

### Agreement (SUA) Negotiations

We provide negotiation services at a flat rate of \$895.00 per negotiation to avoid excessive hourly rate charges for our clients. Our flat rate negotiation services include legal consultation, document drafting and alterations, verbal negotiations with the company and processing of negotiation documents. To maintain reasonable prices on our negotiation services clients primarily deal with our consulting staff to establish the terms of their negotiation. Once all of the preferred terms of the agreement have been established with a consultant the negotiation instrument is handed over to an on staff attorney for a legal review prior to submitting the offer to the company in which our client is negotiating with.

### Mineral Title Research and Opinions

Western Slope Energy Solutions, Ltd. also provides mineral title research at a rate of \$95.00 per hour. Mineral research services are an informational tool for surface and mineral owners in Northwest Colorado. As the Oil & Gas industry continues to grow at a record breaking pace in our area more property owners are becoming educated on their rights regarding oil & gas drilling. Many properties in Northwest Colorado have had the minerals severed from the surface through a reservation in a property deed or the sale of the minerals in a mineral deed. If the severance of minerals was not noted when purchasing a property it is often hard for property owners to determine if they own a mineral interest in their property. Our mineral research extent varies depending on the clients needs, ranging from a couple of hours to determine a surface owner's interest in their property up to ten to twelve hours to complete an Inclusive Title Opinion. An Inclusive Title Opinion is an extensive research report determining who the current interest owners are in a property with all appropriate documentation of the mineral transfers.

### GIS Custom Mapping Services

Geographical Information Services (GIS) custom maps are made for clients wishing to add a spatial element of security to their Surface Use Agreement.

With so many large property owners using their land for various businesses including ranching, guide and outfitting, farming, etc. it is extremely important to specify every aspect of an Oil & Gas operation to coincide with these other businesses. Rosanna Slingerland, our on staff oil and gas consultant is able to create a custom map of our clients' land with specific feature such as access roads, fences, gates, domestic water wells, irrigation infrastructure, and buildings. The custom map can then be added into their Surface Use Agreement to eliminate misunderstanding as to the terms of the agreement.

### Legal Council

Ralph A. Cantafio, Esq. provides legal consul for surface and mineral owners in Oil & Gas dispute issues. Mr. Cantafio has been practicing law in Northwest Colorado for the past twenty years and has his Masters in Mineral Economics from the School of Mines. For those with more extensive interests in the Oil & Gas industry, Mr. Cantafio is licensed

to practice law in North Carolina, Pennsylvania, Utah and Wyoming.

Reed Morris, Esq. available to assist clients with land use and litigation matters involving oil and gas development, royalty disputes, mineral leases, and surface owner agreements. Mr. Morris has experience with oil and gas leasing issues as well as development at federal, state and local levels, including experience with U.S. Bureau of Land Management procedures. Mr. Morris can assist landowners facing leasing and development of "split estate" minerals, including government-owned minerals, beneath their surface land. Bringing his background in the natural sciences to his law practice, Mr. Morris takes a regional and site-specific approach to the needs of his clients. Before joining the Law Offices of Ralph A. Cantafio, Mr. Morris worked for a coalition of non-profit conservation groups focusing on western Colorado and southern Wyoming energy development issues.

**Please Visit Our Websites at:**  
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**If you are interested in any of our oil and gas consulting services, you are welcome to contact Rosanna Slingerland directly at (303) 818-3470**

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## Colorado Oil and Gas Current Happenings and Information

### Colorado Legislature Looking at Numerous Oil & Gas Related Bills in the 2007 Session

*By: Rosanna Slingerland*

The 2007 Colorado Legislature has seen a high volume of oil and gas related bills proposed, pertaining to numerous issues that have come to light since the recent increase in oil and gas activity in Colorado. The following is a brief summary of the major oil and gas related bills and their current status.

**House Bill 1139**, sponsored by Kathleen Curry and State Senator Josh Penry would reorganize how mineral severance taxes are distributed to local governments where energy development is having an impact. HB 1139 passed the House on February 14, 2007 and passed its reading in the Committee on Agriculture, Natural Resources and Energy on March 22, 2007. The bill now moves to the State Senate floor for its first reading.

**House Bill 1142**, sponsored by Kathleen Curry, Al White and State Senator Jim Isgar would give the Department of Revenue access to oil and gas operator's tax records that are submitted to the local assessor's office for valuation purposes. HB 1142 passed the House on March 12, 2007 and passed its second reading in the State Senate on March 23, 2007.

**House Bill 1180**, sponsored by Al White and State Senator Jim Isgar would require the Colorado Oil and Gas Conservation Commission to amend their rules and regulations to set new standards to ensure oil and gas production reporting to the state is accurate. HB 1180 passed the House on February 12, 2007 and is currently in the State Senate's Committee on Agriculture, Natural Resources and

Energy.

**House Bill 1223**, sponsored by Kathleen Curry would require the Colorado Oil and Gas Conservation Commission to revise their rules and regulation by January 1, 2008 to incorporate ongoing consultations with the Department of Public Health and Environment pertaining to the public health impacts from local energy development. HB 1223 was assigned to the House Committee on Agriculture, Livestock and Natural Resources on February 1, 2007, who is currently amending the bill.

**House Bill 1252**, sponsored by Kathleen Curry, Roberts and State Senator Jim Isgar, would declare that unreasonable impacts by oil and gas operators on a surface owner's property to be trespass. The bill seeks to minimize the effects oil and gas operations have on the surface of severed property. House Bill 1252 passed the House on February 28, 2007 and was assigned to the State Senate Committee on Agriculture, Natural Resources and Energy on March 1, 2007.

**House Bill 1298**, sponsored by Dan Gibbs and State Senator Lois Tochtrop, would require the Colorado Oil and Gas Conservation Commission to consult with the Division of Wildlife and wildlife commissions to minimize impacts on wildlife habitat from oil and gas development. HB 1298 was amended and then passed by the House Committee on Agriculture, Livestock and Natural Resources on March 23, 2007, the bill now moves to the House floor.

**House Bill 1341**, sponsored by Kathleen Curry and State Senator Jim Isgar, would expand the Colorado Oil and Gas Conservation Commission from seven to nine members, of the nine

members a mineral royalty owner, would be added and the number of industry representatives would be decreased from five to three. HB 1341 passed the House on March 23, 2007 and will now moved to the State Senate.

In addition to numerous oil and gas related bills being proposed this session, there are many new faces on capital hill with 29 out of 100 legislators being new members this year. It is unknown at this point if the new make-up of the Colorado legislative body will have an impact on the passing of the above bill.

### BLM Revising Four Management Plans in Northwest Colorado

*By: Reed Morris, Esq.*

Around once every fifteen years the U.S. Bureau of Land Management (BLM) amends its management documents at a local level. In Northwest Colorado, the BLM is undertaking full management plan revisions or major amendments in four (4) BLM Resource Areas. A common denominator of each of these plans will be increasing energy development.

The BLM reaches a decision to amend its management plan after evaluating a combination of the age of the plan, new information on resource values, and other changed circumstances. Realistically, the BLM amends management plans when there is funding to do so. The BLM generally staggers the planning processes across an entire state so that each area has dedicated funding for planning when their time is due.

New interstate transmission pipelines, new drilling technology, and favorable market conditions are driving the "boom." Just as Utah saw a blitz of BLM Resource Management Plan

revisions from 2002-2006, over the next four years in Northwest Colorado, the public will see management plan revisions for BLM lands surrounding Craig, Meeker, Kremming, and Glenwood Springs.

The first of the four BLM management plans to make its way through its planing process is the Little Snake Resource Area. The BLM's Little Snake area, with its headquarters (or "field office") in Craig, Colorado, encompass 1.3 million acres of BLM surface and an additional 1.1 million acres of split-estate federal minerals (underlying private and State lands). The Little Snake Field Office has recently released a Draft Environmental Impact Statement (EIS), which is available for public comment until May 11, 2007.

The Little Snake area encompasses most of Moffat County, Colorado and portions of the Sand Wash and Green River geologic basins. The Little Snake Resource Area received a proposal for its first 1,000 + well natural gas project late last year as part of a larger 4,000 well project spanning the Colorado-Wyoming border. Over the course of the next 20 years, the draft Little Snake plan anticipates over 3,000 new wells will be developed.

The BLM's White River area, headquarters in Meeker, encompasses 1.45 million acres of BLM surface and an additional 365,000 acres of split-estate federal minerals. The BLM closed its initial public "scoping" period last fall and anticipates a draft plan to be released for public comment in the Fall of 2007.

BLM stated that the need to amend the plan was driven by an anticipated 11-fold increase in natural gas development over the next two decades. The current 1998 plan estimated that 1,100 wells would be developed during the life of the plan (typically 15-20 years). In 2006, BLM revised these figures and now anticipates 10-15,000 wells over a similar time frame. Home to the majority of the Piceance Basin in Colorado, the BLM's White River resource area is poised to

see the highest increases in development over the next two decades.

### **Current Oil & Gas Events**

The following is a list of upcoming events that will discuss oil and gas development on the Western Slope of Colorado to some degree. Please contact the organization listed for more details on their event.

#### **April**

National Association of Royalty Owners Oklahoma Convention, April 16-18, 2007, Tulsa, Oklahoma.

#### **May**

Bureau of Land Management Oil and Gas Lease Sale, May 10, 2007, Denver, Colorado.

Northwest Resources Advisory Council Meeting, May 17, 2007, Meeker, Colorado.

National Association of Royalty Owners Texas Convention, May 31-June 6, 2007, Fort Worth, Texas.

#### **June**

Northwest Colorado Oil and Gas Forum (COGCC), June 7, 2007, Rifle, Colorado.

#### **August**

Northwest Resource Advisory Council Meeting, August 16, 2007, Kremmling, Colorado.

#### **October**

Western Colorado Congress 27<sup>th</sup> Annual Meeting, October 13, 2007, Grand Junction, Colorado.

National Association of Royalty Owners National Convention, October 18-20, Albuquerque, New Mexico.

#### **November**

Northwest Resource Advisory Council Meeting, November 15, 2007, Glenwood Springs, Colorado.

### **COGCC Reports on the Utilization of New On-site Inspection Rule**

January 10, 2005 the Colorado Oil & Gas Conservation Commission (COGCC) officially approved a new rule allowing surface owners that are not a party to a lease or surface use agreement to request an on-site inspection with the COGCC director. The new rule became effective for all permit-to-drill applications as of February 15, 2005. The on-site inspection policy authorizes the COGCC director to add stipulations to an oil and gas operator's permit-to-drill prior to the permit's approval. The new rule does not however allow surface owners to negotiate private land drilling terms through the inspection. The on-site inspection will only address issues concerning large land damage, potential adverse health, safety, welfare and environmental effects and/or any possible COGCC rules and regulation violations. Surface owners should be provided with an on-site inspection request form with the advanced notice of drilling operations from the operator applying for a permit-to-drill on the surface owners land.

The COGCC reports in their February 12, 2007 Staff Report that to date there have been 72 requests for on-site inspections, only two of which were located in Northwest Colorado (Garfield County). A total of 16 on-site inspections have been conducted, two were in the process of being scheduled at the time of publishing, 30 were withdrawn and 24 were pending, awaiting the permit-to-drill submission by the operator.

### **Questions and Answers**

**Question:** Who regulates natural gas?

**Answer:** Natural gas regulation commenced in 1938 when Congress passed and Franklin Delanore Roosevelt signed into law the "Natural Gas Act" ("NGA"). This for the first time established regulated private contract carriage and transportation of natural

gas by pipelines. Ultimately, NGA gave to the Federal Power Commission ("FPC") the authority to establish just and reasonable compensation for the use of interstate natural gas pipelines. Today the Federal Energy Regulatory Commission ("FERC") is responsible for implementation of oil and gas pipeline facilities. Initially, this was a cost of service regulation to stabilize otherwise noncompetitive markets. Market forces were several decades later introduced into price regulation, most recently with the Fuel Use Act which was approved by President Carter in 1978.

**Question:** If I am a mineral rights owner, but have no interest in having oil and gas developed on my property, can I be made to participate in a pooling agreement against my will?

**Answer:** Yes. However, if your property is being considered to be included into a pooling arrangement, the oil and gas exploration company interested in developing the property must first apply for Forced Pooling with the Colorado Oil & Gas Conservation Commission ("COGCC") and follow certain procedures. It is important to note at the onset that if you own the minerals and have not leased them, they may be extracted anyway. Further, if you own the minerals and have not leased them, the actual well may drilled upon your property.

Pooling is a technique used by oil and gas development companies to organize an oil or gas field. Colorado Revised Statute §36-60-116(6) states:

"When two or more separately owned tracts are embraced within a drilling unit, or when there are separately owned interests in all or in a part of the drilling unit, then persons owning such interests may pool their interests for the development and operation of the drilling unit."

Colorado law provides that pooling may occur even when not all those with mineral interests are in agreement about whether or not development

should occur. This if referred to as forced pooling. In such a case of forced pooling, a party interested in moving forward with developing the resources may make application to the COGCC by Forced Pooling, also known as Involuntary Pooling. If Forced Pooling is approved, then the drilling unit, i.e. the area approved for drilling, will be developed with or without the consent of all mineral owners. The law does provide for the development of natural resources in this instance even where there exist "non-consenting" owners.

**Question:** Can I stop the placement of a pipeline through my property?

**Answer:** No. In almost all instances, decisions as to the placement and all the specifics as to a gas pipeline are under the jurisdiction of the Federal Energy Regulatory Commission ("FERC"). This is one example, of many, where as a matter of public policy there can be said to exist a government regulated monopoly. While one could author a treatise discussing the public policy behind such, it has long been the specific policy of the federal government that there are certain businesses, often related to utilities, where traditional supply and demand in the market place is not acceptable. The trade off in these heavy regulated quasi governmental monopolies is that a reliable supply of a given production results in a guaranteed, but reasonable, profit to those providing the same.

In this instance, FERC has the sole authority to approve the installation of a given pipeline, although depending upon the circumstances there may be involved numerous other agencies, not all federal in nature. There exist numerous requirements as to notice and public hearing before a pipeline is approved. Unfortunately, at the end of the day the government has an absolute right to appropriate your property. If specific terms and conditions cannot be agreed upon (and agreement between parties is the preference of FERC) you have a right to have the specific compensation you are due determined by a court of competent

jurisdiction.

That being said, the key to a good result in the event that your real property is targeted for the installation of a pipeline is early intervention and negotiation. No matter what is said, terms and conditions are subject to negotiation. These include, but are no way limited to, the exact placement of the pipeline and hardware servicing the same, restoration of vegetation, noise abatement, relocation costs (for instance the cost of relocating herds, fence line, etc.) and the specific compensation you are to receive for the use of your property. Although it may often be represented that the offered deal is "non-negotiable", such is rarely the case. Remember, that pipeline going through your property is going to generate perhaps hundreds of millions of dollars during its life time to its owner. There exists no reason you should allow the use of your property for a mere pittance.

**Question:** Do BLM Resource Management Plans Affect Private Property?

**Answer:** Yes. Where the BLM only owns the minerals, the BLM plan directs how and where energy development will occur in a split-estate. BLM management plans also affect private land, albeit more indirectly, through providing recreation opportunities, habitat, grazing lands, and energy development important to local economics.

### **The Law Offices of Ralph A. Cantafio, P.C.'s Oil and Gas Services**

In addition to the experienced oil and gas legal services of Ralph A. Cantafio, Esq. and Reed Morris, Esq. the Law Offices of Ralph A. Cantafio, P.C. offers a variety of Oil and Gas Consulting Services to help meet the needs of surface and mineral owners in Northwest Colorado. The following is a quick summary of consulting services that are available.

**Oil & Gas Lease and Surface Use**