of a Form 34. He noted that if the CDP resolved certain issues then the review of the relevant Form 34 and ADP would be expedited.

John Broderick, DOW, stated that with CDPs DOW can better plan on how the ecosystem will be impacted on a larger scale and should save operators time and money. For example, he noted that the wildlife survey could be done on a larger scale so operators won't need to keep going back to an area and do another survey. He pointed out that industry could talk to the DOW to see what

species would be impacted, if any, and that operators could get a blanket waiver by way of a CDP from seasonal restrictions set forth in the SOP part of the upcoming regulations.

Paul Frohardt, CDPHE, felt that the CDP was a good concept for finding ways for a more efficient process and on a larger scale. He stated that CDPHE is still looking into the best way to deal with public input.

Most of the morning involved the taking of stakeholder comments, which included:

- Stick with the current regulations and make them work. Use the section 508 process and there would be no need for a CDP.
- CPDs could benefit Industry.
- Concerns were raised about adding more layers of government regulation when there is already a good deal of regulation in place and it is working well.
- If there are agency and public comment on CDPs, there would be no need for public comment in the Form 34 process.
- Form 34 should be used to initiate a CDP instead of the APD. Leave APD process as is.
- A commentator noted that he doesn't see Form 34 and the APD being submitted simultaneously; and he is concerned about the amount of time concerned to negotiate a CDP, get a Form 34 and then an APD.
- Concerns were raised about fields with multiple operators, who leads and how do you prevent the problem of free riders?
- A commentator asked is the CDPHE going to be in on all CDPs? Paul Frohardt responded that the agency still hasn't a clear concept of the CDP and they are trying to figure out what would be the triggers for when the CDPHE gets involved and how long should public comment be.
- The shelf life of the CDP should be for the length of the project.
- Concerns were raised over confidentiality and that operators don't want competitors to know what they're doing.
- Operators don't always know the long-term plan. Dealing with too many perceived impacts. The CDP process should be issue-driven. We would still have the APD process to zero in on individual wells.
- Could the CDP be more of a zoning document without getting into specifics?
- Have the CDP process instead of having rulemaking through a GAP for issues.
- CDP could be like the IPAA form.
- When to do a CDP? Depends on the sensitivities involved.
- Industry would agree to a CDP if they knew they'd get approval at the end.
- Surface improvements and their impacts need to be looked at. The CDP could be useful for looking at the cumulative impacts. Agreements reached in the CDP process would need to be included in a Form 34 so there could be jurisdiction and enforcement. CDP would be looking at the whole area instead of going well by well.
- Industry has problems with Form 34. CDPs are less painful to do than many Form 34s, but they would prefer to do neither.
- As a rule, CDPs are better if they result in formal agreements. If there is agreement on all issues, Form 34 is not needed.
- Flexibility is key. Why isn't the current 508 Rule being used? Waivers of comments or consultation could be done by all interested parties. If the waivers are checked, these processes can be cut out.

- What about the issue of property rights/surface owner agreements? We already have well-defined rules on where to drill. Local governments hate preemption. Flexibility is very crucial.
- If the surface owner wants the well someplace else and you have to re-negotiate with the surface owner, how would that impact the CDP?
- If the CDP can be appealed, there's no incentive for a CDP.
- On the DOW side, how much flexibility on waivers?
- CDPs would allow you to resolve as little as one issue in a larger area.
- When a CDP triggers consultation, the consultation wouldn't have to be repeated. Any conditions negotiated in a CDP after the consult would apply as well in a Form 34 and not be repeated.
- When are there public comments on the CDP?
- LGDs want to have input in the CDP process.
- Thom Kerr stated that there have been discussions with DOW regarding a mechanism to create a response letter to agencies and the surface owner as to the outcome of the consultations. These would address all the issues in the CDPs. The Landowner consent would be at the CDP level. And then it's a done deal. A box could be checked on the APD saying that consultation has taken place.
- Amend Rule 508 (spacing application) and it would eliminate CDPs and Form 34.
- Some don't think that current regulations are working well.
- From the DOW perspective: A CDP should be industry-requested. A trigger could determine whether a CDP or Form 34 apply. DOW would then be done if their conditions are met.
- There would be a problem with surface landowners if you aren't dealing with very specific wells.
- How do you deal with surface owner issues at the CDP level if there isn't specificity as to exact locations of wells and improvements?
- Operators may be hesitant to do a CDP if it is public and they have to reveal their long term plans.
- Form 34 deals with landowner issues. For a CDP to work, you have to include landowners to get a permit out of this. CDP can be valuable only if it's voluntary.
- Want to try to address problems on the scale that's appropriate and give industry what is needed to get approval.
- More valuable to have everyone talk about the same thing at the same time.
- Who is going to judge which comment is valid? Ans: Agreement will come from all agencies. The Commission determines which comments are valid.
- A CDP will work when there are wildlife issues.
- Industry won't do a CDP if it's not timely and cost effective.
- Public comment at the CDP level should suffice and not needed for a Form 34 or APD. Public comment should either be at the CDP level or at the Form 34 level, but not for both.

Tim's Takeaway: There is not a shared view of what a CDP should be. Some commentators believe that the existing regulations can be modified slightly and that if they were there would be no need for a CDP or Form 34. Others commented that it would be helpful to be able to talk to the DOW and CDPHE before submitting a permit so that the operator could glean information and get a better understanding of the agency's concerns. They recognized that they did not need a regulation to do this. Another group commented that CDPs could be useful if the CDP process resulted in a binding agreement, took less time than proceeding with individual Form 34s and

APDs, and saved money. Those that liked the idea of a CDP indicated that it should be operator-initiated and that it should be very flexible as to what issues it covered, what improvements and geographic scope it covered, how long it lasted, and when it should be amended based on changed circumstances. They believed that all of these issues should be the subject of a negotiation with the relevant agencies. There was a question as to whether the surface owner, the LGD, and/or the public should be involved at the CDP stage or at the Form 34 stage. Some argued that the surface owner had a veto power over wildlife mitigation measures and that it would be necessary to include the surface owner in the CDP process. There was agreement that the public should only have one bite at the apple in terms of comments, but some commentators asked that the public comments at the CDP level be more generic, with more permit-specific public comments being taken as part of the Form 34 process.

Discussion topics for next time:

1. GAPS
2. Issue of transition for when form 34s come into play, including possible exemptions and a definition of small Operators

Our last meeting will deal with preemption issues on federal land, land with federal mineral rights, and land covered by local and county regulations

Meeting adjourned at 11:30am.