

Colorado regulators face increasing protests and objections as operators compete for best spacing units

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As companies survey the landscape for new oil and natural gas wells in Weld County and across the Denver-Julesburg Basin, their plans often call for horizontal wells extending one or two miles in every direction. Sometimes, their plans compete for the same underground acreage as other operators.

Tasked with resolving these disputes, the Colorado Oil & Gas Conservation Commission was provided an update on the issue at its January hearing but stopped short of revising its rules, according to Matt Lepore, the commission's executive director.

Commission staff "does not believe a rulemaking is necessary at this time, but if operators are not willing to provide relevant information (during review of competing requests), commissioners may need to revisit the issue," Lepore said.

The issue of competing requests can arise when a company submits plans to drill a new well. Colorado rules state the well must be drilled within the boundaries of an existing spacing unit or in a newly created unit. Once a spacing unit is established, all mineral holders, whether owner or lessee, within that unit are granted a proportional share of the well's production, less taxes and fees charged by the operator.

Oil wells in the DJ have gotten longer and cross more mineral tracts while fewer undeveloped, productive areas remain. As a result, companies can find themselves competing for the same undeveloped acreage with other operators.

SPACING COMPETITION

Competing spacing unit requests are not a new issue for Colorado regulators. The traditional means of determining who is awarded the unit, and as a result, the right to drill and operate the well goes to the first to file a request.

However, on occasion a second operator will file a spacing unit request for the same acreage. Commission staff then reviews the competing requests, considers the merits of each and awards the unit to the operator who can clearly show a better proposal. The process involves meetings with the operators and any mineral holders who may have an objection.

Among the factors that can move the needle in favor one side or the other, are plans that integrate infrastructure such as pipelines to reduce impact on neighbors, plans that better protect the correlative rights of mineral holders, and plans that do not strand minerals or cause them to be wasted.

Objections to spacing unit requests can be filed by mineral owners who may contend their resource would be wasted, their correlative rights to the resource are diminished, or that the operator does not actually control the minerals.

According to director Lepore, commission staff has seen an increase in the number of objections and protests to spacing unit requests but "due to a staff review and involvement in pre-hearing conferences, most are eventually resolved" before going before the board.

For competing requests that are too close to call, the staff will recommend the spacing unit go to the first to file, he said.

"Historically, first-in-time is our tie-breaker," Lepore noted. "Although it is a long-standing practice, it is not a statutory or regulatory requirement."

WELLBORE RULES

For undeveloped mineral acreage not in a spacing unit, state rules allow an operator to create a wellbore spacing unit for a single well; otherwise, the operator requests a drilling-and-spacing unit for one or more proposed wells.

Under COGCC rule 318A, when an operator plans to drill a horizontal well, all the quarter-quarter sections, basically a 40-acre tract, and all adjoining quarter-quarter sections that are within 460 feet of the proposed wellbore, are included in the spacing unit. The company submits the proposed wellbore spacing unit along with their regular drilling permit application on COGCC Form 2 and a location assessment package under Form 2A.

If, within the 30-day comment period, there are no objections, the wellbore spacing unit can be approved administratively by the director along with the drilling permit applications.

If, however, the company plans multiple wells from one or more wellsites, it is required to file a request to establish a drilling and spacing unit before filing a drilling application. The request is then set for hearing by the commissioners. Board-approved drilling and spacing units are the traditional avenue to forming a spacing unit; wellbore spacing units are a fairly new concept and do not require board approval.

Wellbore spacing units provide operators with greater flexibility while maintaining the right to object for mineral owners. They are generally issued to the first operator to file, according to Jane Stanczyk, permit manager at COGCC.

"You can't have two wells in the same place," Stanczyk said. "Sometimes it's a race to see who can file the first permit. If a second application for the same acreage comes in later, we have to deny it."

According to COGCC, the majority of wells drilled over the past three years were within wellbore spacing units. Records show that during 2014-16, wells drilled in drilling and spacing units, either new or already established, totaled 1,549, while wells drilled in wellbore units totaled 3,608.

Last year, protests filed against either drilling or wellbore units were less than 1 in 50; efforts to resolve objections through meetings were largely successful, according to commission records, as only four protests went before the board.

SPACING BACKGROUND

Colorado established spacing rules for wells drilled into the Niobrara formation in 1992. At the time, nearly all wells drilled were vertical and spacing units were set at 80 acres, with two wells allowed per unit. It was at that time the 460-foot from the wellbore rule was established.

Six years later, the rule was revised to allow addition of a fifth well within each 160-acre quarter-section. The spacing unit for these "five-spot wells" overlaid any existing 80-acre units. This arrangement covered wells drilled in what the COGCC describes as the Greater Wattenberg area.

With the arrival of horizontal wells in the last decade, the rules were again revised to allow for infill and boundary units of up to 160-acres. It was in this rule revision, enacted in 2005, the commission established rules for wellbore spacing units. These rules required sending notice to and a 30-day comment period for mineral owners and allowed staff-approval of spacing units in conjunction with drilling permits.

Once established, wellbore spacing units can be pooled with other units, according to Rule 318A.

In 2011, as companies were requesting permits for longer lateral wells, wellbore spacing unit rules were expanded to specifically include horizontal wells. This allowed operators greater flexibility to describe spacing units that increased oil and gas production while considering preferred wellsite locations with respect to neighbor concerns.

The commission was careful to protect the right to object for mineral owners within a proposed spacing unit and to allow operators to plan wells that reduce surface impacts, director Lepore said.

"If there are objections, the operator works with the mineral owner to resolve them. If the conflict cannot be resolved, either the operator or the owner can request their concerns be heard by the commissioners," he observed.