



## POLICY

### Surface Development

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#### Document Change Log

Date	Description of Changes
3/14/2023	Updated to new format
6/14/2023	Clarified hearing application information and Director's role

#### Rule/Statute Citation

Pursuant to C.R.S. 34-60-103(6.5):

*“Oil and gas operations” means exploration for oil and gas, including the conduct of seismic operations and the drilling of test bores; the siting, drilling, deepening, recompletion, reworking, or abandonment of an oil and gas well, underground injection well, or gas storage well; production operations related to any such well including the installation of flow lines and gathering systems; the generation, transportation, storage, treatment, or disposal of exploration and production wastes; and any construction, site preparation, or reclamation activities associated with such operations.*

Colorado Energy and Carbon Management Commission (ECMC) rules provide the following definitions:

**EXPLORATION AND PRODUCTION WASTE (E&P WASTE)** shall mean those wastes associated with operations to locate or remove oil or gas from the ground or to remove impurities from such substances and which are uniquely associated with and intrinsic to oil and gas exploration, development, or production operations that are exempt from regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 USC Sections 6921, et seq. For natural gas, primary field operations include those production-related activities at or near the wellhead and at the gas plant (regardless of whether or not the gas plant is at or near the wellhead), but prior to transport of the natural gas from the gas plant to market. In addition, uniquely associated wastes derived from the production stream along the gas plant feeder pipelines are considered E&P wastes, even if a change of custody in the natural gas has occurred between the wellhead and the gas plant. In addition, wastes uniquely associated with the operations to recover natural gas from underground storage fields are considered to be E&P waste.

**OIL AND GAS LOCATION** shall mean a definable area where an operator has disturbed or intends to disturb the land surface in order to locate an oil and gas facility.

**OPERATOR** means any person who exercises the right to control the conduct of Oil and Gas Operations.

**ORPHANED SITE** means an Oil and Gas Location or Oil and Gas Facility for which no Operator with unclaimed Financial Assurance or an active Form 1, Registration for Oil and Gas Operations exists, and for which the Commission has not identified a Responsible Party. An Orphaned Site may or may not have Orphaned Well(s) associated with the Oil and Gas Location or Oil and Gas Facility.

**ORPHANED WELL** means a Well for which no Owner or Operator can be found, or where such Owner or Operator is unwilling or unable to Plug and Abandon such Well.

**PLUGGING AND ABANDONMENT** means the permanent plugging of a Well, the removal of its associated Production Facilities, and the abandonment of its Flowline(s).

**RESPONSIBLE PARTY** shall mean an owner or operator who conducts an oil and gas operation in a manner which is in contravention of any then-applicable provision of the Act, or of any rule, regulation, or order of the Commission, or of any permit, that threatens to cause, or actually causes, a significant adverse environmental impact to any air, water, soil, or biological resource. **RESPONSIBLE PARTY** includes any person who disposes of any other waste by mixing it with exploration and production waste so as to threaten to cause, or actually cause, a significant adverse environmental impact to any air, water, soil, or biological resource.

**SURFACE OWNER** shall mean any person owning all or part of the surface of land upon which oil and gas operations are conducted, as shown by the tax records of the county in which the tract of land is situated, or any person with such rights under a recorded contract to purchase.

## Background

Surface development has the potential to encounter previously plugged and abandoned oil and gas wells, historical wells that are not in COGIS<sup>1</sup>, associated production facilities such as buried flowlines, or residual exploration and production (E&P) waste. Pursuant to the above referenced statute and rules, only persons registered as an Operator with the ECMC may work on an oil and gas well, a well's associated facilities, residual E&P waste, or **"any construction, site preparation, or reclamation activities associated with such operations"**.

## Purpose of Policy

This policy specifies how ECMC staff will administer the statute and rules when surface development encounters oil and gas operations.

## Oil and Gas Locations

Oil and gas locations that are known by ECMC may be found by going to [www.colorado.gov/cogcc](http://www.colorado.gov/cogcc) and selecting "Maps". The ECMC database may not have records of historical wells, flowlines, or areas impacted by E&P waste. ECMC makes no warranty with respect to the completeness or accuracy of the data and assumes no liability for damages resulting from its use. ECMC encourages surface developers and local planning agents to review our available online information during due diligence and planning phases of projects

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<sup>1</sup> COGIS is the Colorado Oil and Gas Information System owned and maintained by ECMC.

to anticipate development concerns prior to beginning operations with heavy equipment. Good planning and early coordination with ECMC staff and oil and gas operators may help surface developers avoid construction delays associated with operator registration, approvals, and reporting.

Once all wells at an oil and gas location have been plugged and abandoned, production facilities have been removed, flowlines have been removed or properly abandoned, all known soil and groundwater contamination has been removed or remediated, the surface has been reclaimed, and all financial assurance associated with the location has been released, oil and gas operations will have ceased and ECMC will consider the location closed.

Closed locations are no longer subject to ECMC administration unless remnants of an oil and gas operation, which includes any oil and gas related equipment or residual E&P waste, are discovered subsequent to the site being closed. Once discovered, all contact with the oil and gas related equipment or waste must be done by an Operator registered with and subject to ECMC administration. This also applies to the discovery of oil and gas equipment or associated E&P waste at a location that was not previously documented in COGIS as an oil and gas location.

## **Responsibility**

### **Closed or Historical Locations**

The surface owner and local planning authority are responsible for the safe development of all closed or historically undocumented oil and gas locations as long as there is no contact with plugged and abandoned wells, abandoned flowlines, or residual E&P waste. In the event the surface owner wants or has been directed by the local planning agent to modify the equipment or waste that has been newly discovered or previously abandoned in place, the surface owner must either register as an Operator with ECMC or retain the services of a registered Operator. All activity that contacts oil and gas equipment or waste must be done in accordance with ECMC rules and administration. The surface owner is responsible for all costs associated with the modification of a closed or historical location.

The surface owner may submit a hearing application to request the Commission assign responsibility for the location to the Orphaned Well Program (OWP). Unless there are extenuating circumstances, the ECMC Director will generally not oppose such applications. An application template is attached.

### **Orphaned Sites**

The Commission may assign, by Order, responsibility for an oil and gas location to the OWP. Work to close an orphaned site is prioritized such that work progresses in accordance with a spectrum that is based on the relative risk the site poses to public health, safety, welfare, the environment and wildlife resources.

If a surface owner wants to modify a closed, orphaned site, the surface owner will be responsible for the work in the same way discussed above for closed or historical locations with the following exceptions:

- the surface owner has in no way disturbed a plugged and abandoned well location and finds that the well is leaking; or,
- discovers the presence of E&P waste without contacting previously abandoned equipment.

In either of the above exceptions, the OWP will be responsible to replug and abandon the well or remove/remediate the waste.

## Overview of Required Actions

The following overview of activities provides a general sense of the actions required to address replugging a well or removing/remediating E&P waste.

### Replugging a Plugged and Abandoned Well

When a previously plugged and abandoned well requires re-plugging, the surface owner must:

1. Retain the services of an operator registered with the ECMC or register themselves (Form 1) and designate an agent (Form 1A) who is responsible for compliance related communications. Registration requires demonstration of general liability insurance coverage in the amount of \$5,000,000 per occurrence.
2. Submit an application for permit to re-enter the well (Form 6).
3. Submit a Financial Assurance Plan (Form 3) and provide the required assurance (Form 3A).
4. Provide notice to affected surface owners.
5. Obtain ECMC approval of a planned plugging operation (Form 6 Intent).
6. Provide notice to ECMC prior to the start of operations (Form 42).
7. If it is discovered upon re-entry of the well that there is no surface cement plug:
  - a. determine the plugged back depth of the well and communicate with the ECMC engineer assigned to the project
  - b. conduct any remedial cementing operations required by the Director
  - c. cease operations until authorized to proceed by the Director
8. Once re-plugging is complete, document the plugging operation (Form 6 Subsequent). If the project requires the submission of financial assurance, a Form 4 must be submitted documenting that reclamation is complete in order to release the assurance.

### Oil Contaminated Soil Abatement

If less than 10 cubic yards of oil contaminated soil are encountered during excavation operations, a surface developer or its designee may excavate and properly dispose of the waste in accordance with Colorado Department of Health and Environment Solid Waste Regulations without reporting to ECMC.

Otherwise, if greater than 10 cubic yards of oil contaminated soil are encountered, then, pursuant to Rule 912.b.1(E)::

1. Report the release on a Form 19 Initial Spill/Release Report;
2. Remove, characterize, and properly dispose of the waste;
3. If necessary (as required by rule), the work should proceed under an approved Form 27 Site Investigation and Remediation Workplan;
4. Document and submit confirmation of cleanup activities.

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

IN THE MATTER OF AN APPLICATION FOR ) CAUSE NO. 1  
TRANSFER OF WELLS TO THE )  
ORPHANED WELL PROGRAM, [XXX] ) DOCKET NO. 23[XXX- this number is  
COUNTY, COLORADO ) assigned by hearings staff]  
)  
) TYPE: ORPHANED WELL PROGRAM

APPLICATION

COMES NOW [ ] (“Applicant”) [if you have an attorney please state that here, if you are not represented by an attorney you can delete the following reference to attorneys] (**by and through its attorneys, \_\_\_\_\_**) respectfully submits this Application to the Colorado Oil and Gas Conservation Commission (the “Commission” or the “COGCC”) to transfer [specify the number of wells] to the Orphaned Well Program (“OWP”). In support of its Application, Applicant states as follows:

1. The Applicant is a [Please describe who the applicant is. For example, a landowner, a developer, a local government, an operator.]
2. Applicant seeks Commission approval to transfer [xx number of] well(s) located within [ ] County to the OWP. [Please describe here the circumstances surrounding the wells.
  - a. Where are the wells located?
  - b. Are there residences, buildings etc. within close proximity to the wells?
  - c. If you know the API numbers for the wells please include them here.
  - d. Who was the last known operator?
  - e. If you are not a local government or government agency, have you spoken with the local government that the wells are located in about the wells?
  - f. How did the wells come under the Applicant’s control?
  - g. Have you spoken with anyone at the OWP or COGCC staff about the wells and your request that the wells be transferred to the OWP?
  - h. Are you aware of any leaks or other integrity issues with the wells?
3. [Any additional information that you think would be helpful for the Director and Commission to consider when evaluating your request.]
4. Applicant certifies that copies of this Application and the Notice of Hearing will be served on each interested party as may be required by the Secretary of the Commission to receive notice. Rule 504.a, and Rule 504.b.(8). The Interested Parties list is attached hereto and submitted with this Application as Exhibit A. [If the Applicant is not aware of any interested parties please delete the prior sentence.]
5. The granting of this Application is in accord with the Oil and Gas Conservation Act, found at C.R.S. §§ 34-60-101 et seq., and the Commission Rules.

6. Applicant requests that relief granted under this Application should be effective on oral order by the Commission, and Applicant hereby agrees to be bound by said oral order.

WHEREFORE, [Applicant] respectfully requests that this matter be set for hearing in accordance with applicable Commission Rules, that notice be given as required by law, and that upon such hearing this Commission enter its order to:

- A. Approve the [Applicant's] request to transfer to transfer [specify the number of wells] to the Orphaned Well Program.
- B. For such other findings and orders as the Commission may deem proper or advisable in this matter.

APPLICANT NAME

By \_\_\_\_\_  
[type name]

Applicant's Contact Information:

Name  
Address  
Phone number  
email address