

**BEFORE THE OFFICE OF THE STATE ENGINEER
STATE OF COLORADO**

IN THE MATTER OF RULES AND REGULATIONS FOR)
THE DETERMINATION OF THE NONTRIBUTARY NATURE) **2 CCR 402-17**
OF GROUND WATER PRODUCED THROUGH WELLS)
IN CONJUNCTION WITH THE MINING OF MINERALS)

FOURTH PREHEARING ORDER

On November 13, 2009, a prehearing conference was held in the matter before the State Engineer, Dick Wolfe, and the Hearing Officer, Casey Shpall. The State Engineer made the following determinations regarding outstanding motions and the conduct of the hearing.

DATE AND TIME OF CBM RULEMAKING HEARING

The rulemaking hearing on CBM proposals is scheduled to take place on December 2-4 and 7-11 at the Colorado State Capitol Building, 200 East Colfax, Basement Hearing Room 0112, Denver, Colorado, 80203.

The hearing will commence daily at 8:30 a.m. and conclude at 5:00 p.m. with scheduled breaks from 10:00-10:30 a.m., 12:00-1:30 p.m. and 3:00-3:30 p.m. The State Engineer may alter the daily schedule to accommodate witnesses and questioning.

MOTIONS

The Southern Ute Indian Tribe requested that the State Engineer permit the Tribe's Chairman, Matthew J. Box, to present oral testimony regarding both the coalbed methane alternate rule proposal and the conventional oil and gas production alternate rule proposal for the San Juan Basin during the rulemaking hearing scheduled for December 2009.

The motion is granted insofar as the Tribe's Chairman will appear in December to present testimony on both alternate proposals for the San Juan Basin. The Tribe's Chairman will not be required to appear to present testimony in January, however, he must be available by telephone for potential cross-examination on the conventional oil and gas production alternate rule proposal. The time for his potential telephone appearance in January will be determined at the prehearing conference for the conventional oil and gas production as set forth below.

STIPULATIONS

The State Engineer encourages the Parties and Staff to work together on stipulated language regarding proposed alternate rules submitted by the Southern Ute Indian Tribe, the Ground Water Management Districts, Climax Molybdenum Company, Conquest Disposal Services, Wellington Water Works, Colorado Oil and Gas, Colorado Petroleum Association and any other

Party where consensus on proposals is likely to occur prior to the hearing. Any stipulations should be circulated to all Parties for approval or further discussion.

PRESENTATIONS

Information contained in presentations, rebuttals, closing arguments and demonstrative exhibits must have been previously provided in written submissions pursuant to the Third Prehearing Order.

SCHEDULE FOR DECEMBER CBM HEARING

The time allocated below is for the Staff to present Proposed Rules and for proponents of the Proposed Alternate Rules to present their proposals, witness testimony, and rebuttal. The time also includes cross-examination and questioning by the State Engineer.

December 2: Public comment on Staff Proposed Rules and proponents' Alternate Proposed Rules for CBM formations

Staff testimony regarding Proposed Rules
Senior Water Users testimony as it relates to Proposed Rules
Testimony regarding legal issues regarding Proposed Rules
Colorado Oil and Gas Association
Colorado Petroleum Association

December 3-4: Testimony for San Juan Basin Proposed Alternate Rule
Testimony by Southern Ute Indian Tribe

December 7: Testimony for Piceance Basin Proposed Alternate Rules
Mesa Verde Formation in the morning
Neslen Formation in the afternoon

December 8-9: Testimony for Central Raton Basin Proposed Alternate Rule

December 10: Continue testimony, if needed
Closing Statements—any written closing statements must be submitted to the State Engineer and other parties.

December 11: State Engineer deliberations
Conclude rulemaking hearing

PREHEARING CONFERENCE FOR CONVENTIONAL OIL AND GAS ALTERNATE RULE PROPOSALS

If there is sufficient time remaining after conclusion of the rulemaking hearing on December 11, 2009, the prehearing conference on conventional oil and gas production Proposed Alternate Rules will take place in the Colorado State Capitol Building, 200 East Colfax, Basement Hearing Room 0112, Denver, Colorado, 80203, at a set time to be later determined.

If there is not sufficient time on December 11, the prehearing conference for conventional oil and gas Proposed Alternate Rules will be held on December 16, 2009, 2:00 p.m., at the Colorado Attorney General's Office, 1525 Sherman Street, 6th floor, Denver, CO 80203. To check in, please proceed to the 6th floor.

ORDER OF CLARIFICATION CONCERNING THIRD PREHEARING ORDER

It has come to the attention of the Hearing Officer that a submittal date in the Third Prehearing Order falls on November 27, 2009. Due to furloughing of state employees the State Engineer's Office will be closed and therefore, hard copy submittals of rebuttals as required by this order is extended to November 30, 2009 with electronic submissions still due via Email by November 27, 2009.

Dated this 18th day of November, 2009.

A handwritten signature in cursive script that reads "Dick Wolfe".

Dick Wolfe, State Engineer